

THE VICTIM BLAMING: LABELING FOR WOMEN VICTIMS OF SEXUAL VIOLENCE IN HUMAN RIGHTS PERSPECTIVE

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Abstract

The problem of blaming victims is related to the strong traditions and culture of the community that still perpetuate gender stereotypes. This study aims to examine the implications of patriarchal culture on the position of women as subordinates, the concept of blaming the victim against the women victims of sexual violence and human rights studies on victim blaming and labeling for women victims of sexual violence. This type of research is a normative juridical research that is prescriptively providing solutions to the legal protection for victims related to victim blaming and labeling women as victims of sexual violence in the view of human rights that definitely violates the constitution and law. The culture of gender injustice in the society makes women often get negative labels, in which the women who look beautiful and dress up using rather tight and sexy clothes are always considered as inviting the opposite sex to commit sexual harassment. This is then always used and associated with labeling of victims of sexual harassment in which the society tends to blame victims of sexual harassment or victim blaming. The conclusion is the victims must resolve their own suffering, both physical and psychological suffering without assistance.

Keyword: *Blaming; Rights; Sexual; Victim; Violence.*

A. INTRODUCTION

Sexual violence is not only against the law, but also against divine and human values. Human dignity then dispersed into the next generation of international human rights law in the common language of both the International Covenant of Civil and Political Rights and the International Covenant of Economic, Social, and Cultural Rights.¹ Sexual violence is

¹ Erin Daly and James R. May, Exploring Environmental Justice Through the Lens of Human Dignity, *Widener L. Rev.*, Vol. 25, 2019, page.177.

against the universal humanitarian values and constitution, which guarantees its citizens' protection from all forms of violence.² Indonesian legislative policies in tackling sexual violence are stated in the Law of the Republic of Indonesia Number 12 of 2022 concerning the Crime of Sexual Violence (hereinafter referred to the Act on the Crime of Sexual Violence).

The scope of the crime of sexual violence can be seen in Article 4 of the Criminal Act of Sexual Violence which includes non-physical sexual harassment; physical sexual harassment; forced contraception; forced sterilization; forced marriage; sexual abuse; sexual exploitation; sexual slavery; and electronic-based sexual violence. In addition to the crime of sexual violence, the crime of sexual violence also includes: rape; lewd acts; sexual intercourse with children, obscene acts against children, and/or sexual exploitation of children; an act of violating decency that is against the will of the victim; pornography involving children or pornography that explicitly contains sexual violence and exploitation; forced prostitution; the crime of trafficking in persons intended for sexual exploitation; sexual violence in the domestic sphere; money laundering crime whose original crime was sexual violence; and other crimes that are expressly stated as criminal acts of sexual violence as regulated in the provisions of laws and regulations.

Women who are in conflict with the law in their position as victims of sexual violence is a vague formulation. Furthermore, Kerstin Adolfsson provides an example in the case of rape. According to him, "Rape is a crime characterized by high prevalence rates but low reporting and conviction rates, leading to high attrition rates. Victims often do not report their victimization and of those who do, many drop out during the justice process."³ Rape violates basic human rights including: the right to life, liberty, and security; equal protection before the law; and non-discrimination.⁴ However, not all victims dare to report what happened. The absence of witnesses who saw the rape also made it difficult to be proven.

In many cases, proving sexual violence is not only difficult, but also victimizes or punishes women. Women tend to experience stigmatization that the cause of the crime that befell them begins with the victims (women) themselves. Richard Rego in his research found "Day-to-day human experience also points at many cases where in for lack of empirical evidence or the lack of legal requirements, perpetrators of any form of violence—sexual harassment included- tend to get away with their crimes. Victims are left to cope with their own bruised dignity, minds, and bodies."⁵

2 Atikah Rahmi, The Elimination of Sexual Violence Bill: Prevention Effort and Access to Justice for Victim, *2nd International Conference on Law and Human Rights 2021 (ICLHR 2021)*, Atlantis Press, 2021, page. 451—455.

3 Kerstin Adolfsson, Blaming Victims of Rape: Studies on Rape Myths and Beliefs About Rape, 2018, <http://hdl.handle.net/2077/57769>.

4 Sarah Doan-Minh, Corrective Rape: An Extreme Manifestation of Discrimination and the State's Complicity in Sexual Violence, *Hastings Women's LJ*, Vol. 30, 2019, page. 167.

