



## Unmasking Xenophobia: Exploring Anti-Chinese Sentiments in Indonesia through a Criminological Lens

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### Abstract

The Chinese ethnicity in Indonesia has traversed a long and intricate historical journey, grappling with the quest for identity and nationality as Indonesian citizens. Despite the attempts to deny or overlook this reality, the truth remains steadfast: Indonesian Chinese individuals cannot evade racism and social envy in their day-to-day lives as citizens of Indonesia. In certain instances, this even manifests as symptoms of xenophobia, an excessive disdain or prejudice towards those perceived as foreigners. This research delves into the symptoms of xenophobia experienced by the Indonesian Chinese, meticulously recounting past occurrences while exploring the public's endeavors to uphold Indonesia's ideology of Pancasila as a unifying force. By employing a statutory, conceptual, and historical approach, this study reveals that xenophobia towards the Indonesian Chinese community has persistently plagued the public consciousness, despite their legal recognition in the country. The protection of Indonesian Chinese necessitates the establishment of specialized legal instruments. Furthermore, alongside regulating their protection, the maximization of efforts lies in embracing Pancasila as a powerful instrument of national unity.



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### A. INTRODUCTION

Indonesia is a plural country, not only because of the large number of ethnic groups, but also because of the distinctive cultural differences inherent in each ethnic group, both horizontally and vertically (Supriatin & Nasution, 2017). This pluralism is both a lesson and a blessing in the life of Indonesian people, but on the other hand, if the complexities between communities, especially ethnicities, proceed in an unstable condition, it is estimated that it has the potential to form divisions in a country. According to Furnival's description of Indonesia's pluralism, it has existed since the colonial era which refers to community groupings on the basis of race, ethnicity, economy to religion. At that time, people were not only grouped based on those who ruled or were governed, but also based on political-economic units such as the grouping of Chinese, Arab to Indian (foreign eastern) traders with indigenous farmer groups (Prof. Dr. Djoko Suryo et al., 2009). The grouping that occurred at that time caused a clash, both in economic and social

classes. According to Samuel P Huntington in *The Clash of Civilization*, he predicts that every civilization will clash due to political, socio-cultural, economic, racial and religious factors (Huntington, 1993). There was an idea expressed by Adolf Hitler who was one of the cruelest racial leaders in civilization's history, that the goal of man in life is not to form a country, not to build an empire, but to preserve his race (Reynaldi Adi, 2021).

In the span of this nation's history, especially in the monocultural and centralistic New Order era with the emphasis on nation-building, this has led to disharmony social relations, especially the issue of ERRI (ethnicity, religion, race and inter-group). The dominating power of the central government at that time was shaken by the impact of the prolonged economic crisis (1997) which ended in conflicts between ethnic groups. ERRI-based conflicts gave rise to social unrest in the 90s which occurred almost evenly throughout Indonesia (Suparlan, 2000). One of the inter-ethnic unrest in Indonesia that has occurred is the one involving Indonesian Chinese which has been going on for a long time and is still happening today (Fokky, 2013). There is one example of a case of racial riots that befell ethnic Chinese in 1998, known as the 1998 Riots. In the 1998 riots there were hundreds of women of Chinese descent who were raped and sexually abused in the riots. Some were gang-raped, sadistically assaulted, then killed and looted and burned ethnic Chinese property and shops. The 1998 tragedy is an event that caused deep sorrow and trauma and is unforgettable throughout the history of ethnic Chinese in Indonesia (Hutahaean, 2014). The social conflicts that has occurred, especially the existence of deep hatred towards the Indonesian Chinese, has a long history in this country, spanning even before the arrival of the *Vereenigde Oostindische Compagnie* (VOC), the New Order and even, the present (Aziz, 2018). Indonesian Chinese has a long and complex historical record, especially in the search for identity and nationality as Indonesian citizens. Indonesia is currently facing the problem of economic disparity which is marked by the large number of unemployment and the mushrooming of people with middle to low economies which are side effects of the Covid pandemic which will easily cause social inequality under the instigation of extremists and irresponsible politicians resulting in divisions and riots which lead to spearheading towards Indonesian Chinese.

Indonesian Chinese has long been a scapegoat in social unrest (Khasanah, 2018). According to Edwin Liga Setiawan, Indonesian Chinese were like the Jews in Germany during the Nazi reign (Ligasetiawan, n.d.). Indonesian Chinese has always been labeled as rich and stingy, which is actually not quite true because in fact there are still many Indonesian Chinese who come from middle to lower class communities who live a modest and frugal lifestyle. Indonesian Chinese were despised so that they were not considered part of the Republic of Indonesia and were only seen as immigrants, they were considered greedy for profits and did not want to mingle with the public. From the beginning, the awareness that this

country was founded on the basis of diversity has been ingrained in the basis of the state and the nation's ideology, namely Pancasila. However, it must be clearly acknowledged that to this day diversity has not been managed properly. Because of this, it is not surprising that during the last few years there have been various social tensions. One of the victims of this country's inability to manage its diversity with Indonesian Chinese. Even though many have tried to deny and even erase the reality that has happened to this nation (Dawa, 2006). To this day, Indonesian Chinese are inseparable from acts of racism and social envy in day to day life as Indonesians. As for this treatment, it can be classified as a symptom of xenophobia, namely a symptom of excessive dislike or prejudice towards people who are considered foreigners.

