

**PREVENTION OF SECONDARY VICTIMIZATION FOR CRIME VICTIMS
OF SEXUAL VIOLENCE IN COURT PROCEEDING PROCESS IN
YOGYAKARTA
THESIS**



Arranged By:

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**INTERNATIONAL PROGRAM
UNDERGRADUATE LEGAL STUDIES PROGRAM
FACULTY OF LAW
UNIVERSITAS ISLAM INDONESIA
YOGYAKARTA**

2023

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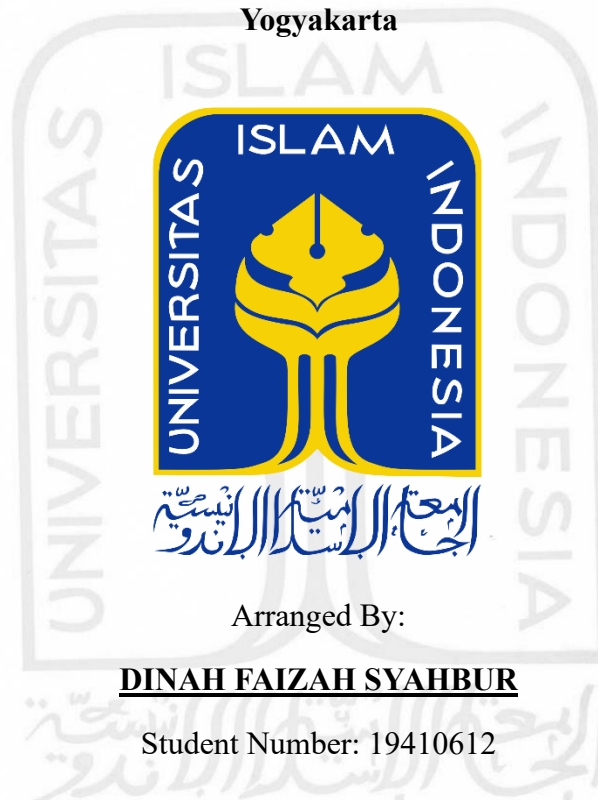
THESIS

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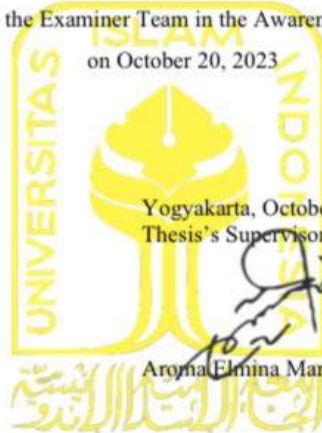
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PROCEEDING PROCESS IN YOGYAKARTA**

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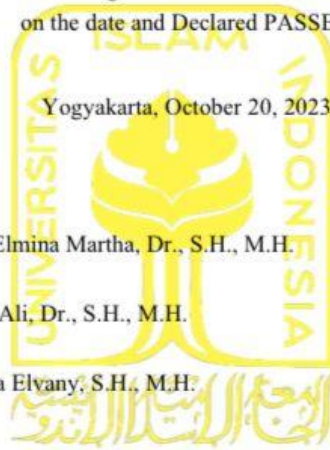
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**PREVENTION OF SECONDARY VICTIMIZATION FOR CRIME VICTIMS
OF SEXUAL VIOLENCE IN COURT PROCEEDING PROCESS IN
YOGYAKARTA**

This bachelor degree thesis has been Examined and Approved by Language Advisor
to be examined by the Board of Examiners at the Thesis Examination



الجامعة الإسلامية
الابدية لا تَبُلُّ
الوقت ولا يَفُوتُ

Christopher M. Cason, JD., LL.M.

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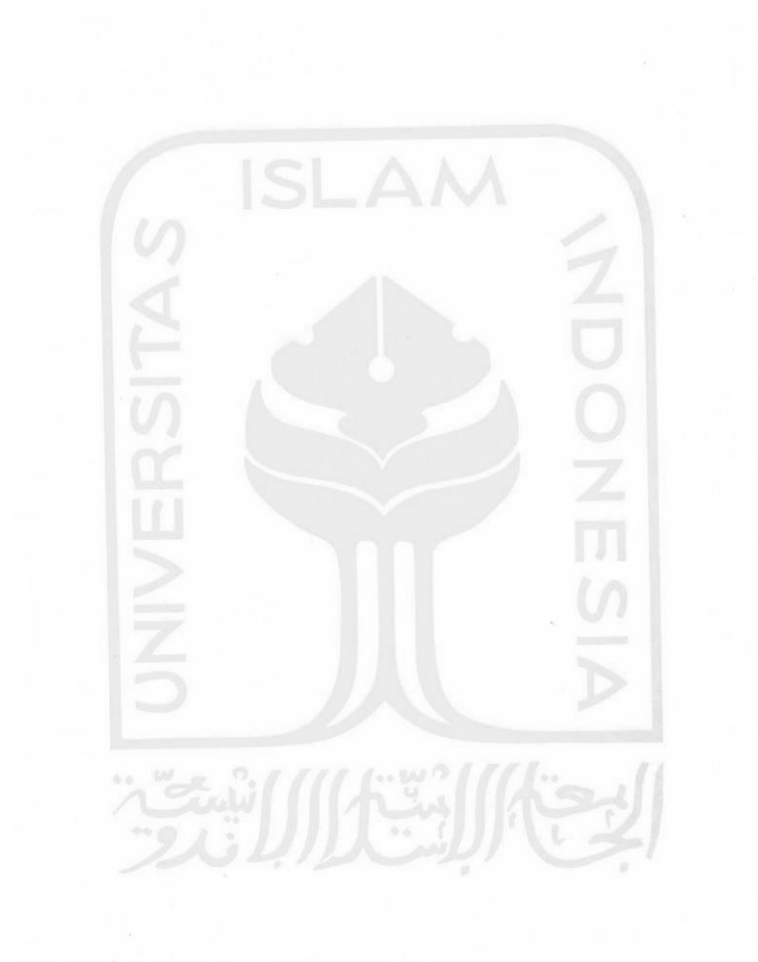
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MOTTO

Allah tidak akan memebani seseorang, kecuali menurut kesanggupannya

(QS. Al-Baqarah: 286)

Kamu berada di titik ini semua karena kehendak Allah SWT, maka janganlah kamu risau dan bertanya-tanya apakah ini merupakan yang terbaik atau bukan, karena sesungguhnya kamu sudah menjalani hidup yang selama ini kau panjatkan dalam doa

(Dinah)

Feel stupid and lost are part of the process. That means that you open yourself for new possibilities. And that's the essence of learning. And remember, in this process, whenever you fail, that means that you learn something. Not losing something.

(Shofia Ishar)

The secret of getting ahead is getting started

(Mark Twain)

Do you know what cools the fiery heart and smashes the rock-hard heart into grains of sands? It's doubt, doubt towards yourself. It is normal, your heart can't always stay the same. The burning passion that once you had disappeared, and when your body becomes heavy, you start to have worthless thoughts, and if that happen. your thoughts tend to flow in a negative direction. Which is why you shouldn't do it alone, but together. When you can't believe in yourself, try to believe in those who believe in you.

(The lazy lord swordsmanship)

DEDICATION

This thesis is dedicated to:

Allah Subhanallah wa ta'ala

Who has given me ease in every step I take, who has given me so much blessing, who has continued to be my place to complain in every challenge I face, who has always protected me from bad things, who has given me health, strength, sustenance, happiness, and good people who love me.

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Author,



Dinah Faizah Syahbur

TABLE OF CONTENTS

CHAPTER I INTRODUCTION.....	1
A. Background of Study	1
B. Problem formulation	10
C. Research Objectives.....	10
D. Originalities of Research.....	10
E. Literature Review.....	14
F. Definition Operational	22
G. Research Method	24
CHAPTER II. GENERAL OVERVIEW OF PREVENTION, SEXUAL VIOLENCE, SECONDARY VICTIMIZATION, COURT PROCEEDING PROCESS.	30
1. An Overview of Prevention	
1.1 Definition of Prevention.....	31
1.2 forms of Prevention.....	33
1.3 Impacts of Prevention.....	37
2. An Overview of Sexual Violence	
2.1 Definition of Sexual Violence	39
2.2 Forms of Sexual Violence	41
2.3 Impacts of Sexual Violence towards the victim	42
3. An Overview of Secondary Victimization	
3.1 Definition of Secondary Victimization	47
3.2 Forms of Secondary Victimization.....	49
3.3 Impacts of Secondary Victimization	52
3.4 An overview of Secondary Victimization from the Perspective of Islam Law.....	54
3.5 Theory of Blaming the Victim	59
4. An overview of Court Proceeding Process	64
CHAPTER III FINDING AND RESULT	69
A. Secondary Victimization still occurs in the examination of victims of sexual violence in court proceeding process caused from several factors.....	73
B. To prevent secondary victimization of victims of sexual violence during court hearings will be based on several factors	83
CHAPTER IV CLOSING REMARKS.....	99
A. Conclusion	99
B. Suggestion	100
Bibliography	102