5 Richard Rego, Changing Forms and Platforms of Misogyny: Sexual Harassment of Women Journalists on Twitter, *Media Watch*, Vol. 9, No. 3, 2018, page.472-85

Sexual violence is a common form of trauma experienced by women and is significantly associated with a variety of psychopathological domains, including post-traumatic stress disorder, suicide, obsessive-compulsive disorder, bipolar disorder, depression, anxiety, eating disorders, and substance abuse/dependence.⁶ The impact felt by victims of sexual violence is exacerbated by victim blaming which makes the victim sink into sadness and pain.

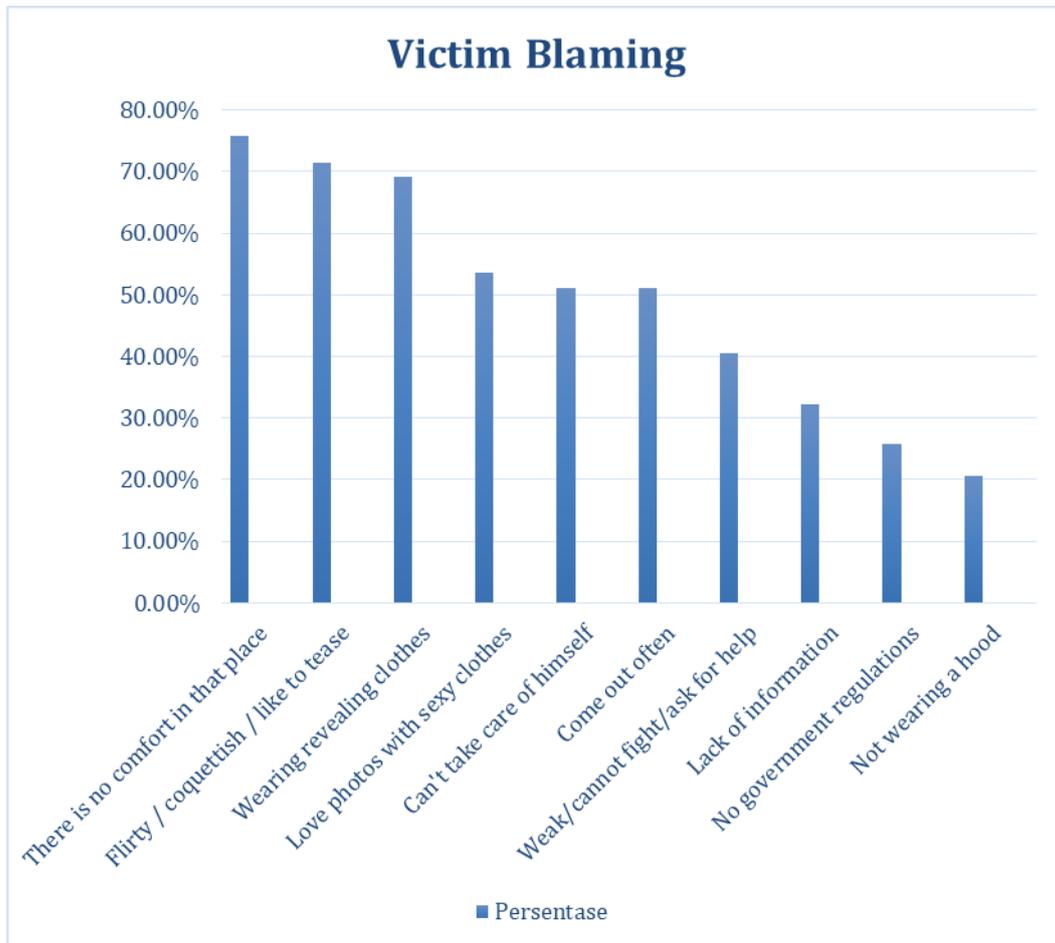
The problem of victim blaming is associated with the strong traditions and culture of society that still perpetuate gender stereotypes. The culture of gender injustice in the society makes women often get negative labels in society. For instance, the women who appear preening and dressing up using rather tight and sexy clothes are always considered as inviting the opposite sex to commit sexual harassment. This is then always used and associated with labeling victims of sexual harassment in which people tend to blame the victims of sexual harassment or victim blaming.⁷

The Indonesian Judicial Research Society conducted a survey using a telephone device and involved the participation of 2,210 respondents regarding the public's views on victims of sexual violence. The data shows that of all respondents surveyed, the community has a view that blames the victim (victim blaming), that sexual violence can occur due to the behavior and life choices of the victim. The majority of respondents thought that sexual violence was caused by one of the reasons whether the victim was flirtatious/coquettish/liked to tease, wearing revealing clothes, and so on. This shows that public perception still tends to blame the sexuality of the victim, especially if women/girls are the victims. It can be seen in the data below:⁸

6 Prachi H. Bhuptani and Terri L. Messman-Moore, Blame and Shame in Sexual Assault," *Handbook of Sexual Assault and Sexual Assault Prevention*, Springer, Cham, 2019, page. 309-322.