The term "phobia" does not only mean fear but rather to discriminate with socio-political nuances. Xenophobia is a crime born of social phenomena as stated by J.E. Sahetapy, namely that crime is a social phenomenon that is formed by the culture itself. This is caused by factors that impede the economy, social and culture, the decline in the authority of the law to the hippocratic nature and the nature of the people who accept these symptoms (customs), and so on. The review in this research uses two disciplines at once which have significant differences but can complement each other, namely the perspective of criminology as well as the science of criminal law. The science of criminology (criminology studies crime from a social perspective or in other words, the science that studies humans in conflict with certain social norms. Criminology seeks to gain knowledge about social phenomena in the field of crimes that occur in society, in other words, to question the reasons for the defendant's evil actions (Sahetapy, 1982). Criminology views crime as a social phenomenon that cannot be separated from social interaction or human relations (Dirdjosisworo, 1994). Meanwhile, criminal law is a science that studies crime from a legal perspective (normative science).

Criminal law is based on the possibility of a causal relationship between the occurrence of crime in society (Utrecht, 1983). The relationship between criminology and criminal law has been very closely related since its inception. This is evidenced by the results of criminological investigations that have succeeded in assisting law enforcement officials in handling criminal cases that occur in society. In the phenomenon of xenophobia that occurs towards Indonesian Chinese, it is an act of intolerance that expresses narrow nationalism and aggressive ethnocentrism towards minority groups, both immigrants and descendants of immigrants (Kusuma, 2018). In practice, there are still many problems and challenges in upholding the law related to xenophobia towards ethnic Chinese in Indonesian society. Symptoms of xenophobia towards Indonesia Chinese must receive special attention both in prevention and law enforcement (repressive) in order to realize the ideals of the Indonesian nation contained in Pancasila and the Constitution (Undang-Undang Dasar Negara Republik Indonesia Tahun 1945,

UUD NRI 1945). In the Constitution everyone has the same rights as an Indonesian citizens.

Many previous studies regarding the dynamics of the position of Indonesian Chinese identity in Indonesia have been carried out, such as by Reynaldi Adi Surya in 2021 which examines the journey of Indonesian Chinese in the vortex of racialism in Indonesia (Reynaldi Adi, 2021); Suryani and Ana Sabhana Azmy in 2020 which focuses on studying the strengthening of political identity in post-New Order multiculturalism; Laksamana Yudhistira in 2018 who studied the citizenship status of Chinese descent in Indonesia (Yudhistira, 2018); Alfa Khasanah in 2018 which focuses on studying the existence of Indonesian Chinese in the era of globalization (Khasanah, 2018), Anthony Walsh and Ilhong Yun in 2011 who examined the link between race and criminology through a biological perspective (Walsh & Yun, 2011); and by Coretta Phillips and Benjamin Bowling in 2003 who studied racism, ethnicity and criminology from a minority perspective (Phillips & Bowling, 2003). In contrast to several previous studies, this study focuses more on examining the emergence of xenophobic phenomena in Indonesian society towards ethnic Chinese based on the perspectives of criminal law. The current research is intended to contribute as literature and also literacy in tolerance in the midst of pluralism, especially for all Indonesian people.

## B. RESEARCH METHOD

The specifications in this study use the type of normative legal research (doctrinal) (Disemadi, 2021). The types of approaches used in this doctrinal research are statute approach, conceptual approach and historical approach. The statutory approach is an approach that focuses on statutory provisions related to the position of Chinese ethnic identity in Indonesia. The conceptual approach is an approach used to understand the theories and concepts that serve as the basis for this research (Jaya, 2020). This research is also based on the results of research that has been done before. And the historical approach is an approach taken to understand the dynamics of the journey of the Chinese ethnic identity position from time to time until now in Indonesian society. The data used in this study is secondary data consisting of primary legal materials, secondary legal materials and tertiary legal materials obtained from library research which are then analyzed descriptively-qualitatively. The reasoning used in this study is deductive in nature which in the end can be used to solve specific problems (Tan, 2021).