ABSTRACT

The number of cases of sexual violence against women is still a concern faced by Indonesian society. When a crime of sexual violence occurs, the victim will report the crime. When undergoing the process to demand justice, it is not uncommon for victims of sexual violence to experience secondary victimization where the victim is blamed for the crime and receives negative stigma from law enforcement officials. This research formulates the problem of what factors caused the occurrence of secondary victimization in the examination of victims of sexual violence in court proceedings and provide kinds of factors that can be done to prevent the occurrence of secondary victimization for victims of sexual violence in the examination of court proceedings. This research is empirical research using primary data obtained through interviews with legal institutions in charge of handling victims, namely Rifka Annisa Women Crisis's Center, Yogyakarta State Prosecutors' Office, and Judges at the Yogyakarta State Court. The results of this research can be concluded that secondary victimization still occurs for victims of sexual violence because many law enforcement officials still lack a victim's perspective and do not understand the dynamics of victim's post-crime. Various prevention of secondary victimization has been provided, such as the existence of legal assistance by Rifka Annisa, the existence of prosecutor's guidelines No. 1 of 2021 concerning the handling of victims of sexual violence and Perma No. 3 of 2017 concerning guidelines for judging women's cases against the law. Suggestions based on the results of the study are for law enforcement officials who handle victims of sexual violence to have better understanding regarding the perspective of victims and understand the psychological dynamics of victims so that secondary victimization does not occur, and victims are not afraid to report cases of sexual violence that occur to them. To the government, so that the regulation of law number 12 of 2022 can be implemented immediately so that law enforcement officials can prioritize the interests of victims and implement related procedures for handling victims of sexual violence in the criminal justice system so that secondary victimization of victims of sexual violence does not occur.

Key words: Prevention, Sexual Violence, Court Hearing Process, Secondary Victimization

CHAPTER I

INTRODUCTION

A. Background

Violence against women is a form of human rights violation in society. Violence against women is also a serious health problem because it weakens a woman's energy, eroding her physical health and self-esteem. In addition to causing injuries, violence also increases the long-term risk of other health problems, including chronic disease, physical disability, drug and alcohol abuse, and depression. Women with a history of physical and sexual abuse also increase their risk of unwanted pregnancy, sexually transmitted diseases (STDs) and poor post-pregnancy outcomes.

One-third of Indonesian women aged 15-64 years have experienced physical violence or sexual violence either committed by a partner or other than a partner during their lives. The majority of them do not report their violence to law enforcement officials. Those who come forward still face discrimination in the judiciary. Women are 6 times more vulnerable to violence than men. More than 66% of victims of sexual violence in Indonesia are women¹. The rise of sexual violence crimes has caused concern in the community. The lack of protection and justice obtained by victims of sexual violence is a problem that requires resolution. The government is expected to improve the quality of laws regarding victim protection, and how to handle victims of sexual violence while undergoing the criminal justice system.

¹*Victim Blaming Pada Kasus Kekerasan Seksual*, contained in <https://sema.stis.ac.id/rilis/kastrat/2>. Mar. 11, 2022. Accessed on 30th August, 2023.

Chief justice of the supreme Court Hatta Ali reminded judges to be careful in handling sexual offenses against women. He mentioned that there were complaints from the public about judges' questions that seemed to corner women. The form of the complaint was to report to the panel of judges in a case of decency. What was disputed by the justice seeker was that the panel asked questions that seemed to show a demeaning attitude towards women. They also asked questions about women's experiences of sexuality. The form of questions and statements given seemed to blame women for dressing up, asking why the victim is wearing a short skirts, and why is she walking at night. This seemed to convict the victim that it was not only the perpetrator who was at fault.²

A rape case experienced by a woman with the initials W, at a hotel in Yogya. Previously, the victim said that her party had arrested the perpetrator in Surabaya, the DIY Police let the alleged perpetrator loose. However, this was denied by the police, and said that the legal process was still in the investigation stage, and they were still looking for witnesses and examining the report submitted by the victim, so arrests without an official letter could not be made. The police also stated that they faced obstacles in arresting the perpetrator due to the lack of evidence and witnesses, because the incident was only known by the perpetrator and the victim. However, based on a statement from the victim's companion, Muhammad Romadhlon, denied that the evidence owned by the victim was still lacking, because it had included the victim's

² Haris Fadhil, *Hakim Diminta Hindari Diskriminasi Gender saat Tangani Kasus Asusila*, detikNews Contained in <https://news.detik.com/berita/d-3824233/hakim-diminta-hindari-diskriminasi-gender-saat-tangani-kasus-asusila>. Jan. 20, 2018. Accessed on 27 September 2023.

pants which contained the perpetrator's sperm and the perpetrator had confessed, but the handling given by the police was slow and seemed to protect the perpetrator. This caused the victim's condition to worsen because there has been no significant progress since she was reported.³

Based on interviews conducted with the PPA Unit of the Yogyakarta Regional Police, it is known that there is no special procedure for handling victims of sexual violence and only needs to have the attitude of the investigator. During the interview, PPA members said that there are several things that must be taken into consideration in determining whether an act is a criminal act or not, such as asking why rape can occur in a hotel, whether after the rape occurred the victim was still taken back by the perpetrator, and so on. Not having specific procedures means there is a lack of consideration for the victim's mental state after the crime, and asking questions can cause the victim's mental state to fluctuate.⁴

Based on interviews conducted with Rifka Annisa Women's Crisis Center, Mrs. Lisa Oktavia S.H., as PLT Manager of Assistance, it is known that in the examination of victims of sexual violence in court, secondary victimization still often occurs where victims are asked by law enforcement officials about things that are not related to proving the crime of rape, such as being asked why they are reporting now, why the victim wants to be invited to that place, the sentence given by the judge to the

³Polda DIY Bantah Lepas Pelaku Perkosaan: Polisi Masih Kumpulkan Bukti, contained in <https://kumparan.com/pandangan-jogja/polda-diy-bantah-lepas-pelaku-perkosaan-polisi-masih-kumpulkan-bukti-1zbxfbTUTkE/full>, accessed on 23th October 2023.

⁴Interview with Ms. Sri Mawar Indah KD, S.H., BA Ditreskrimum, and Ms. Lucy Anesya Wardani, S.H., BA Ditreskrimum POLDA DIY

perpetrator of sexual violence also does not satisfy the victim. In year of 2022 there are reportedly 189 cases of sexual violence that was happening in Yogyakarta.⁵

Director of Rifka Annisa Yogyakarta, Suharti stated that many women victims of violence do not dare to report to officers. They are afraid of being accused of being the main factor triggering violence. Based on Suharti's statement, it is often found in the community, by reporting to the authorities will open disgrace and fear of being blamed.⁶

Based on Cornelia Natasya's observations in the field, victims often only get support or assistance that is a formality. Often, these assistants do not have sufficient capacity, so they often ignore the mental condition of the victim. What often happens is that after the victim decides to speak out, they experience another form of violence, namely mental violence: Those who feel aggrieved will blame her. People, including close friends, tend to shame her. There is no assistance and mental strengthening for victims to deal with these things. Cornelia Natasya described that while assisting the 'Agni' case, the victim also experienced intimidation, terror, isolation, bullying. In addition, the third party in the settlement of the case was also unable to be objective and fair, in this case in the form of the Agni case report which was ignored many times.⁷

⁵ Interview with Lisa Oktavia, S.H., PLT Manager of the Assistance Division at Rifka Annisa Women's Crisis Center

⁶Kasus Kekerasan Perempuan Marak, Banyak Masyarakat Takut Melapor contained on <https://gunungkidul.sorot.co/berita-98097-kasus-kekerasan-perempuan-marak-banyak-masyarakat-takut-melapor.html>. Accessed on 22th October 2023.

⁷Kusumasari Ayuningtyas, Hentikan 'Tradisi' Penghakiman Korban Pelecehan Seksual, contained in <https://www.dw.com/id/hentikan-tradisi-penghakiman-korban-pelecehan-seksual/a-58076897>, accessed on 23th October 2023.

Instead of getting protection and assistance, when reporting sexual violence, victims are subjected to secondary victimization and have to face questions that are often prejudicial and unempathetic⁸. The events and statements given by the above institutions towards the victims of sexual violence are clear evidence that the lack of capability to handle and protect the victims of sexual violence has resulted in many secondary victimizations for victims of sexual violence. Secondary victimization occurs not due to a criminal act but through institutional and individual responses toward the victims. Institutional responses can come from institutions of the criminal justice system, social institutions, or government institutions. In contrast, individual responses can come from law enforcement individuals, friends, families of victims, or even the wider community. Secondary victimization is most prevalent and appears in the criminal justice system.⁹

Suppose criminal proceedings cause physiological harm to the victims involved. In that case, this must be considered a serious undesirable effect of the criminal justice system and an instance of secondary victimization of victims. Secondary victimization has been defined as a negative social or societal reaction as a consequence of primary victimization. It is experienced as a further violation of legitimate rights or entitlements by the victim. Besides effects on the psychological difficulties caused by the primary victimization, secondary victimization by criminal

⁸Pakar Menjawab: kenapa banyak korban kekerasan seksual malah minta maaf atau menarik laporannya? Contained in <https://theconversation.com/pakar-menjawab-kenapa-banyak-korban-kekerasan-seksual-malah-minta-maaf-atau-menarik-laporannya-177460>, accessed on 25th October 2023.