7 Bunga Suci Shopiani, Wilodati, and Udin Supriadi, Fenomena Victim Blaming pada Mahasiswa terhadap Korban Pelecehan Seksual, *Sosietas Jurnal Pendidikan Sosiologi*, Vol. 11, No. 1, 2021, page. 940-955

8 IJRS, *Menurut Masyarakat: Kekerasan Seksual itu Terjadi Karena Salah Korban!*, accessed on 24 October 2021, <http://ijrs.or.id/menurut-masyarakat-kekerasan-seksual-itu-terjadi-karena-salah-korban/>



Victim blaming against the victims of sexual violence does not only weakens the law enforcement in cases of sexual violence but also increases the suffering of victims. Several studies have discussed victim blaming, such as Sri Wahyuning Astuti, Dyah Pradoto and Gustina Romaria who researched "Victim Blaming Sexual Harassment Cases (Netnographic Study of Sexual Harassment Against Via Valen on Instagram)." This study tries to map the Victim Blaming experienced by Via Valen for the sexual harassment case that happened to her, based on netizen comments from Instagram posted by the gossip account @lambeturah. The research uses a netnographic approach, which is trying to understand the types of social relations on Instagram. The results of the study show that there are still many netizens who are victim blaming for cases of sexual harassment that befell Via Valen.⁹ Tantimin researched "Victim Blaming on Victims of Domestic Violence during the Covid-19 Pandemic: Victimology Perspective." The results found in this study are that victims tend to have difficulty in accessing their rights, and most victims do not dare to report cases of violence experienced due to fear of getting stigmatized by the community.¹⁰ Syarifah Nuzulliah Ihsani researched "Gender-Based Violence in Victim-

9 Sri Wahyuning Astuti, Dyah Pradoto, and Gustina Romaria, Victim Blaming Kasus Pelecehan Seksual: Studi Netnografi Pelecehan Seksual terhadap Via Valen Di Instagram, *Promedia (Public Relation Dan Media Komunikasi)*, Vol. 5, No. 1, 2019;

10 Tantimin Tantimin, Victim Blaming pada Korban Kekerasan Domestik di Masa Pandemi Covid-19: Perspektif Viktimologi, *Gorontalo Law Review*, Vol. 4, No. 2, 2021, page. 277-289

Blaming in Cases of Harassment Published by Online Media." The results of the study indicate that the role of online media in victim-blaming culture is caused by a gender bias in journalistic practices in online media. The use of diction that is biased towards victims leads readers to accept stereotypes constructed by the online media so that victim-blaming often occurs.¹¹ Previous studies examined victim blaming conducted on online media, while this study examines victim blaming against women who are victims of sexual violence. This study is carried out comprehensively, including the behavior of victim blaming that is carried out off-line. The research was conducted by connecting patriarchal culture with victim blaming. Based on the literature review, no research has been found that specifically examines victim blaming and labeling to the women victims of sexual violence from human rights perspective.

B. RESEARCH METHODS

This research is a normative juridical research by conducting a legal study of secondary data.¹² The typology of this research is analytical prescriptive, namely research that aims to provide suggestions and alternative solutions in overcoming a problem.¹³ The data collection technique used in this research is a documentation study by collecting documents related to victim blaming of women who are victims of sexual harassment, examined from the perspective of human rights. These documents are in the form of books, scientific journals, laws and regulations, and other documents.

The data collection procedure used in this study is a document review model. The legal materials used in this study are classified into primary legal materials consisting of the 1945 Constitution, the Criminal Code, and Act No. 39 of 1999 concerning Human Rights and relevant laws and regulations. Secondary legal materials are the legal materials that explain further about primary legal materials in the form of books, legal research reports, scientific journals. Tertiary legal material is an explanation of primary and secondary legal materials such as encyclopedias and legal dictionaries.¹⁴ The data analysis method used in this study is qualitative analysis which provides data in the form of a description of which the truth of the data or the final premise of the study is determined by the researcher himself.¹⁵

This study aims to examine the implications of patriarchal culture on the position of women as subordinates, the concept of blaming the victim against the women victims of sexual violence and human rights studies on victim blaming and labeling for women victims of sexual violence.