## C. RESULTS AND DISCUSSIONS

### The Journey Dynamics of Identity Search for Indonesian Chinese

Indonesia is a pluralistic and heterogeneous country (Jannah et al., 2021). This is a fact that cannot be denied because Indonesia is composed of various ethnicities, tribes and customs. Within Indonesian society, more than one tribe,

religion and culture live and work, which are still preserved and have their own adherents. The awareness that the people of this country consist of heterogeneous people, made the founding figures of this nation not want to turn this country into one culture or homogeneous. From the beginning, the awareness that this country must be founded on diversity has been deepened deeply in their minds and expressed in the basic form of the state and the principle of life as a nation-state, namely Pancasila. In fact, it must be honestly admitted that until now this diversity has not been managed and run well. The first president of the Republic of Indonesia, Ir Sukarno in his speech on November 10, 1961 which was Heroes' Day, stated that "My struggle is easier because of expelling the invaders, but your struggle will be more difficult because it is against your own people" (KOMINFO, 2020). It is therefore not surprising that during the last few years, the Indonesian people have continued to experience various internal tensions that originate and stem from the inability of all elements within this nation to manage the gift of diversity given by God Almighty. The inability to manage this diversity triggers inter-tribal and ethnic problems which are in fact recognized by the government (especially the New Order government). One of the victims of this nation's inability to manage its diversity is the Chinese ethnicity. Chinese ethnicity is part of the diversity of the Indonesian nation, although it has been repeatedly denied and wanted to be erased from the reality of this nation. Even in writing Indonesian history, the active role and contribution of the Chinese ethnicity is almost never mentioned proportionally, even though there are lots of historical evidence that has proven their contribution to the development of Indonesia in various fields (Suryani & Azmy, 2020). The Chinese ethnic group has always been stigmatized as a group of economic rulers who are opportunistic, not nationalistic, who think about their personal interests and gains. The clash between ethnic Chinese and tribes who have lived in Indonesia for a long time is often referred to as a non-indigenous and indigenous problem. Otherwise known as the clash of the majority group with the minority (Chandra & Munthe, 2013).

At the beginning of the Han Dynasty, there were already arrivals of ethnic Chinese to Indonesia and the number of ethnic Chinese coming to the archipelago was increasing. Broadly speaking, ethnic Chinese consist of several tribes namely Hokkien, Kheh or Hakka, Tiu-Ciu and Cantonese. According to Ricklefs, historically the ethnic Chinese had been in the archipelago for centuries as traders and had become an important part of the Batavian economy (Jayusman, 2019). The existence of ethnic Chinese in the archipelago besides being active in the trade sector, they also carried out activities as skilled craftsmen, sugar cane millers, and shopkeepers. The Chinese ethnicity was seen for their tenacity in running their trade business, so the VOC was interested and made the Chinese ethnic as its trading partners. Even during the heyday of the VOC, the ethnic Chinese served as intermediaries between the natives and the VOC. The Dutch also formed several

discriminatory policies that strengthened the position of ethnic Chinese and excluded native traders. During the Dutch colonial period, the Dutch government implemented *Divide et Impera* (divide politics) by forming a policy of social stratification for the people of the archipelago which were classified into 3 (three) classes, namely the highest class were Europeans, namely Dutch, middle class were East foreigners such as Chinese, Arabs and Indians as well as the lower class consisting of native Indonesians or called native people (Nuralia, 2017). The social stratification policy formed at that time was in line with the perspective of Roscoe Pound's legal theory, namely "law as a means of social engineering". The policies that had been formed by the Dutch government had the aim of protecting private interests, community interests and public interests (Maysarah, 2017). These three classes live separately from each other and have very different roles and economic positions. Socio-economically, the economic position of the Chinese ethnicity is stronger and they have been dealing with the backwardness of the indigenous group's economy so that deep hatred arises between the natives and the Chinese ethnic group caused by the politics of playing one against the other (Rahman, 2013).

This past historical heritage is still quite influential in relations between ethnic Chinese and local communities. During the Dutch colonial period, politically, the ethnic Chinese were divided into different orientations so that there were ethnic Chinese who were oriented towards China (known as the Sin Po group), some who were oriented towards the Netherlands (known as the Chung Hwa Hui group) and some who were oriented towards Indonesia (Indonesian Chinese Party) (Leo, 1999). Even after Indonesia's independence, politics based on ethnicity continued and was tolerated by the Indonesian government so that BAPERKI (Indonesian Citizenship Consultative Body) was formed which was dominated by ethnic Chinese. BAPERKI was founded in 1954 with the aim of gaining equality among Indonesian citizens without assimilation into indigenous society. BAPERKI emphasized integration rather than assimilation so that it was eventually destroyed after the G30S/PKI incident in 1965. After the fall of Ir Soekarno which was continued by Suharto (New Order), developed the concept of "Nation Building" which prohibited all ethnic Chinese socio-political organizations not only because of politics BAPERKI's left but rather leads to identity assimilation. However, it was clear that the Soeharto government was not willing to highlight the ethnic Chinese as political figures due to the stigma and prejudice of the indigenous people towards the ethnic Chinese. The Chinese ethnicity can only be involved in the economic sector so that it can be used as a scapegoat. During the New Order era, discrimination in the form of the politicization of Chinese ethnic identity continued Until Indonesia was led by Presidents Gus Dur and B.J. Habibie, the legal policy was revoked and declared invalid.