⁹Mahrus Ali, *Victimology*, Ctk. Pertama, First Edition, PT RajaGrafindo Persada, Depok, 2021, p. 40.

proceedings could negatively influence other physiological variables such as the victim's self-esteem, faith in the future ¹⁰, trust in everyone around, and self-blaming.

Secondary victimization by the procedure of criminal proceedings. When investigating the psychological effects of criminal proceedings, the victims' appraisals of the procedure must be considered as potential causes of secondary victimization.

First, procedural justice is a crucial variable in evaluating criminal proceedings. Several criteria of procedural justice have been identified: the consistent application of rules (consistency), bias suppression in decision making (bias suppression), proper consideration of all relevant information (accuracy), the review of the decision in case of objections and new information (correctability), representativeness of the views of all parties concerned (representativeness), and compatibility of the decision with generally accepted ethical values (ethicality). The principle of presumption of the defendant's innocence is likely to be perceived by victims as a significant imbalance in consideration of the victim's interests vs. the perpetrator's interests. The principle is a fundamental guarantee of a fair trial for the defendant; however, questioning the perpetrator's guilt implies questioning the credibility of the victim's testimony.

Second, interactional justice refers to the interpersonal aspect of the procedure. Parties to a trial pay attention to the status the judge accords them: whether they are treated with respect and politeness. Categories of interactional injustice are victim blaming, insensitive remarks, debasement, and minimization of the harm caused by

¹⁰Uli Orth, "Secondary Victimization of Crime Victims by Criminal Proceedings", *Social Justice Research*, Vol. 15, No. 4, Universität Bern, 2002, p. 315.

victimization. Violations of interactional and procedural justice will likely negatively affect the victim's self-esteem.

Third, psychological stress caused by criminal proceedings is another crucial procedure variable. The testimony situation, the confrontation with the perpetrator, and the presence of spectators are often cited as especially stressful. Victims may perceive the criminal proceedings as a further serious interpersonal conflict with the perpetrator. The long delay between reporting a crime to the police and the beginning of the trial represents an additional source of psychological stress for crime victims. Some victims feel or are blamed by the perpetrator or defence attorney for being partially or fully responsible for the criminal offense.¹¹

Secondary victimization can be in the form of victim blaming, when the individuals based on the criminal justice system issues a negative statement to the victims of sexual violence. Perpetrators of crimes for which they blame the victim commonly enjoy a privileged social status opposite the victim, and their blame typically involves use of stereotypical negative words. The phenomenon of victim blaming is thus common in rape crimes. The main motivation for people to victim-blame is to justify abuse or social injustice. However, it is not only the perpetrator who engages in the victim-blaming but also individuals inside of the court.

The blaming typically heard directly declares that in order to avoid being harassed or raped women should dress a certain way, behave a certain way and be careful about where they go. One reason women are told this is because cultural sexist

¹¹ Uli Orth, "Secondary Victimization of Crime Victims by Criminal Proceedings", *Social Justice Research*, Vol. 15, No. 4, Universität Bern, 2002, p. 315-316.

expectations and criticisms of women that are used to victim-blame. Many rape survivors have been blamed by their rapists who claim the woman was “asking for it” because of her clothing or behaviour (Anderson, K. J., & Accomando 24-28). By blaming the woman, the rapist can avoid being punished and continue to feel power over women. They may also feel free to rape again if they believe they are not at fault.

The importance of legal protection towards the Victims of sexual violence is one of the reasons why Law No. 13/2006 on Witness and Victim Protection was enacted on August 11th, 2006. Law No. 13/2006 on Witness and Victim Protection also regulates an institution responsible for providing protection and assistance to witnesses and victims, called the Witness and Victim Protection Agency (LPSK). LPSK has a duty and authority to protect and assist witnesses and victims. The scope of protection by LPSK is at all stages of the criminal justice process so that witnesses and/or victims feel safe when providing testimony.¹²

Legal protection provided to witnesses and victims is regulated in Law No. 31/2014 on the Amendment to Law No. 13/2006 on Witness and Victim Protection. This law guarantees proper protection to parties in need and fulfils the rights of witnesses and victims in the criminal justice process.

The protection of victims of sexual violence is regulated in the Law of the Republic of Indonesia Number 12 of 2022 concerning the Criminal Acts of Sexual Violence. The ratification of this law is a form of optimization of the previous legislative arrangements related to sexual violence, which are still considered less than

¹² Saristha Natalia Tuage, *Perlindungan Hukum Terhadap Saksi dan Korban oleh Lembaga Perlindungan Saksi dan Korban (LPSK)*, Vol 2 Jurnal *Lex Crimen* 2013, p. 56-57.

optimal in providing prevention, protection, access to justice, and recovery and have not met the needs of the rights of victims of sexual violence and have not been comprehensive in regulating procedural law.

There are several non-government institutions that provide legal and psychological assistance in Yogyakarta and one of them is Rifka Annisa Women's Crisis Center which is a non-governmental organization engaged in the empowerment of women. Victims of violence against women will receive counselling services, either by face-to-face (direct counselling), as well as by telephone (hot line) and through mail or other media. Counselling services are intended to provide psychological therapy so that women victims of violence have confidence in planning their next steps. In addition to counselling services, Rifka Annisa Women's Crisis Center also offer litigation services or legal assistance, if women want to take their cases of violence to court. A prominent feature of the existence of this institution is the existence of safe houses or shelters that are usually inhabited by victims for a while.

There are still frequent cases where victims of sexual violence who decide to take their case to litigation have experienced secondary victimization behaviour where they are blamed for the sexual violence that happened to them and said that they contributed to the sexual violence. Therefore, the researcher will explore the factors behind secondary victimization of sexual assault victims during court hearings and what can be done to prevent it from occurring during hearings of sexual violence victims in Yogyakarta.

B. Problem Formulation

- a. What factors causing secondary victimization to happen in the examination of victims of sexual violence in the court proceedings?
- b. How to prevent secondary victimization for victims of sexual violence during the examination of victims in Yogyakarta district court?

C. Research Objectives

- a. This research was conducted to find out what factors causing secondary victimization still occurs in the examination of victims of sexual violence during court proceedings in Yogyakarta district court.
- b. This research was conducted to find out how to prevent the occurrence of secondary victimization for victims of sexual violence during court proceedings in Yogyakarta district court.

D. Originality of Research

Before compiling a thesis, researchers need to conduct a literature study. The literature study conducted to ensure the originality of the research conducted by the author entitled "Procedures for Handling Victims of Sexual Violence in Yogyakarta City to Prevent Secondary Victimization based on the Criminal Justice System.". Related research that is similar or has similarities with research conducted by researchers are as follows.

No	Author	Title	Similarities	Differences
1	Indriastuti Yustiningsih, 2020	Legal Protection of Child Victims of Sexual	Discusses the protection of victims of	The object of this study is more about the legal protection

		<p>Violence from Revictimization in the Criminal Justice System in Indonesia</p>	<p>sexual violence from Secondary Victimization in the Indonesian criminal justice system</p>	<p>provided to victims (children) of sexual violence from revictimization in the criminal justice system in Indonesia, while the research to be conducted by researchers is regarding what factors causing secondary victimization and the prevention of secondary victimization towards victims of sexual violence in court proceeding of Yogyakarta district court.</p>
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2	Rossa Alvina Naiborhu, 2023	Juridical analysis of secondary victimization and legal protection in Indonesia's criminal justice system	Discussing discussing secondary victimization and legal protection in Indonesia's criminal justice system.	The object of this study discusses the legal protection of secondary victimization in Indonesia's criminal justice system. At the same time, the research that researchers will carry out is regarding what factors causing secondary victimization and what prevention of secondary victimization can be done towards victims of sexual violence in the court proceeding of
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				Yogyakarta district court.
3	Ira Dwiati, 2007	Legal Protection of Rape Victims in Criminal Justice	Discusses efforts taken to provide legal protection to victims of rape.	The object of this study discusses efforts taken to provide legal protection to victims of rape in the criminal justice system in Semarang. At the same time, the researcher's research is regarding the factors causing secondary victimization and what prevention of secondary victimization can be done towards victims of sexual

				violence in court proceeding of Yogyakarta district court.
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However, suppose that without the researcher's knowledge, it turns out that there are similarities between the research results that the researcher has described above with the research of other researchers whom the researcher has not described. In that case, the researcher hopes that the researcher's research can complement the previous research. Thus, it can be concluded that there is no plagiarism in this study.