C. RESULT AND DISCUSSION

11 S. N. Ihsani, Kekerasan Berbasis Gender dalam Victim-Blaming pada Kasus Pelecehan yang Dipublikasi Media Online, *Jurnal Wanita Dan Keluarga* Vol. 2, No. 1, 2021, page. 12-21.

12 Soerjono Soekanto and Sri Mamudji, *Penelitian Hukum Normatif Suatu Tinjauan Singkat*, Cet. 8, Rajawali Pers, Jakarta, 2004, page. 14.

13 Bambang Sunggono, *Metode Penelitian Hukum*, (Rajawali Pers, Jakarta, 2011, page. 59.

14 Soerjono Soekanto, *Pengantar Penelitian Hukum*, UI Press, Jakarta, 1986, page. 51.

15 Lexy J Moleong, *Metode Penelitian Kualitatif*, Remaja Rosdakarya, Bandung, 2005, page 24.

1. The Implications of Patriarchal Culture on the Position of Women as Subordinates

In the cultural and social system of most Indonesian people, women are perceived and placed solely for their reproductive function. This view has implications for the labeling of women who can only stay at home to continue their offspring by giving birth and caring for their children. Unfortunately, women who are at home also have to do all the houseworks that are considered and categorized as the domestic work, and can only be charged or done by women. They are also perceived as human beings who have weaknesses and limitations, always use feelings, and are illogical. They are considered unfit to work in the "hard", competitive, and rational public sector. Women who work in public, build careers, and compete with men are considered violating nature.

Women and men do not only have a biological identity in the form of sex causing they have different anatomical and reproductive functions. However, it is more complex and has a social identity that is socially attached, hereditary, continuous, different from one place to another, and changed from time to time. Popular social identities as gender identities are constructed and attached to women and men according to their needs and interests. Therefore, in every tribe, community, society, to country, the social roles and practice of relations between women and men are always different. The difference in roles born of this social construction is not a problem, if it does not give rise to discrimination and injustice against one gender. In fact, the different roles of women and men lead to discrimination and injustice against women in various social environments and sectors of life.

Women are forced to be in the domestic sphere and only have reproductive functions. Various instruments in life, both in the society and state, are constructed to place women in the domestic sphere and in their reproductive functions. As a result, various national laws are not only impartial and unprotect women, but even harm women. It is not only impartially, but also on the contrary discriminates women. Feminist theory born as part of the conflict perspective emphasizes the dominance of the role of men in society and the privilege and power that is formed in the dominant group as a result of the unequal distribution of resources. The existence of privilege and power possessed by the dominant male in this patriarchal culture makes it easy for them to oppress and discriminate women. The privileges possessed by men are seen in various public sectors, such as social status. This advantage makes it seem as if men have the power to dominate various public sectors. Thus, the movement of women in society is still limited and has difficulties in fulfilling the rights that women deserve.¹⁶

The struggle of women to demand their rights as whole human beings is a fight against the division of labor that establishes men as the

16 Sarah Apriliandra and Hetty Krisnani, Perilaku Diskriminatif pada Perempuan Akibat Kuatnya Budaya Patriarki di Indonesia Ditinjau dari Perspektif Konflik, *Jurnal Kolaborasi Resolusi Konflik* Vol. 3, No. 1, 2021

ruling party in the public sphere.¹⁷ In radical feminism, listening to women's voices must come purely from women and should not be mixed with sexist views of men. Sources of gender inequality according to this radical feminism are; (1) The system of oppression of women by men (patriarchal system) which always discriminates women; (2) violence and control of men against women; (3) Legalization of oppression of women through law, religion, and other social institutions; (4) The objectification of women's bodies through advertisements, mass media, and other industrial productions; (5) Exploitation of women through pornography and prostitution.¹⁸ The deeply rooted patriarchal culture also has implications for the perspective of sexual violence.