According to Castells, identity is not only about how individuals identify themselves but also about how the dominant group gives judgments based on the characteristics and stereotypes that are then attached to them (Castells, 2003). According to Castells, there are three models of identity formation, namely identity legitimacy, identity resistance and identity projects. Identity legitimacy means that an identity is built by the authorities who have a role in social life. the ruler has power or dominance in attaching identity to a person or group. Identity resistance means that there is an identity given when conditions are depressed because there is domination which in the end gets rejected and forms a new identity (identity construction). Meanwhile, identity projects are interpreted as identity construction carried out by a group with the aim of obtaining a new identity in order to achieve a certain position in society. Identity projects can be social movements that change social structures on a large scale. During the New Order era, there was identity legitimacy that was built by the authorities for the Chinese ethnicity, giving rise to stereotyped views or bad stigma attached to Chinese ethnic identity. The Chinese ethnic group has always been considered a member of the Communist Party (PKI). In the book *Ethnic Chinese in Contemporary Indonesia*, Frans Winarta found that there were at least 64 New Order rules that discriminated against Chinese ethnicity (Syavira Famega dan Ayomi Amindoni, 2021). From socio-cultural aspects such as the prohibition against the use of Chinese letters, closing Chinese schools, restrictions on the use of Chinese language, restrictions on Chinese New Year celebrations and cap go meh and up to the implementation of the PIC (Proof of Indonesian Citizenship) for citizens of Chinese descent. It was as if the New Order had a phobia of things related to ethnic Chinese (Matanasi, 2020). Even the phobia of ethnic Chinese in the new order was preserved and passed down from generation to generation in this country.

According to Yosef Widyatmadja, through the book *Nationalism and Globalization in Diplomacy*, he explained that Suharto also replaced the word "Chinese" with the word "Cina" with the aim of creating identity legitimacy which tended to contain hatred of the Chinese ethnicity. Even in the "Nation Building" program, the New Order government forced citizens of Chinese descent to use Indonesian names as stated in the TAP MPRS regulation No. 32 of 1966 (Suharyo, 2013). There are several reasons why the ethnic Chinese changed and did not retain their Chinese names, namely: still worried about the issue of Tribe, Religion, Race, and Intergroup (SARA), there was a habit of following the New Order regulations, the pronunciation of Chinese names was considered strange and limitations in mastering the Chinese language as a result of the assimilation process. Even now the mention of ethnic Chinese still creates confusion and varies due to the punishments of the New Order government, namely in the form of *cina*, *chinese*, *Tionghoa* and *cino* (negative connotation) (Yudhistira, 2018). During Suharto's New Order regime, various policies and actions that were applied to ethnic Chinese

were very discriminatory. The Chinese ethnic group was isolated, intimidated so that they were filled with fear and trauma about the inability of this nation to manage its diversity. It can be seen clearly that all policies during the New Order era, the Soeharto government aimed to remove the Chinese ethnic group from the diversity of the Indonesian nation. During the New Order era, there was at least one event that was very memorable and even caused deep pain and trauma for the Chinese to this day, namely the May 1998 riots which were caused by the New Order government's phobia of the Chinese (Hutahaean, 2014).

As a result of efforts to get rid of Chinese ethnicity from the diversity of the Indonesian nation resulted in identity confusion for Indonesian Chinese. Many Chinese people chose to leave Indonesia due to the prolonged ethnic conflict in this country and refused to return due to trauma. However, there are several individuals from ethnic Chinese who think about their position in Indonesia and wish to have an identity as Indonesian citizens completely without discrimination. After the collapse of the New Order, the Indonesian government led by BJ Habibie issued Presidential Instruction No. 26 of 1998 regarding the abolition of the terms *pribumi* and *non-pribumi*. This rule aims to eliminate discrimination against Chinese ethnicity (Persada, 2019). In the end, the Chinese were more accepted by the general public and the Chinese were given the same position as Indonesian citizens in general based on Law Number 12 of 2006 concerning Citizenship of the Republic of Indonesia. The human rights of ethnic Chinese have been recognized and protected by the Indonesian government. but for the Indonesian people there are still those who cannot fully accept this fact and reject the Chinese ethnicity as part of the diversity of the Indonesian nation as a whole. Even ethnic Chinese are still considered as immigrants who only live. A person's identity or citizenship status is one of the human rights that every citizen has. Human rights are fundamental rights that are owned by every human being without exception. In the implementation of human rights, it must be granted without discrimination based on religion, race, skin color, nationality, and other distinctions. There is one of the fundamental rights regulated in article 15 of the Universal Declaration of Human Rights 1948 (UDHR), namely the right of every person to citizenship and no one can be arbitrarily stripped of his citizenship or be denied the right to change his citizenship (Diana, 2013). Regulations regarding Indonesian citizenship status are contained in Law Number 12 of 2006 concerning Citizenship of the Republic of Indonesia. In determining a person's nationality based on Law Number 12 of 2006 concerning Citizenship of the Republic of Indonesia, there are 3 (three) ways, namely based on descent (*ius sanguinis*), based on place of birth (*ius soli*) and naturalization.