E. Literature Review

1. Legal Protection

The 1945 Constitution states in Article 1 paragraph (3) of the 1945 Constitution that 'The State of Indonesia is a state of law in which it implies a system of government that implements the rule of law in a broad sense, in which there are forms of state law, constitutional, state sovereignty, presidency, and presidential accountability. This article means that there is an enforcement of the rule of law to uphold truth and justice, and there is no unaccountable power.¹³

¹³ Nur Hidayat, *RUJUKAN DAN APLIKASI SISTEM HUKUM INDONESIA BERDASARKAN PASAL 1 AYAT (#) UUD 1945 PASCA AMANDEMEN KE TIGA*, Vol 01 Jurnal UIR Law Review, 2017, hlm. 196

Thus, the state is obligated to guarantee every citizen's right to get protection in law. This state's legal protection is given to all citizens without exception to both victims and perpetrators of crime. To provide certainty in the protection of the law, the state, through its apparatus, prepare regulations that are outlined in the form of laws and regulations that have a function to regulate its citizens to carry out their rights and obligations.

According to Setiono, Legal Protection is an action or effort to protect the public from arbitrary actions by the authorities that are not in accordance with the Rule of Law, to create order and peace to enable humans to enjoy their dignity as human beings.¹⁴

According to Kamus Besar Bahasa Indonesia (KBBI), protection is defined as the act of protecting. Then, law can be defined as rules or customs officially considered binding and confirmed by the ruler or government. Legal protection can be interpreted as an effort to protect the government or ruler with several existing regulations. In short, legal protection is the function of the law itself, providing protection.

*The Law Dictionary defines legal protection as coercive rules that determine human behaviours in society. These rules are made by authorized official bodies, and violation of these rules will lead to taking action.*¹⁵

¹⁴ Setiono, *Supremasi Hukum*, (Surakarta: UNS, 2004), hlm.3

¹⁵ Jaringan Dokumentasi dan Informasi Hukum Kabupaten Sukoharjo, *Pengertian Perlindungan Hukum dan Cara Memperolehnya*, 2022.

2. Victim

Bambang Waluyo defines a crime victim as someone who has suffered physical or mental suffering, property loss, or resulted in death for misdemeanor acts or attempts committed by criminal offenders and others.¹⁶

Arief Gosita defines victims as those who suffer physically and spiritually due to the actions of others who seek the fulfilment of their own or others' interests that are contrary to the human rights interests of the aggrieved party.¹⁷

According to Jan J.M van Dijk, a victim is a person who has suffered damage as a result of a crime and/or whose sense of justice has been directly disturbed by the experience of having been the target of a crime.¹⁸

Muladi defined victims as persons who, individually or collectively, have suffered harm, including physical or mental, emotional, or economic harm or substantial impairment of their fundamental rights, through acts or omissions that violate the criminal law of their respective countries, including abuse of power.¹⁹

The Declaration of basic principles of Justice for Victims of Crime and Abuse of Power 1985 contained in a resolution of the United Nations

¹⁶Mahrus Ali, *Victimology*, Ctk. First, First Edition, PT RajaGrafindo Persada, Depok, 2021, p. 29.

¹⁷*Ibid.*, p. 29-30.

¹⁸G. Widiartana, *Viktimologi Perspektif Korban dalam Penanggulangan Kejahatan*, Yogyakarta, 2014, p. 26.

¹⁹Mahrus Ali, *Victimology*, Ctk. First, First Edition, PT RajaGrafindo Persada, Depok, 2021, p. 30.

General Assembly No. 40/34 on 29 November 1985 defines a victim as victim means a person who, individually or collectively, has suffered harm, including physical or mental injury, emotional suffering, economic loss or substantial impairment of their fundamental rights, through acts or omission of criminal laws operative within member states, including those laws proscribing criminal abuse of power....through acts or omissions that do not yet recognize norms relating to human rights."²⁰

Government Regulation number 3 of 2022 concerning compensation, restitution, and rehabilitation of victims of gross human rights violations. The victim in this regulation is defined as an individual or group of people who experience physical, mental, or emotional suffering, economic loss, or experience neglect, reduction, or deprivation of basic rights due to gross violations of human rights, including victims and their heirs.

Law number 13 of 2006 concerning the protection of witnesses and victims, in this law, defines a victim as someone who experiences physical, mental, and/or economic hardship caused by a criminal act. Law number 31 of 2014 reinforces the definition of a victim. It limits victims in the form of victims of crime, and the suffering they experience is narrowed only to physical, mental, and/or economic.

Government Regulation No. 7 of 2018 concerning the description of compensation, restitution, and assistance to witnesses and victims. Article

²⁰G. Widiartana, *Viktimologi Perspektif Korban dalam Penanggulangan Kejahatan*, Yogyakarta, 2014, p. 26-27

1 point 2 specifies that the victim is a person who experiences physical, mental, and/or economic losses resulting from a criminal act.²¹

Based on Daniel Glaser defines "a victim as a person or organization injured by a crime."²²

The Oxford English dictionary defines a Victim as:

- a. A living creature is killed and offered as a sacrifice to some deity or supernatural power.
- b. A person who is put to death or subjected to torture by another; one who suffers severely in body or property through cruel and oppressive treatment; one who is reduced or destined to suffer under some oppressive or destructive agency; one who perishes or suffer in health, from some enterprise or pursuit voluntary undertaken. In a weaker sense: one who suffers some injury, hardship, or loss is badly treated or was taken advantaged.²³

Victims are the ones who experience physical, mental, economic, and social losses resulting from Sexual Violence Crimes.²⁴

3. Sexual Violence

Sexual violence is any act of degrading, humiliating, assaulting, and/or other acts against the body, a person's sexual desire, and/or reproductive

²¹Mahrus Ali, *Victimology*, Ctk. First, First Edition, PT RajaGrafindo Persada, Depok, 2021, p. 31-32

²² Daniel Glaser, *Victim Survey Research : Theoretical Implications (in Israel Drapkin and Emilio Viano)*, Op, Cit. page. 31.

²³ Israel Drapkin and Emilio Viano, Op, Cit. page. 1.

²⁴ Law No. 12 of 2022, concerning Sexual Violence, Article 1 number 4

function, by force, against a person's will, which causes a person to be unable to give consent in a free state, due to unequal power relations and/or gender relations, which results in or can result in physical, psychological, sexual suffering or misery, economic, social, cultural, and/or political losses.²⁵

Sexual violence is an act that harms others because sexual violence is a form of violation of social and legal norms. Thus, those who commit acts of sexual violence are given criminal sanctions (punishment) per applicable laws as a form of legal policy for the crimes they commit. The rule of law forbids sexual violence. The prohibition accompanies the threats (sanctions) in the form of certain penalties for anyone who violates the prohibition.²⁶

Poerwandari defines sexual violence as Acts that lead to sexual solicitation/urges such as touching, groping, kissing, and/or doing other acts that are not desired by the victim, forcing the victim to watch pornographic products, sexual jokes, degrading and harassing remarks by referring to the sex/sex aspect of the victim, forcing sex without the victim's consent with physical or unintended violence; forcing sexual activities that are disliked, degrading, hurting or hurting the victim.²⁷

²⁵ Ani Purnawati, Marzelinna Hardiyanti, "*strategi penyelesaian tindak kekerasan seksual terhadap perempuan dan anak melalui RUU Kekerasan Seksual*", jurnal Masalah-Masalah Hukum, jilid 47, 2018 hlm. 140-141.

²⁶ Anastasia Hana Sitompul, "kajian hukum tentang tindak kekerasan seksual terhadap anak di Indonesia", *jurnal Lex Crimen*, Vol. IV, 2015, hlm. 51-52

²⁷M. Anwar Fuadi, "Psychological Dynamics of Sexual Violence: A Phenomenological Study", *Journal of Islamic Psychology*, Vol. 8 No. 2, Research Institute for Psychological and Islamic Development (LP3K), 2011, pp. 192-193

Mboiek and Stanko define sexual violence as an act usually done by men and directed at women in the sexual field that women do not like because they feel humiliated. Still, if the act is rejected, there is a possibility that she may receive other bad consequences.²⁸

Suhandjati said that a person is said to be a victim of violence if he suffers a physical loss, psychological injury or violence, or emotional trauma, not only from a legal aspect but also social and cultural. Along with the suffering, there can also be property losses.²⁹

4. Secondary Victimization

Secondary victimization is defined as a negative social or societal reaction as a consequence of primary victimization. It is experienced as a further violation of legitimate rights or entitlements by the victim. Indeed, the criminal justice system is often characterized as causing secondary victimization among crime victims. Subjective evidence of secondary victimization by criminal proceedings has been documented. Subjective evidence of secondary victimization by criminal proceedings has been documented.³⁰

Secondary victimization refers to the victimization which occurs not as a direct result of the criminal act but through the response of institutions and individuals to the victim. The following are a few examples of secondary victimization: the refusal to recognize their experience as