Cases of sexual violence are generally perpetrated by men against women. Women are the most vulnerable targets to become victims of sexual violence and men are the perpetrators, although it does not rule out the opposite. The belief that women hold the label as 'holy' creatures causes the victim hesitant to reveal what happened to her because the assumption that she is 'unholy' and becomes a 'disgrace'. As it is known that disgrace is something that must be covered up and shameful. Not only they have to accept the label, women are also often charged with being the responsible party or getting victim blaming. Forms of victim blaming such as not believing the victim's story, blaming or saying that everything happened because of the victim's presence, lowering the severity of the attack received, and inappropriate treatment after the crime by the authorities.¹⁹

Cases of rape and sexual harassment experienced by survivors generally occur because of the strong patriarchal culture in society. Patriarchy according to Sylvia Walby is a system of social structures and practices that positions men as dominating, oppressing and exploiting women. It also shows that currently there has been a shift in social values in the life of Indonesian society so that people tend to consider rape and sexual harassment to women as a small thing. Rape and sexual harassment experienced by women become an unforgettable part in the social life system of society. Often women victims are cornered and blamed because female victim is considered 'inviting' action by wearing sexy clothes or walking alone at night.²⁰ The view of victim blaming in cases of sexual violence shows that the patriarchal culture is so strong in society.

17 N. P. L. M. Prameswari, Wahyu Budi Nugroho, and N. M. A. S. Mahadewi, Feminisme Eksistensial Simone de Beauvoir: Perjuangan Perempuan di Ranah Domestik, *Jurnal Ilmiah Sosiologi* Vol. 1, No. 2, 2019, page.1-13.

18 Faatihah D. Najib, Blaming the Victim: Objektifikasi Korban Kekerasan Seksual dalam Pemberitaan di Media Online balairungpress.com, *Interaksi Online* Vol. 8, No. 2, 2020, page. 53-63.

19 Rayza I. A. Ashgarie, Nashra Tibrisna, Riyan R. A. Basith, Mochammad Sa'id, Bias Gender Dalam Fenomena Victim Blaming Kekerasan Seksual, *Flourishing Journal*, Vol. 2, No. 3, 2022, page.201-207.

20 Rini Oktaviani and Suzy S. Azeharie, Penyingkapan Diri Perempuan Penyintas Kekerasan Seksual, *Koneksi*, Vol. 4, No. 1, 2020, page. 98-105.

2. The Concept of Victim Blaming to the Women Victims of Sexual Harassment

The concept of victim blaming is that women are positioned as victims but are blamed. Through the words and sentences in the media coverage, women are described as victims as well as the triggers for rape. The criminalization of rape victims is also a distinctive feature of the perpetrators of rape in order to distort the facts of the crime of rape. The concept of victim blaming used in this study describes that rape victims are blamed and accused of being the cause of the traumatic event that happened to them. Victims are blamed for being considered passive (surrendering and accepting and enjoying sexual treatment from the rapist). Criminals are considered innocent because it is impossible to restrain their lust. Lust, in the view of patriarchal society, is something that is considered uncontrollable by humans. The position of the victim who is blamed in an incident related to sexual violence or rape does not seem to be treated fairly in law enforcement and reporting in the media.

The victim blaming approach assumes that someone is victimized because of something "wrong" to the victim.²¹ The term has been known since 1971 by William Ryan. Victim blaming is an attitude that blames the victim as the person who must be responsible for the occurrence of a crime. Eigenberg & Garland mention, blaming the victim often occurs as a result of mistakes made by women for deviating from society's construction of women.²² Victim blaming is a social problem of poverty due to racism and ignorance of the poor being the object of blame for the problems that occur. The concept of victim blaming is a justification for injustice by finding defects or faults in victims of injustice. In the concept of blaming, the women victims who are blamed through words and sentences in media coverage are at one time described as victims and also the triggers of sexual harassment that befell them. Victims of harassment are stigmatized which is often blamed by those around them and used by irresponsible perpetrators so that victims of abuse cannot justify the justice.²³

The application of double standards to the appearance of men and women has implications for gender inequality. Victim blaming creates a condition where the victim is the object or target of the blame for an incident. In the case of sexual harassment, women are the ones to blame whether it is related to the way of dress, behavior, the timing of the harassment incident, or the justification that does not place men as perpetrators. The basis of this justification is that it is normal for men to sexually harass women because they have a high libido or lust, but the problem lies in women who, according to public morality, cannot take

21 Muhammad Iqbal, Pengaruh Perilaku Menyalahkan Korban dalam Tindak Pidana Kesusilaan di Indonesia, *JOM Fakultas Hukum Universitas Riau* Vol. 7, No. 2 2020, page.6.

22 H. Eigenberg and Garland R., *Victim Blaming* in L.J. Moriarty (Ed.), *Controversies in Victimology*, Elsevier Press, Newark NJ; 2008)page. 21-36.