Article 26 of the 1945 Constitution of the Republic of Indonesia states that citizens are native Indonesians and people of other nations who are legalized by law as citizens. Law Number 12 of 2006 concerning Citizenship of the Republic of



Indonesia contains a non-discriminatory principle, namely the principle that does not differentiate treatment in all matters relating to citizens on the basis of ethnicity, race, religion, class and other distinctions. After the promulgation of Law Number 12 of 2006 concerning Citizenship of the Republic of Indonesia, the people, especially those of ethnic Chinese descent, responded positively because they obtained a clear and legal citizenship identity which could be concluded based on the principle of place of birth (*Ius Soli*) which states that every child born in Indonesian territory, then automatically become Indonesian citizens.

Even though the rights of the Chinese ethnicity have been recognized and protected by the Indonesian government, it has been emphasized that there are Indonesian people who have not been able to fully accept this fact and continue to refuse and even wish to get rid of the Chinese ethnicity as part of the diversity of the Indonesian nation. Even today, there is still a widespread belief in Indonesian society towards ethnic Chinese as migrants and working in other countries (Eriyanti, 2006).

### **Symptoms of Xenophobia Towards Chinese Ethnicity in Indonesian Society from a Criminology Perspective**

The term Xenophobia comes from the Greek words *Phobos* which means fear and *Xenos* which means stranger. In fact, the symptoms of xenophobia are still unfamiliar to Indonesian people and often overlap with forms of discrimination and racism. Psychologically, the extreme fear of ethnic Chinese inherited from the New Order period triggers symptoms of xenophobia. Xenophobia is a symptom of excessive fear of people who are considered foreigners and can be manifested in the form of arousing discrimination, racism to forms of violence and intimidation that are carried out against certain groups that are considered a threat, namely the Chinese ethnicity (Abadi, 2020). According to the Cambridge Dictionary, xenophobia can be defined as extreme dislike or fear of foreigners, customs, religion and other differences (Bramasta, 2021). According to Ariely, the emergence of sentiment and excessive fear of a group is a series of rational actions due to threats, especially when there is a crisis in society. So the symptoms of xenophobia are very likely to appear unnoticed and foreign to the ears of the Indonesian people (Dan, 2016). Quantitatively, xenophobia towards ethnic Chinese has spread unnoticed with the help of technological developments and globalization. The symptoms of xenophobia towards ethnic Chinese are not only through real-world interactions but also through communication in cyberspace. Sentiment towards the Chinese ethnicity spreads in new forms such as fake news in the form of pictures/memes, short narratives and even writing containing provocative tones that corner the Chinese ethnicity. Symptoms of xenophobia towards the Chinese ethnicity give rise to suspicion and hatred which in fact do not make the life of a healthy nation

and state. The symptoms of xenophobia lead to social diseases that have a low cure rate and result in acts of violence and discrimination against ethnic Chinese.

Xenophobia often overlaps with forms of prejudice including racism and discrimination but there are important differences. If racism and discrimination occur based on certain characteristics (physical form), xenophobia is usually rooted in the perception that there is a threat from someone or ethnicity outside the group or strangers to their community (Fadli, 2023). The phenomenon of xenophobia has occurred unnoticed and it is not sufficient to see it as a mere reactionary expression of society, but it must be seen more critically that there are systematic efforts by certain groups to take advantage of xenophobia symptoms to mislead people's thinking patterns to eliminate the Chinese ethnicity from the diversity of the Indonesian nation. Symptoms of xenophobia do not only affect individual people but affect the cultural, economic, political and historical attitudes of a country. Until now, according to positive law, the Indonesian state has not regulated xenophobia in the life of the nation and state. Criminal law doesn't rules about the xenophobia. It rules on the Actus reus or illegal act (criminal act/offence) and the Mens rea (the guilty). The existence of a legal vacuum and low public awareness of the phenomenon of xenophobia will continue to be preserved without realizing it and develop into forms of discrimination, racism to violence and intimidation against groups that are considered a threat, such as the Chinese ethnicity. Inter-ethnic conflict in Indonesia is not only limited to ethnic issues, but is more concerned with economic-political power relations. Individuals or groups who have economic power can exchange their economic power to get political protection and convenience. Conversely, those who have political power can exchange their political power for economic benefits (Habib, 2004).