²⁸*Ibid.*, p. 193

²⁹ *Ibid*

³⁰ Uli Orth, "Secondary Victimization of Crime Victims by Criminal Proceedings", *Social Justice Research*, Vol. 15, No. 4, Universität Bern, 2002, hlm. 314

criminal victimization; intrusive or inappropriate conduct by police or other criminal justice personnel; the whole process of criminal investigation and trial (decision about whether or not to prosecute, the trial itself, the sentencing of the offender, and his or her eventual release); the victim perceives difficulties in balancing their rights with those of the accused or the offender; criminal justice processes and procedures do not take the perspective of the victim into account; relatives may have restricted access to the body of a loved one due to hospital policies and procedures; the hurried schedule of the emergency room may affect a sexual assault victim's privacy or sense of dignity; intrusive or inappropriate investigation and filming, photographing, and reporting by the media.³¹

Secondary victimization refers to the victimization that occurs not as a direct result of the criminal act but through the response of institutions and individuals to the victim. Institutionalized secondary victimization is most apparent within the criminal justice system. At times it may amount to a complete denial of human rights to victims from particular culture groups, classes, or a particular gender, through a refusal to recognize their experience as criminal victimization. It may result from intrusive or inappropriate conduct by police or other criminal justice personnel. More subtly, the whole process of criminal investigation and trial may cause secondary victimization, from investigation through decisions on whether

³¹Canadian Resource Centre for Victims of Crime, "The Impact of Victimization", <https://www.crcvc.ca/docs/victimization.pdf>, accessed on 10th, June, 2023.

or not to prosecute, the trial itself and the offender's sentencing, to his or her eventual release. Secondary victimization is through the process of the victim against the rights of the accused or the offender. More normally, however, it occurs because those responsible for ordering criminal justice processes and procedures do so without considering the victim's perspective.³²

Secondary victimization is the unresponsive treatment rape victims receive from social system personnel. The victim-blaming behaviours and the criminal justice process practiced by the legal enforcer result in additional stress and trauma for the rape victims.³³

F. Operational Definition

1. Handling Procedure

In examining victims of crime, there are separate procedures that law enforcement officials must carry out in handling and examining victims. In this case, the research was conducted to find out whether there are differences in the handling procedures if the victim, in this case, is a victim of sexual violence and also to find out what approaches are used in handling victims of sexual violence and why these approaches are taken.

2. Victims of Sexual Violence

³²Akash Shah, "Victims, victimization and victimology", <https://www.legalservicesindia.com/article/1349/Victims,-victimization-and-victimology.html>, accessed on 10th, June, 2023.

³³Rebecca Campbell, Sheela Raja, "Secondary Victimization of Rape Victims: Insight from Mental Health Professionals Who Treat Survivors of Violence, *Violence and Victims*, Vol. 14, No. 3, University of Illinois of Chicago, 1999, p. 262.

Sexual violence is any act of degrading, humiliating, attacking, and/or other acts against the body, a person's sexual desire, and/or reproductive function, by force, against a person's will, which causes a person to be unable to give consent in a free state, due to unequal power relations and/or gender relations, which results in or can result in suffering or misery physically, psychologically, sexually, economic, social, cultural, and/or political losses. Victims of sexual violence within the scope of this research are victims of the crime of rape.

3. Prevention

Prevention is an effort to prevent, hinder or restrain the occurrence and development or re-emergence of social problems. Prevention efforts in this study are to prevent secondary victimization that might occur to the victims of sexual violence committed by law enforcement officials in the court proceeding process.

4. Secondary Victimization

Secondary victimization has been defined as a negative social or societal reaction as a consequence of primary victimization. It is experienced as a further violation of legitimate rights or entitlements by the victim. The act of blaming the victim is part of the secondary victimization were occurred and done by the state institution or individual, which blames the victim of sexual violence per the crimes that occur. Besides effects on the psychological difficulties caused by the primary victimization, secondary victimization by criminal proceedings could negatively influence other

physiological variables such as the victim's self-esteem, and trust in the legal system.

5. Court Proceeding Process

The criminal justice system is a system in society to tackle the problem of crime that aims to achieve justice for the community. The applicable criminal justice system based on Indonesian law includes: the investigation and inquiry stage carried out by the police officer, then proceeding to the prosecution stage by the prosecutor, and last is the examination stage in court. In this research the researcher will focus on the court proceeding process.

G. Research Method

The research method is an important and main thing in a study. Research can be described as a systematic and organized effort to investigate a specific problem that needs a solution. It is a series of steps designed and followed to find answers to the issues that concern us in the work environment. Research is a systematic investigation to find answers to a problem. Research should be conducted systematically using appropriate methods to collect and analyse data. Research should address a specific problem or issue, sometimes referred to as the research problem, to establish a definable purpose for the research activity.³⁴

1. Research typology

³⁴ Prof. Dr. M. Budyatna, M.A. *Metode Penelitian Sosial* (Bandung: Unpar Press, 2006), pages 1-2.

Empirical legal research is a legal research method that uses empirical facts, an interview was done with a specific intention. The conversation was carried out by two parties, namely the interviewer who asked the question and the interviewee who provided the answer to the question. In this study, the researcher conducted a semi-structured interview with an in-depth interview technique, a data collection method often used in qualitative research. An in-depth interview is a way of obtaining information for research purposes through face-to-face questions and answers between the interviewer and interviewee. The interview will be conducted with the institutions that handle crime victims of sexual violence, Rifka Annisa, the prosecutor in court and the judges in court proceeding. The interview was conducted to collect data on the occurrence of secondary victimization and how to prevent secondary victimization for victims of sexual violence during the court examination in Yogyakarta district court.

2. Research approach

a) This legal research is included in the Empirical legal research typology.

Empirical legal research is legal research that conceptualizes law as a pattern of behavior and/or law as social action-interaction. The approach used in this study is the policy approach, victimology, and sociological approach. Data regarding the research objects will be carried out empirically by conducting interviews with the institutions that are the subject of the research.

- b) The object of research in this study is related to what factors influence the occurrence of secondary victimization of victims of sexual violence during the examination of victims in court, and how to prevent secondary victimization of victims of sexual violence during the examination in court. The subjects of this research are judges from the Yogyakarta District Court, prosecutors from the Yogyakarta District Attorney's Office, and legal assistance from Rifka Annisa Women's Crisis Center.
 - c) The subjects in this research are Judges from the Yogyakarta District Court, namely Mr. Tri Asnuri Herkutanto, S.H., M.H., public prosecutors from the Yogyakarta District Attorney's Office, namely Ms. Aryana Widyati, S.H., and legal counsel from Rifka Annisa Woman's Crisis Center, namely Ms. Lisa Oktavia S.H., as PLT Manager of Assistance.
3. Research locations

The data obtained by researchers related to research subjects is in the form of interviews conducted with institutions related to research that is the apparatus that has the authority to undergo the court hearing process based on Indonesian Law, the law enforcement officials will be interviewed regarding the occurrence of secondary victimization and how to prevention the occurrences of secondary victimization towards victims of sexual violence in the court proceedings in Yogyakarta district court.

- d) Yogyakarta Prosecutor's Office is in Sukonandi Street, Yogyakarta City, DIY.
- e) Yogyakarta State Court is located in Kapas Street, Yogyakarta City, DIY. And
- f) Rifka Annisa Women's Crisis Center, located in Jl. Jambon IV No.69A, Kec. Tegalrejo, Kota Yogyakarta.

4. Research Data or Legal Materials

The data in this study was obtained from primary data, and secondary data.

- a) Primary legal materials are data obtained directly from research subjects and/or research locations and in this case are data obtained through interviews with institutions that have the authority to examine victims of sexual violence at the Yogyakarta State Court, namely public prosecutors from the Yogyakarta State Attorney's Office, judges from the Yogyakarta State Court, and also legal assistance from Rifka Annisa Woman's Crisis Center. Namely regarding the occurrence of secondary victimization and also how to prevent secondary victimization.
- b) Secondary data is data obtained from primary, secondary, and tertiary legal materials. Primary legal materials used in this research are Law No. 12 of 2022 concerning criminal acts of sexual violence, Prosecutor's Manual No.1 of 2021 concerning access to justice for women and children, Supreme Court Regulation No. 13 of 2017

concerning guidelines for trying women's cases. Secondary legal materials used are literature and journals and tertiary legal materials that cover primary and secondary data, namely dictionaries and encyclopedias.

c) Data Collection Method,

(1) Primary data collection techniques is by interview. An interview is a conversation with a specific intention. The conversation was carried out by two parties, namely the interviewer who asked the question and the interviewee who provided the answer to the question. In this study, the researcher conducted a semi-structured interview with an in-depth interview technique, a data collection method often used in qualitative research. An in-depth interview is a way of obtaining information for research purposes through face-to-face questions and answers between the interviewer and interviewee. The interview will be conducted with the institutions that handle crime victims of sexual violence, Rifka Annisa, the prosecutor in court and the judges in court proceeding. The interview was conducted to collect data on the occurrence of secondary victimization and how to prevent secondary victimization for victims of sexual violence during the court examination in Yogyakarta district court.

(2) Secondary data collection techniques through literature study and document study.

5. Analysis of Discussion

The analysis method used is qualitative analysis, where the research was carried out by collecting information and data regarding the research through direct interviews with law enforcement officials. The results of the data collection and interviews will be re-analyzed by the author regarding the assessment in the form of perspectives, and the data will be compiled systematically and then continued with conclusion.