23 Bunga Suci Shopiani, Wilodati, and Udin Supriadi, *Loc.cit.*

care of themselves properly or respectedly. Victims of sexual harassment often get a bad label and even contempt by their social environment.²⁴ The perpetrators of victim blaming are not only men, but also by fellow women. This condition certainly violates the rights of women.

Victim blaming, a part of rape culture, is currently being intensively carried out by the majority of the community. Victim blaming is done by blaming the victim of sexual harassment and assuming that the action occurred as a result of the victim's behavior. In general, people will blame the victim by labeling and accusing the victim and assuming that the victim of sexual harassment seems inferior and unequal. Lack of comprehensive education about sexual behavior or sexual habits and sexual violence is also a factor in normalizing the problem of sexual harassment.²⁵ The myth of rape illustrates how traditional roles influence the wrong attribution of blame to victims of sexual violence against women, which of course explains the consequences of cultural values regardless of the position of a third person as an observer of this case. Women are required to understand what they should and should not do as individuals born with that gender. A person's belief in getting something he deserves (just world beliefs) is continuous with the rape myths. An assumption regarding the freedom of individuals to follow whatever they believe in, including assuming someone gets what they deserve and the world is a fair place, results in an assumption that victims of sexual violence against women also admit the truth of their negative views of their behavior. This can start from the conformity of the majority of society so that these values are generalized in such a way. Victims slowly realize and begin to analyze their merits as victims due to their own actions.²⁶

Along with the era of gender equality and the protection of human rights, the fight against victim blaming must be carried out optimally. Victim blaming makes the suffering of the victims increase. The impact of victim blaming includes the occurrence of further crimes, namely victims receive negative responses, tend to experience greater suffering and are less likely to report their cases to the law enforcement. Victims who are ultimately blamed prefer to avoid secondary victimization that can occur in the future so they prefer not to report the crime they experienced.²⁷ On the other hand, these views will be the basis of justification for the perpetrators.

3. Human Rights Study on Victim Blaming and Labeling for Women Victims of Sexual Violence

24 Bunga Suci Shopiani, Wilodati Wilodati, and Udin Supriadi, *Loc. cit.*

25 Aulya E. Restikawasti, Alasan Perempuan Melakukan Victim Blaming pada Korban Pelecehan Seksual, *Journal of Civics and Moral Studies* Vol. 4, No. 1, 2019, page. 10-20.

26 Erika P. Wulandari, and Hetty Krisnani, Kecenderungan Menyalahkan Korban (Victim-Blaming) dalam Kekerasan Seksual terhadap Perempuan sebagai Dampak Kekeliruan Atribusi, *Share: Social Work Journal*, Vol. 10, No. 2, 2020, page.187-197.

27 L. Coates, C. Richardson, and A. Wade, *Reshaping Responses to Victims of Violent Crime*, Presented at Cowichan Bay, B.C., Canada. http://crcvc.ca/docs/victim_blaming.pdf

Everyone has the right to the protection of human rights and basic human freedoms without discrimination (Article 3 paragraph 3 of Act No.39/1999 on Human Rights). Protection is a form of service carried out by law enforcement officers or security forces to provide a sense of security both physically and mentally to victims and witnesses from the threat of terror disturbances and violence from any party provided at the stage of investigation, prosecution and or examination in court.²⁸ In formulating protection for Indonesia, the base of the foundation is Pancasila as the ideology of the State based on the concepts of recognition and protection of human rights. In the perspective of international law, the term protection includes the element of enforcement. The protection can mean individual complaints; inter-state complaints; state reporting; inquiries and investigations; fact-finding; human rights monitoring.²⁹

Human rights are rights that humans have by nature without exceptions and privileges for certain groups and social levels of humans. These rights include, among others, the right to life, security, freedom of opinion and freedom from all forms of oppression that must be upheld, not only by every individual from a country that recognizes the existence of human rights itself, but must also be guaranteed by the state without any exceptions. The guarantee provided by the state for these rights does not mean that these rights are born after the state ratifies an international convention on human rights or issues any regulations that guarantee the human rights of its citizens, but rather it is the state's responsibility to guarantee the rights that have been granted and owned by every citizen by nature and show the state's respect for these rights. Because the most basic rights are naturally owned by every human being along with his birth in the world as an independent individual. The term Human Rights itself means that these rights are found in the nature of humanity and for the sake of humanity. That's why every human being has it and that right cannot be revoked by anyone, even by himself.³⁰

Women, as a group in society within a country, are a group that is also obliged to get guarantees for their rights. The Universal Declaration of Human Rights does not explicitly state the existence of guarantees of human rights for groups of women in particular, but Article 2 of the UDHR contains that rights and freedoms need to be owned by everyone without discrimination, including not discriminating based on sex.³¹ Thus, if it is related to the state's obligation to provide guarantees for its

28 E. A. Muhadar and H. Thamrin, *Perlindungan Saksi dan Korban Dalam Sistem Peradilan Pidana*, CV. Putra Media Nusantara, Surabaya, 2009, page.119.