Many social scientists concluded that the success of the Chinese ethnic in controlling the national economy was the trigger for social jealousy which was one of the reasons why the Chinese were always the target and scapegoat in every ethnic riot in Indonesia. social jealousy that arises in society because there is an assumption that ethnic Chinese are a serious threat to them. There is a stigma and stereotypes that state that the Chinese are stingy, selfish, traitorous, deceitful, evil and capitalist (Sari & Dewi, 2020). Departing from this, unknowingly symptoms of xenophobia emerged in Indonesian society towards the Chinese ethnicity. Xenophobia is different from racism and discrimination. Basically, acts of racism and discrimination occur because of the belief in personal characteristics that are physically or superior to others who do not have these characteristics. In practice, racism still occurs frequently in several parts of the world, one example in the United States, racism against black people is still common, even for every one million black population, 30 people have been shot dead by the police. This data

indicates ongoing allegations of racism against people with dark skin (*Rasisme Dan HAM*, 2021).

Meanwhile, real discriminatory practices that occur in Indonesia are found in the national case, namely Basuki Tjahaja Purnama or better known as “Ahok”. It is well known to the public that Ahok is of Chinese ethnic descent. In running for cawagub with his partner Joko Widodo as vice governor, he received a lot of discrimination and was called inappropriate to lead the capital city of Jakarta because Ahok had Chinese lineage and sentiments emerged that they were part of the Communists or were supporters of China. The people's fear of ethnic Chinese is none other than the influence of events that occurred in the past (New Order). The cases experienced by Jokowi and Ahok are one example of discrimination that has occurred in Indonesian politics (Istiqomah, 2018). Symptoms of xenophobia towards Chinese ethnicity often occur in society without the community being aware of it. Sue Titus Reid stated that crime is an intentional or unintentional act or negligence that violates written criminal law or a judge's decision. According to him, the characteristics of crime can be in the form of action or omission in committing a crime, failure to act can also be a crime and have evil intentions. According to the view of criminologists in general, that is human behavior that violates norms that causes harm, annoyance, causes victims and cannot be allowed to cause social reactions (Prakoso, 2013). According to Steven Box, one of the British researchers, stated that crime tends to increase and tends to be committed by people who have characteristics such as a weak economy, high unemployment and family and community influence factors. In line with this thought, in an in a book entitled “criminology an introduction” written by Soerjono Soekanto in 1981 explained that one of the structural problems that Indonesian criminologists need to pay attention to and analyze is the problem of poverty. One of the causes of crime in Indonesia is the economic crisis, income inequality and economic injustice (Priyanto, 2012). Based on the statements made by experts, xenophobia towards ethnic Chinese is a crime and the cause is social jealousy and economic inequality. Technically juridical, crime denotes an act which is declared a crime by law, but for criminology there must be freedom to extend beyond the limits of juridical understanding. That is why, Criminology has theories that can explain the causes of the emergence of a crime such as xenophobia that occurred in Indonesia against the Chinese ethnicity. According to theories that seek the causes of crime from socio-cultural (sociological-criminal) factors, it is discussed that in general every society has types of crime and criminals according to the existing culture, morals, beliefs and structures. There are two approaches in identifying acts of social deviance (crime), including viewing deviance as an objective reality, this approach is based on describing the norms and values prevailing in society based on assumptions, stigma and prejudice. And see deviance as a subjective problematic that examines the social boundaries of the perpetrators of crime to find out how

the perspective of society gives boundaries for someone who commits social deviance (crimes) (Situmeang, 2021).

Manheim differentiates criminal sociology theories into theories that are oriented towards the middle class, namely theories that are not oriented towards social class (attached to the perpetrators) which are viewed from aspects such as the environment, education, poverty and create ecological theory, cultural conflict theory, economic factor theory. and differential association theory. Ecological Theory conducts research on the causes of crime from aspects of the human environment from a social perspective. Symptoms of Xenophobia towards ethnic Chinese arise due to differences in population relations based on ethnicity. The Chinese ethnic community received special privileges granted by the Dutch, while the indigenous people always received oppression which led to the formation of injustice and inequality in terms of life. Cultural conflict theory, according to T. Sellin in the book *Culture Conflict and Crime*, that all cultural conflicts are conflicts in social values, interests and norms (Sellin, 1938). Differences in ways of life and social values that apply between existing groups cause friction that leads to conflict.