CHAPTER II

GENERAL OVERVIEW

General overview identifies and highlight relevant themes and documents important findings, framework, and/or instrument from previous research that will serve as the basis for current research.

1. An Overview of Prevention

1.1 Definition of Prevention

Prevention is an action to prevent, hinder, or restrain the occurrence of something. Prevention is defined as an effort to prevent, hinder or restrain the occurrence and development or re-emergence of social problems.

The National Crime Prevention Institution (NCPI) defines crime prevention as a method of social control that is direct and applied only before an event occurs. NCPI defines crime prevention as the anticipation, recognition, and assessment of a crime risk and initiating action to eliminate that risk. In other words, we can say that crime prevention is the practice of crime risk management. Crime risk management itself includes (National Crime Prevention Institution, 2001): eliminating some risks entirely, reducing some risks by reducing the extent of injury or loss that can occur, spreading some risks through procedural, electronic, and physical security measures aimed at evading, deterring, delaying or detecting crime, transferring some risks through purchasing the involvement of other potential victims, accepting some risks.

Freeman (1992) in Gilling (1997) defines crime prevention as an activity that consists of prediction and intervention to prevent crime. According to Freeman, to prevent crime, the first thing to do is to predict where the event might occur. Then the second step is to apply the appropriate intervention at the point of prediction.

According to Van Dijk and De Waard (1991), crime prevention is the sum total of all private initiatives and state policies, other than law enforcement officials, aimed at reducing the harm caused by acts defined as crimes by the state. Meanwhile, according to Ekblom (2010), crime prevention is an intervention in the mechanisms that cause crime events, by reducing the probability of crime occurrence. Similar to the previous definitions, Lab (2004) defines crime prevention as any action designed to reduce the actual level of crime and the fear of crime.

According to Robert L. O'Block, crime is a social problem, so crime prevention efforts are efforts that involve various parties (O'Block, 1981: 1). In contrast to O'Block, Venstermark and Blauvelt have another definition of the definition of crime prevention, namely crime prevention means, practically reducing the probability of criminal activity, whose free translation is crime prevention means reducing the possibility of criminal action. Then Fisher also expressed his opinion that to determine the amount of force a security officer may use to prevent crime, the court has to consider the circumstances, the seriousness of the crime prevented and the possibility of preventing the crime by other means. The free translation is

that to determine the amount of force a security officer may use to prevent crime, the court has to consider the circumstances, the seriousness of the crime prevented and the possibility of preventing the crime by other means.

The National Crime Prevention Institut which states: defines crime prevention as the anticipation, recognition and appraisal of a crime risk and the initiation of some action to remove or reduce it.

Crime prevention can be categorized into:

- 1) Primary prevention: A strategy implemented through public policy, specifically to influence the causes and roots of crime, targeting the public.
- 2) Secondary prevention: The target is potential perpetrators.
- 3) Tertiary prevention: it targets those who have committed crimes.

Crime prevention, according to G.Ptere Hoefnagels can be seen through several methods: criminal law application, prevention without punishment, and influencing views of society on crime and punishment/mass media.³⁵

1.2 Forms of Prevention

³⁵Roberto, Mulyadi, Ambar Wulan, "Pencegahan Kejahatan Ujaran Kebencian di Indonesia", Vol. 14, No. 3, Universitas Indonesia, 2020, p.174-176

One form of prevention of secondary victimization is the legal protection provided to victims of sexual violence when they undergo the examination process under the criminal justice system in Indonesia.

Legal protection is an effort to protect the government or authorities with a number of existing regulations. In terminology, legal protection can be interpreted from a combination of two definitions, namely "protection" and "law". KBBI defines protection as an act or thing that protects and law can be interpreted as a regulation or custom that is officially considered binding, which is confirmed by the ruler or government.

Rikha Y. Siagian (2020) explains that a form of protection can be said to be legal protection if it fulfils the following elements.

1. protection from the government for the community
2. providing legal certainty from the government
3. related to the rights of citizens
4. there are sanctions or penalties for those who violate it.³⁶

One form of prevention of secondary victimization is the legal protection provided by the state to victims of sexual violence, namely regarding the provision of legal certainty guarantees from the government which is a guarantee that the law is carried out, those entitled by law can

³⁶*Perlindungan Hukum: Pengertian, Unsur, dan Contohnya*, contained on <https://www.hukumonline.com/berita/a/perlindungan-hukum-lt61a8a59ce8062/?page=all> , accessed on 14th August 2023.

obtain their rights and decisions can be implemented. The existence of protection is related to the protection and fulfilments of the rights of victims of sexual violence.

In sexual violence has been regulated in Law No. 12 of 2022, which in the Law has also been regulated regarding the Witness and Victim Protection Agency, hereinafter abbreviated as LPSK, which is an institution that is tasked and authorized to provide protection and other rights to witnesses and / or victims as regulated in the Law on Witness and Victim Protection. Regional Technical Implementation Unit for the Protection of Women and Children, hereinafter abbreviated as UPTD PPA, is an operational technical implementation unit in the work unit that organizes government affairs in the field of women's empowerment and child protection, which functions as an integrated service provider for women and children who experience violence, discrimination, and other problems.³⁷

The elements of legal protection include the essential components that form the basis of the legal system to protect the rights, freedoms, and interests of individuals in society. Some of the main elements of legal protection, examples of legal protection as a form of prevention against secondary victimization:

- a. Justice and Equality

³⁷ Law No. 12 of 2022 on the crime of sexual violence

This concept emphasizes the importance of providing fair and equal treatment to all individuals, without discrimination. Everyone has the same right to be recognized and respected by the law, regardless of social background, race, religion, gender, or other status.

b. Human Rights

The concept of legal protection involves recognizing and protecting the human rights of every individual. This includes civil, political, economic, social, and cultural rights that are inherent to every human being and must be respected and protected by law.

c. Legal Certainty

This concept demands laws that are clear, reliable, and understandable to all. Legal certainty creates stability and justice in society, as everyone knows what is expected of them and how the law will be applied.

d. Independence of Law enforcement officials Agencies

Law enforcement officials' agencies must operate independently and free from political or other interference. This independence ensures objectivity and fairness in law enforcement officials.

e. Proportionality

This concept emphasizes that law enforcement officials must be carried out in proportion to the level of violations that occur. Sanctions or actions taken must be balanced with the offense committed, thus preventing oppression or unreasonable sanctions.

f. Community Participation

The concept of legal protection requires active participation from the community in supporting efforts to protect their rights and interests. Communities should play an active role in reporting violations, supporting the application of the law, and contributing to creating a fair and safe environment.

g. Institutional and Law enforcement officials Support

Legal protection requires strong and trusted institutions to carry out law enforcement officials' functions. Institutions such as the police, prosecution, and judiciary must be supported and equipped with adequate resources to carry out their duties effectively.

h. Law as Supreme Authority

This concept asserts that law should be the force that governs and controls government and society, not the other way around. The law is the highest authority that must be respected and followed by all citizens, including rulers and government officials.³⁸

1.3 The Purpose of Prevention

The purpose of prevention is to realize the objectives of protection and law enforcement officials, where protection and law enforcement officials are to ensure that legal subjects obtain each of their rights. And if there is a

³⁸Maksum Rangkuti, *Perlindungan Hukum Indonesia: Pengertian, Aspek, Unsur, dan Contoh*, contained on <https://fahum.umsu.ac.id/perlindungan-hukum-indonesia-pengertian-aspek-unsur-dan-contoh/>, accessed on 14th August 2023.

violation of these rights, legal protection can provide full protection to the victimized legal subject.

Simanjuntak formulated 4 elements of legal protection. If the elements are met, then the protection effort can be said to be legal protection.

- a. Government protection of its citizens.
- b. Guarantee of legal certainty.
- c. Related to the rights of its citizens.
- d. The existence of punitive sanctions for those who violate it.³⁹

The elements of legal protection include the essential components that form the basis of the legal system to protect the rights, freedoms, and interests of individuals in society. Here are some of the main elements of legal protection:

- a. Human Rights

Legal protection involves the recognition and protection of human rights, including civil rights, political rights, economic rights, social rights and cultural rights. These rights are guaranteed by laws and regulations to ensure that every individual has an equal and fair opportunity to live with dignity.