29 Muladi, *Hak Asasi Manusia - Hakekat, Konsep dan Implikasinya dalam Perspektif Hukum dan Masyarakat*, Refika Aditama, Bandung, 2009, page.267.

30 Niken Savitri. *HAM Perempuan (Kritik Teori Hukum Feminis Terhadap KUHP)* (Bandung: Refika Aditama, 2008), page.1.

31 Saparinah Sadli, *Hak Asasi Perempuan Adalah Hak Asasi Manusia, dalam Pemahaman Bentuk-Bentuk Tindak Kekerasan Terhadap Perempuan dan Alternatif Pemecahannya, KK Convention Watch*, Pusat Kajian Wanita dan Gender Universitas Indonesia, Jakarta, 2000, page.1

citizens, the state also has a responsibility to guarantee the protection of the human rights of women's groups as well as guarantees to other groups.

In many countries around the world, including the United States, sexual harassment is considered a form of sex discrimination.³² Likewise in Indonesia. The opening statement by President Obama also highlights another important and often ignored element that contributes to the continued tendency to blame victims of sexual assault – the role of cultural structures, beliefs, and practices.³³ In Indonesia, there are actually quite a lot of legal protections for women's human rights, both in the form of legislation and in the form of state policies. There have been many international conventions that have been ratified by Indonesia and implemented in their daily lives. However, women's human rights are still not optimally protected, even in the Preamble to the 1945 Constitution, the issue of human rights in Indonesia has been mentioned, "Therefore, colonialism in the world must be abolished, because it is not in accordance with humanity and justice". And in the article of the 1945 Constitution, it has also been discussed, namely article 27 paragraphs 1 and 2. (1) All citizens have the same position in law and government and are obliged to uphold the law and government with no exceptions. (2) Every citizen has the right to work and a decent living for humanity. In addition, in general, the law that regulates human rights in Indonesia is contained in Act No. 39 of 1999.

In addition to the forms of protection of human rights as regulated in the Declaration on the Elimination of All Forms of Violence against Women, the Convention Against Torture and Other Cruel, Inhuman and Degrading Treatment or Punishment, there are several principles that have inspired human rights, namely the principle of equality, violations of discrimination and positive obligations imposed on each State that are used for certain rights.³⁴ The responsibility of the state is needed by the people, so that the people feel protected and feel cared for. Because in reality, the state still ignores the rights that every citizen must have, the protection of women has not been carried out optimally, especially for those (women) who are victims of sexual violence such as rape. Recent rape cases have caused some reactions from the public and even dissatisfaction with the sentence imposed. Based on legal knowledge, the victim can sue, apart from that, it is time for the government, such as the independent Woman National Commission (*Komnas Perempuan*), and social institutions to think about the fate of the victims of crime because essentially, community members who experience disasters need

32 Renata Bongiorno, et al., Why Women Are Blamed for Being Sexually Harassed: The Effects of Empathy for Female Victims and Male Perpetrators, *Psychology of Women Quarterly*, Vol. 44, No. 1, 2020, page. 11-27

33 Claire R. Gravelin, Monica Biernat, and Caroline E. Bucher, Blaming the Victim of Acquaintance Rape: Individual, Situational, and Sociocultural Factors, *Frontiers in Psychology*, Vol. 9, 2019, page. 2422

34 Suparman Marzuki, *Bahan Kuliah Hukum Pidana dan Hak Asasi Manusia*, Jogjakarta, 2012, page. 39.

government attention and it is very meaningful for the recovery of the victims' souls.³⁵

Legal protection for victims is the responsibility of law enforcement officials or government as well as the community itself, because legal protection is a right that must be obtained by all parties. Therefore, the legal protection is our responsibility as humans who have rights and obligations. The elements of the victim protection system are:³⁶ There is a protection mechanism for victims in the judiciary, There is an update of laws, including on trial procedures and new evidence rules that are conducive to the enforcement of human rights, There are protocols that are formulated and agreed upon by the judiciary and community organizations accompanying victims to ensure coordination of efforts protection and empowerment, There is training for police, prosecutors, judges and court clerks to develop knowledge and ability to run a protection system for victims properly, There is convenience for victims to obtain assistance services, including trauma counseling, for recovery and empowerment of victims even though they choose to not take legal action.