Each ethnicity has different cultures and characteristics so that in carrying out national and state activities, friction often arises between groups due to the inability to manage the diversity that has been given by God Almighty. Economic factor theory, economic life is fundamental to all social and cultural structures. The economy determines all the affairs within each structure. The view of traditional criminology views that improving the standard of living of the wider community can reduce crime, especially reducing social jealousy or economic inequality. And the theory of differential association, states that criminal behavior is learned through associations that include not only the techniques of crime but the motives, drives, attitudes and rationale of the perpetrator when carrying out the act. In differential association theory, it explains that criminal behavior is behavior that is learned in a social environment that contains 4 (four) elements such as the association of individuals with certain groups (frequency), the length of time individuals are in groups (duration), the past of individuals or groups (priority) and attitudes. individual to existing norms (intensity) (Priyono & Andriasari, 2019). Based on the differential association theory, it can be seen that xenophobia towards ethnic Chinese has existed for a long time so that it becomes an attitude that is learned and even maintained vertically. Even the symptoms of xenophobia that arise unconsciously have a motive and drive to get rid of ethnic Chinese from the diverse part of the Indonesian nation and this attitude has been ingrained since the New Order era. Meanwhile, social class-oriented theories are seen as maturation of previous theories where the causes of crime are attached to the person or perpetrator (Mendrofa, 2013).

Class theory looks for the causes of crime beyond the perpetrators, especially in the existing social structure. The figure in this theory is Robert Merton, known as the theory of anomie. Literally anomie means without norms. According to Merton, the concept of anomie is defined as a discrepancy or difference between cultural goals and institutional means. This happens due to the existence of class divisions in society. According to John Hagan, Merton's theory of anomie is social class oriented. Based on the theory of anomie, xenophobia towards ethnic Chinese arises as a result of class divisions in society since Dutch colonialism so that there is a very striking social inequality between ethnic Chinese and indigenous people. Merton's anomie theory describes the correlation between delinquent behavior and certain stages in the social structure that will give rise to, give rise to and grow a condition for violating societal norms which is a normal reaction. Merton divides social norms in the form of social goals and available means to achieve a goal (Thio, 1975). In the development of the theory of anomie, it has changed with the division of goals and means in a structured society. In achieving goals, not everyone uses the available means but by means of inappropriate means (illegal means). This aspect is because the social structure forms classes so that there are differences in opportunities in achieving goals.

For example, the dominant indigenous people come from the lower class who have a lower chance of achieving their goals when compared to ethnic Chinese who come from the middle or upper class. In other words, culture creates Goals while structure creates Means. Based on the criminological theories that have explained the causes of the emergence of xenophobia symptoms towards ethnic Chinese, it can be concluded that the causes of xenophobic symptoms are due to economic inequality, cultural differences, differences in opportunities to achieve goals and damage to cultural identity which causes racism and discrimination. Symptoms of xenophobia in positive criminal law have not been regulated clearly and in detail, because xenophobia is a symptom of fear of foreign groups that are considered a threat to the existence of the group. Symptoms of xenophobia are not a criminal offence. Criminal offences only focus on two elements, namely *Actus reus* and *Mens rea*. However, xenophobia only approaches *mens rea* and has fatal consequences if it leads to acts of racism, discrimination and violence.

### **Countermeasures for Xenophobia Symptoms Against Chinese Ethnicity in Indonesian Societys**

Indonesia as a multicultural country with diverse, broad and complex socio-cultural and geographical conditions is a nation's invaluable wealth but is very prone to triggering conflicts and divisions. Plurality that contains differences is not a reason to break up the bonds of brotherhood (Putri & Dewi, 2021). Nobody wants conflict and division in society. Therefore, the implementation of Pancasila is very important and needed by every citizen. Pancasila contains noble values or

the personality of the Indonesian nation which has been agreed upon since Indonesia's independence as the basis of the state (Nurgiansah, 2021). Pancasila as an ideology that contains positive values will teach how to think and act. As an Indonesian citizen, understanding Pancasila is very important even though Indonesian society is diverse, however Pancasila is used as the basic ideology of the state as a manifestation of the Indonesian independence. There is a Pancasila view of life in the Indonesian nation, namely *Bhineka Tunggal Ika* as the unifying principle of the nation in diversity.

Pancasila as a way of life is a unified whole that cannot be separated from one another. The motto *Bhineka Tunggal Ika* has been embedded in the soul of the Indonesian nation and has a very noble meaning, namely different but still one, therefore every Indonesian citizen must maintain harmony in managing social life (Nugroho, 2018). Harmony can be realized if every community has an attitude of mutual respect and respect for each other. However, in reality, efforts to achieve and create an Indonesian society that can appreciate pluralism is not as easy as turning the palm of the hand. Efforts to overcome the problem of inter-ethnic social conflict, especially involving the Chinese ethnicity, have been carried out in various ways, but the results have not been satisfactory. So that in maintaining harmony among pluralism, complementary or additional efforts are needed. According to Habib-Ur Rahman Khan in his writing, namely Prevention of Crime it is Society Which Needs The Treatment and Not The Criminal, one of the efforts to overcome anti-social acts is to use criminal law by imposing sanctions in the form of criminal punishment. According to Herbert L Packer, efforts to control anti-social acts are by using punishment against the perpetrators (Herbert L.Packer, 1968). In fact, controlling anti-social acts by using criminal sanctions is a very important issue in realizing harmony in pluralism. Criminal sanctions based on law prioritize *Primum Remedium* over *Ultimum Remedium* (Anindyajati et al., 2016). In reality, the application of criminal law sanctions does not always resolve the problems that have arisen and does not contain the restoration of justice damaged by acts of intolerance that occur in pluralism.