³⁹ *Perlindungan Hukum: Pengertian, Unsur, dan Contohnya*, contained on <https://www.hukumonline.com/berita/a/perlindungan-hukum-lt61a8a59ce8062/?page=all> , accessed on 14th August 2023.

b. Legal Certainty

Legal protection includes the fair, consistent, and reliable application of the law. Legal certainty guarantees that the law should be clear, easily understood, and predictable in legal decision-making, so that people know what is expected of them.

c. Law enforcement officials

Legal protection not only means recognizing the rights of individuals, but also involves law enforcement officials' actions against violations. Law enforcement officials' agencies, such as the police, prosecution, and judiciary, are responsible for cracking down and punishing those who break the law.

d. Independence of Law enforcement officials Agencies

This element emphasizes the importance of law enforcement officials' agencies operating independently of political or other influences. This independence ensures objectivity and fairness in the law enforcement official's process.

e. Justice and Equality

Legal protection includes the principles of justice and equality in treating all individuals without discrimination. No person or group should be treated better or worse because of their social background, race, religion, or other factors.

f. Prevention and Education

In addition to law enforcement officials, legal protection also includes efforts to prevent crimes and violations of the law. Public education and awareness about the law, their rights and responsibilities help prevent potential violations.

g. Concern for Vulnerable Groups

Legal protection should pay special attention to vulnerable groups in society, such as children, women, the elderly, people with disabilities, and minorities. The law should provide special protection for them so that their rights are recognized and respected.

h. Accountability

This element demands that law enforcement officials' agencies should be accountable for their actions. Transparency and accountability help maintain integrity and public trust in law enforcement officials' agencies.⁴⁰

2. An Overview of Sexual Violence

2.1 Definition of Sexual Violence

Poerwandari defines sexual violence as Acts that lead to sexual solicitation/urges such as touching, groping, kissing, and/or doing other acts that are not desired by the victim, forcing the victim to watch pornographic products, sexual jokes, degrading and harassing remarks by

⁴⁰ Maksum Rangkuti, *Perlindungan Hukum Indonesia: Pengertian, Aspek, Unsur, dan Contoh*, contained on <https://fahum.umsu.ac.id/perlindungan-hukum-indonesia-pengertian-aspek-unsur-dan-contoh/>, accessed on 14th August 2023.

referring to the sex/sex aspect of the victim, forcing sex without the victim's consent with physical or unintended violence; forcing sexual activities that are disliked, degrading, hurting or hurting the victim.⁴¹

Mboiek and Stanko define sexual violence as an act usually done by men and directed at women in the sexual field that women do not like because they feel humiliated. Still, if the act is rejected, there is a possibility that she may receive other bad consequences.⁴²

Suhandjati said that a person is said to be a victim of violence if he suffers a physical loss, psychological injury or violence, or emotional trauma, not only from a legal aspect but also social and cultural. Along with the suffering, there can also be property losses.⁴³

Based on Law No. 12 of 2022 concerning Sexual Violence Criminal Acts, Article 1 paragraph (1) states that Sexual Violence Criminal Acts are all acts that meet the elements of criminal acts as stipulated in this law and other acts of sexual violence as stipulated in this law to the extent specified in this law.⁴⁴

The criminal element of physical, sexual abuse in article 6 (a) states that "Any person who commits physical, sexual acts directed against the body, sexual desires, and/or reproductive organs to degrade the dignity of a person based on his sexuality and/or decency which is not included in other

⁴¹M. Anwar Fuadi, "Psychological Dynamics of Sexual Violence: A Phenomenological Study", *Journal of Islamic Psychology*, Vol. 8 No. 2, Research Institute for Psychological and Islamic Development (LP3K), 2011, pp. 192-193

⁴²*Ibid.*, p. 193

⁴³ *Ibid*

⁴⁴Article 1 of Law No. 12 of 2022 concerning Sexual Violence

criminal provisions...". (b) Any person who commits physical, sexual acts directed against the body, sexual desires, and/or reproductive organs to put a person under his or her unlawful control, whether inside or outside marriage...". (c) any person who abuses position, authority, trust or concealment arising from deception or circumstance or exploits vulnerability, inequality or misdirection moves that person to commit or permit sexual intercourse or lewd acts with him or others..."⁴⁵

2.2 Forms of Sexual Violence

Based on Law No. 12 of 2022 concerning Sexual Violence Article 4 (1), Sexual Violence consists of; a. nonphysical sexual abuse; b. physical, sexual abuse; c. forced contraception; d. forced sterilization; e. forced marriage; f. sexual torture; g. sexual exploitation; h. sexual slavery; and i. electronic-based sexual violence. (2) In addition to the Criminal Act of Sexual Violence as referred to in paragraph (1), the Criminal Act of Sexual Violence also includes a. rape; b. obscene acts; c. sexual intercourse against children, lewd acts against children, and/or sexual exploitation of children; d. acts of violating decency contrary to the victim's will; e. pornography involving children or pornography that explicitly contains sexual violence and exploitation; f. forced prostitution; g. trafficking in persons intended for sexual exploitation; h. sexual violence within the household; i. money laundering, whose original crime is a Sexual Violence Crime; and j. other

⁴⁵Article 6 of Law No. 12 of 2022 concerning Sexual Violence

crimes expressly stated as Sexual Violence Crimes as stipulated in the provisions of laws and regulations.⁴⁶

2.3 Impacts of Sexual Violence towards the victim

The impact of sexual violence is likely to be depression, phobias, and nightmares, suspicions of others for a long time. Some will experience timidness in a relationship with others, which will also affect their sexual life, and the terrifying thoughts of being pregnant due to rape. For rape victims who have experienced extreme psychological trauma, there is a possibility of feeling a strong urge to commit suicide.

Research conducted by MS Magazine (in Warshaw, 1994) showed that 30% of women identified as experiencing rape intended to commit suicide, 31% sought psychotherapy, 22% took self-defence courses, and 82% could not forget.

a. Post Traumatic Stress Disorder (PTSD)

PTSD is an anxiety syndrome, autonomic lability, emotional invulnerability, and flashbacks of painful experiences after physical and emotional stress that exceeds the limits of ordinary people's resilience. Hikmat says that PTSD is a condition that arises after an extraordinary experience is gripping, terrible, and life-threatening for a person, such as natural disasters, severe accidents, sexual abuse, or war.

Grinage (2003) states that the criteria for PTSD diagnosis include: (1) intrusive memories or memories of repeated traumatic

⁴⁶Article 4 of Law No. 12 of 2022 concerning Sexual Violence

experiences, (2) avoidant behaviours, (3) excessive symptoms of something similar to the traumatic event, and (4) persistence of these symptoms for at least one month.

In addition, diagnostic criteria are established based on diagnostic criteria for acute stress disorder based on the Diagnostic and Statistical Manual of Mental Disorders III-Revision or DSM III-R, which can show a person's traumatic condition. These criteria are:

1. People who have experienced, witnessed, and been confronted with a traumatic event.
2. It is one of the circumstances when a person experiences or after experiencing a frightening event.
3. Traumatic events that are permanently experienced Return in repeated flashback episodes.
4. Avoidance of stimuli that awaken the recollection of trauma.
5. Noticeable symptoms of anxiety or increased awareness.
6. The disorder causes clinically significant distress or impairment in social functioning, interfering with the individual's ability to perform necessary tasks.
7. Not a direct physiological effect of a substance or general medical condition.

PTSD can be cured if immediately detected and get the right treatment. Not detected and left untreated can lead to permanent serious

medical and psychological complications, eventually interfering with the sufferer's social and work life.

b. Depression

Beck (1967) defines depression as a decrease in mood, sadness, pessimism about the future, retardation and agitation, difficulty concentrating, self-blame, slow thinking, and a series of vegetative signs such as disturbances in appetite and disturbances in terms of sleep.

Louis et al. say depression is associated with distorted cognition. Leitenberg & Wilson stated that those who are depressed show low self-control, namely negative self-evaluation and low expectations of performance, the habit of blaming themselves, and underappreciating themselves. Sue et. Al (1986) defines depression as an emotional state with characteristics such as experiencing sadness, feeling like a failure and worthless, and withdrawal from others or the environment.

Beck (1967) defines the symptoms of depression as emotional, cognitive, motivational, and vegetative physical symptoms. In detail, Beck explains further as follows:

1. Emotional symptoms are changes in feelings or behaviours directly resulting from their emotional state.
2. Cognitive symptoms and manifestations include low self-assessment, negative expectations, blame and self-criticism, inability to decide, and body image distortion.

3. Motivational symptoms are related to the desire and arousal of sufferers who tend to regress. Regressive is associated with the activity performed with the degree of responsibility or energy used.
4. Researchers consider vegetative manifestations of vegetative and physical symptoms as evidence to see the autonomic or hypothalamic disorders responsible for depressive states.⁴⁷

c. Physical

The most direct and obvious physical symptoms of victimization are injuries resulting from an aggressive physical action such as assault or sexual victimization. Other physical symptoms that do not result from injury may be indirectly caused by victimization through psychological or emotional responses. Physical symptoms with a psychological or emotional basis are called psychosomatic symptoms. Common psychosomatic symptoms associated with victimization include headaches, stomach aches, and experiencing a higher frequency of illnesses such as colds and sore throats. Though psychosomatic symptoms have psychological causes, they also have a biological basis; stress and other psychological symptoms trigger nervous system responses, such as releasing various chemicals and hormones that affect biological functioning.