Victim blaming has a serious impact on many parties, especially for the victims themselves. In research conducted on rape victims, it was found that the negative reactions shown by professionals made the victims have a desire to keep the tragedy they experienced a secret. Meanwhile, the negative reactions shown by friends and family encourage the victims to blame themselves (self-blame), and the negative reactions shown from other parties make the victims unsure whether the tragedy they experienced was rape.³⁷ Victim blaming has also been shown to increase posttraumatic stress levels, negatively affecting victims' self-esteem, belief in the future, belief in a just world, and trust in justice institutions.³⁸ The victims' fear of being blamed for the crime that happened to them can also negatively influence the decision to report the perpetrator.

It is no secret that justice does not seem to be on the side of the rape victims. Instead of getting justice after daring to voice their suffering, they actually got victim blaming. Unconsciously the treatment of victim blaming creates a system that does not take sides with the victim, regardless of the number of movements or social actions supporting the victim, the victim blaming still lasts until now. With this blaming action, the victims will feel that there is no one to defend and support them in fighting for justice for the rape case they experienced,

35 Leden Marpaung, *Kejahatan Terhadap Kesusilaan dan Masalah Prevensinya*, Sinar Grafika, Jakarta, 2008, page. 48.

36 Emilda Firdaus, Implementasi Undang-undang Nomor 23 Tahun 2004 Tentang Penghapusan Kekerasan Dalam Rumah Tangga di Kota Batam, *Jurnal Hukum Ius Quia Iustum*, Vol. 21, No. 1, Januari 2014, page. 39-154

37 C. E. Ahrens, Being Silenced: The Impact of Negative Social Reactions on the Disclosure of Rape, *American Journal of Community Psychology*, Vol. 38, No. 3-4, 2006, page. 31-34.

38 Uli Orth, Secondary Victimization of Crime Victims by Criminal Proceedings, *Social Justice Research*, Vol. 15, No. 4, 2002, page. 313-325

which in the end, they hide their own suffering. Affective responses to victim blaming can lead to a feedback loop, whereby the victim's display of emotions is used to justify the undermining of the victim's credibility—which may lead to further victim blaming by reinforcing that the victim is "too emotional" or "too angry." Furthermore, emotions are used to create new stereotypes that affect credibility and result in repeated testimonial injustice.³⁹

The view of Human Rights against victim blaming, clearly violates human rights. Reflecting on the 1945 Constitution of the Republic of Indonesia, in Article 28I paragraphs (1), (2), and (4), it describes that:⁴⁰

- a. The right to life, the right not to be tortured, the right to freedom of thought and conscience, the right to variety, the right not to be enslaved, the right to be recognized as a person before the law, and the right not to be prosecuted on the basis of retroactive law are human rights that cannot be reduced.
- b. Everyone has the right to be free from discriminatory treatment on any basis and is entitled to protection against such discriminatory treatment.
- c. The protection, promotion, enforcement and fulfillment of human rights are the responsibility of the State, especially the government.

Referring to these provisions, implicitly the prohibition against blaming the victim is not regulated, but in general the protection of the right to be recognized as a person in conflict with the law, in this case the victim of rape must be protected, not immediately blamed for what had happened to her.

D. CONCLUSION

The victim blaming is rooted in a patriarchal culture placing women in a subordinate position. The act of blaming the victim actually provides a justification for the perpetrators to commit sexual violence against women and continue their actions without punishment. On the other hand, victim blaming has a serious impact on the victim. Victims must resolve their own suffering, both physical and psychological suffering without assistance. The negative reactions shown by the professionals made the victims have the desire to keep the tragedy that they experienced a secret. The victims' fear of being blamed for the crime that happened to them can also influence the decision to report the perpetrator. This condition of course weakens law enforcement and violates women's human rights.

39 Veronica E. Johnson, et al., *It's Not in Your Head, Gaslighting, 'Splaining, Victim Blaming, and Other Harmful Reactions to Microaggressions, Perspectives on Psychological Science*, Vol. 16, No. 5, 2021, page.1024-1036

40 Komunitas Cerdas, *UUD 1945 dan Perubahannya*, Cyan Publisher, Jakarta, 2010a, page.24.

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