Therefore justice must also contain the concept of recovery to peace. J.E Sahetapy stated that peace without justice is oppression and justice without peace is a new form of persecution (Sahetapy, 1982). In an effort to overcome the symptoms of xenophobia towards ethnic Chinese in Indonesia, it can be done with a criminological aspect (Crime Prevention), which includes two aspects of cultivation, namely: (1) in particular, carrying out cultivation directed at the factors causing the emergence of xenophobia symptoms towards ethnic Chinese in Indonesia (criminogenic factors). This method is known as the abolitionist system, which is to create harmony in diversity by eliminating the factors that are the cause of xenophobia towards ethnic Chinese (criminal etiology), which requires theory development and field research. (2) in general, addressed to every society with the

aim of having an awareness of equality between humans and appreciating God's diverse creations in the form of pluralism. This method is known as a moralistic system, namely through religious information such as sermons, da'wah and so on (Muliadi, 2015).

Citing J Graham opinion in his book entitled *Crime Prevention Strategies in Europe and North America*, states that the main strategies in preventing unlawful acts are divided into three groups namely primary prevention, secondary prevention and tertiary prevention (Graham, 1990). Primary prevention can be in the form of increasing awareness and tolerance among Indonesian people in managing diversity. Secondary prevention is carried out if it has been identified as having the potential to appear before or after the perpetrator is involved in breaking the law. and the last is tertiary prevention, which is the last resort aimed at perpetrators of unlawful acts, namely the process of investigation, prosecution and punishment of perpetrators. According to Baharuddin Lopa, of the three prevention groups, primary prevention is the most effective step. Therefore, primary prevention is urgently needed in overcoming the symptoms of xenophobia against ethnic Chinese in Indonesian society in the form of increasing mutual understanding and respect for diversity, the need for education about the history and culture of the Chinese ethnicity in Indonesian society to help eliminate prejudice or negative stereotypes against the Chinese ethnicity. Another function of education about the history and culture of ethnic Chinese in Indonesian society is also to promote social inclusion and respect for diversity among Indonesian society. In fact, if we want to prevent the emergence of symptoms of xenophobia towards ethnic Chinese in Indonesian society, it is necessary to eliminate the root cause first.

For this reason, continuous systematic and programmatic efforts are needed to overcome xenophobia towards the Chinese ethnicity (Rahma et al., 2023). The symptoms of xenophobia that arise are social injustice and a lack of humanity. This is the responsibility of various parties to avoid bad events that might occur in the future. By understanding the concept of Pancasila and having the awareness that pluralism is a form of wealth that must be grateful for by all Indonesian people and cultivating a sense of tolerance by trying to learn or understand other ethnic cultures within the framework of diversity can minimize xenophobia symptoms towards Chinese ethnicity in Indonesian society.

#### D. CONCLUSION

One of the victims of this nation's inability to manage its diversity is the Chinese ethnicity. Until now, Chinese ethnicity are inseparable from acts of racism and social jealousy in the lives of Indonesian people. As for this treatment, it can be classified as a symptom of xenophobia, namely a symptom of excessive dislike or prejudice towards people who are considered foreigners. xenophobia towards

ethnic Chinese has spread unnoticed with the help of technological developments and globalization. With an analysis based on criminological theories, it can be found the causes of the emergence of symptoms of xenophobia against the Chinese ethnicity, namely due to economic inequality, cultural differences, different opportunities to achieve goals and damage to cultural identity. In reality, in positive criminal law the symptoms of xenophobia have not been regulated clearly and in detail. Because xenophobia is a symptom of fear of foreign groups that are considered a threat to the existence of the group. Criminal law does not focus on symptoms because symptoms are not part of the criminal offence material. Criminal law focuses on the unlawful act and the guilty person. Symptoms of xenophobia only approach the mens rea element and do not meet the actus reus. xenophobia symptoms will become a criminal offence if the symptoms turn into acts of racism, discrimination and others.

The symptoms of xenophobia have quite fatal consequences, namely leading to racism, discrimination and violence. As for tackling the xenophobia symptoms of the Chinese ethnicity, it can be in the form of efforts to increase mutual understanding and respect for diversity, the need for education about the history and culture of the Chinese ethnicity in Indonesian society to help eliminate prejudice or negative stereotypes against the Chinese ethnicity. Another function of education about the history and culture of ethnic Chinese in Indonesian society is also to promote social inclusion and respect for diversity among Indonesian society. In fact, if you want to prevent the emergence of symptoms of xenophobia towards ethnic Chinese in Indonesian society, it is necessary to eliminate the root cause first.

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### COMPETING INTEREST

The authors declare that there are no competing interests.

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