⁴⁷M. Anwar Fuadi, "Psychological Dynamics of Sexual Violence: A Phenomenological Study", *Journal of Islamic Psychology*, Vol. 8 No. 2, Research Institute for Psychological and Islamic Development (LP3K), 2011, pp. 194-196

d. Behavioural

Individuals who have been victimized may also exhibit behavioural symptoms after the experience. Some individuals who have been victimized show externalizing (outwardly directed) behaviours. For example, an individual who has not previously acted aggressively toward others may begin to do so after being victimized, such as when a child who has been bullied begins to bully others. Aggressive behaviours may be associated with PTSD (described above). Externalizing behaviours associated with victimization include hyperactivity, hypervigilance, and attention problems that may resemble ADHD. Others may exhibit internalizing (inwardly directed) behavioural symptoms. Many internalizing symptoms tend to be more psychological (depression and anxiety are sometimes referred to as internalization), but particular behaviours also indicate internalization. Internalizing behaviours documented in victimized individuals include withdrawing from social contact and avoiding people or situations.⁴⁸

3. An Overview of Secondary Victimization

3.1 Definition of Secondary Victimization

Secondary victimization occurs not due to a criminal act but through institutional and individual responses toward the victims. Institutional responses can come from institutions of the criminal justice system, social

⁴⁸Smeeksha Pandey, "Victimization", <https://www.indianbarassociation.org/victimization/>, accessed on 10th, June, 2023.

institutions, or government institutions. In contrast, individual responses can come from law enforcement officials, friends, families of victims, or even the wider community. Secondary victimization is most prevalent and appears in the criminal justice system.⁴⁹

Secondary victimization has been defined as a negative social or societal reaction as a consequence of primary victimization. It is experienced as a further violation of legitimate rights or entitlements by the victim. Indeed, the criminal justice system is often characterized as causing secondary victimization among crime victims. Subjective evidence of secondary victimization by criminal proceedings has been documented. In a study of mental health professionals, 81% of the participants believed that contact with the legal system could be psychologically harmful to rape victims. In a study of rape victims, 52% appraised contact with the legal system as harmful.⁵⁰

Secondary victimization refers to the victimization which occurs not as a direct result of the criminal act but through the response of institutions and individuals to the victim. The following are a few examples of secondary victimization: the refusal to recognize their experience as criminal victimization; intrusive or inappropriate conduct by police or other criminal justice personnel; the whole process of criminal investigation and trial (decision about whether or not to prosecute, the trial itself, the

⁴⁹Mahrus Ali, *Victimology*, Ctk. Pertama, First Edition, PT RajaGrafindo Persada, Depok, 2021, p. 40.

⁵⁰Uli Orth, "Secondary Victimization of Crime Victims by Criminal Proceedings", *Social Justice Research*, Vol. 15, No. 4, Universität Bern, 2002, p. 314.

sentencing of the offender, and his or her eventual release); the victim perceives difficulties in balancing their rights with those of the accused or the offender; criminal justice processes and procedures do not take the perspective of the victim into account; relatives may have restricted access to the body of a loved one due to hospital policies and procedures; the hurried schedule of the emergency room may affect a sexual assault victim's privacy or sense of dignity; intrusive or inappropriate investigation and filming, photographing, and reporting by the media.⁵¹

Secondary victimization refers to the victimization that occurs not as a direct result of the criminal act but through the response of institutions and individuals to the victim. Institutionalized secondary victimization is most apparent within the criminal justice system. At times it may amount to a complete denial of human rights to victims from particular culture groups, classes, or a particular gender, through a refusal to recognize their experience as criminal victimization. It may result from intrusive or inappropriate conduct by police or other criminal justice personnel. More subtly, the whole process of criminal investigation and trial may cause secondary victimization, from investigation through decisions on whether or not to prosecute, the trial itself and the offender's sentencing, to his or her eventual release. Secondary victimization is through the process of the victim against the rights of the accused or the offender. More normally,

⁵¹Canadian Resource Centre for Victims of Crime, "The Impact of Victimization", <https://www.crcvc.ca/docs/victimization.pdf>, accessed on 10th, June, 2023.

however, it occurs because those responsible for ordering criminal justice processes and procedures do so without considering the victim's perspective.⁵²

Secondary victimization is the unresponsive treatment rape victims receive from social system personnel. The victim-blaming behaviours and the criminal justice process practiced by the legal enforcer result in additional stress and trauma for the rape victims.⁵³

3.2 Forms of Secondary Victimization

Secondary victimization may be caused, for instance by repeated exposure of the victim to the perpetrator, repeated interrogation about the same facts over and over, which result in the victim having to repeat the story of traumatic experience, the use of inappropriate language, unintentionally insensitive comments made by all those who come into contact with the victims, and insensitive media reporting of cases.

Secondary victimization has been defined as multiple communities' victim-blaming attitudes, behaviours, and practices, resulting in additional trauma for rape victims.⁵⁴

Secondary victimization can be in the form of belief in rape myths that blame the victim for the assault and which result in providers voicing doubt

⁵²Akash Shah, "Victims, victimization and victimology", <https://www.legalservicesindia.com/article/1349/Victims,-victimization-and-victimology.html>, accessed on 10th, June, 2023.

⁵³Rebecca Campbell, Sheela Raja, "Secondary Victimization of Rape Victims: Insight from Mental Health Professionals Who Treat Survivors of Violence, *Violence and Victims*, Vol. 14, No. 3, University of Illinois of Chicago, 1999, p. 262.

⁵⁴<https://www.lawinsider.com/dictionary/secondary-victimization>, accessed on 10th, June, 2023.

about the integrity of victims' accounts, neglecting to offer or outright denial of important services such as pregnancy testing, informing rape survivors about HIV-AIDS and other sexually transmitted diseases, and legal prosecution of the sexual assault; the performance of services in ways that leave the Victim feeling "violated and re-raped" or which otherwise damage victims' psychological wellbeing.⁵⁵

Secondary victimization by the procedure of criminal proceedings, the principle of presumption of the defendant's innocence, is likely to be perceived by victims as a significant imbalance in consideration of the victim's interest vs. the perpetrator's interests. The principle is a fundamental guarantee of a fair trial for the defendant; however, questioning the perpetrator's guilt implies questioning the credibility of the victim's testimony. Interactional injustices are victim blaming, insensitive remarks, debasement, and minimization of the harm caused by victimization. The bestowal of faults from the perpetrator or defence attorney towards the victim for being partially or fully responsible for the criminal offense.⁵⁶

The risk of secondary victimization may stem from three sources. First, research on rape myth acceptance suggests system personnel may treat victims insensitively. Across several studies, police, prosecutors, judges,

⁵⁵Priscilla Schulz, LCSW, "Secondary Victimization of Rape Victims: Insights from Mental Health Professionals Who Treat Survivors of Violence", <https://mainweb-v.musc.edu/vawprevention/research/victimrape.shtml>, accessed on 10th, June, 2023.

⁵⁶Uli Orth, "Secondary Victimization of Crime Victims by Criminal Proceedings", *Social Justice Research*, Vol. 15, No. 4, Universität Bern, 2002, p. 315-316.

and doctors have been found to ascribe to victim-blaming attitudes, such as believing women provoke rape and often lie about the occurrence of rape. However, rape myth acceptance does not necessarily constitute or produce secondary victimization. Nevertheless, reports of victims' accounts have indicated that police, prosecutors, and doctors have directly told them that they were not believable or credible, and even in the absence of such direct communication, many women still felt doubted in their interactions with system personnel.

Second, secondary victimization may occur not only because of what service providers do but also because of what they do not do. Denying assistance is quite common, which can cause stress for rape survivors. A recent study by Campbell found that even for survivors who had the assistance of a rape victim advocate, 67% had their legal cases dismissed, and over 80% of the time, this decision was made by legal personnel and contradicted the victims' wishes to prosecute the assault. A similar picture has emerged for the medical system. The National Victim Center (1992) found that most rape victims were not advised about pregnancy testing and STD and HIV exposure during the emergency room medical exam. Campbell and Bybee (1997) reported that less than 20% of the victims in their sample received information about the psychological and physical health effects of sexual assault, and only 7% were given a referral for follow-up medical care. Victims wanted these services, but system

personnel did not provide them. These refusals of help may be another factor contributing to the secondary victimization of rape victims.

Finally, it is unknown whether this assistance is helpful for rape victims who can obtain desired services—based on Matoesian (1993) and Sloan (1995) concluded that the procedures of legal prosecution are harmful to women's well-being. Cluss and associates (1983) found that rape victims whose cases were prosecuted were more distressed than those who were not.⁵⁷

3.3 Impacts of Secondary Victimization towards the victim

The impact of being a victims of crimes resulted in survivor's guilt, those who survived a traumatic event are convinced they played a part in causing or exacerbating the trauma. They routinely engage in counterfactual thinking and imagine ways in which they could have prevented the trauma or lessened its consequences for others by changing their own actions.⁵⁸

Besides effects on the psychological difficulties caused by the primary victimization, secondary victimization by criminal proceedings could negatively influence other psychological variables such as the victim's self-esteem, faith in the future, trust in the legal system, and faith in just a world.⁵⁹

⁵⁷Rebecca Campbell, Sheela Raja, "Secondary Victimization of Rape Victims: Insight from Mental Health Professionals Who Treat Survivors of Violence, *Violence and Victims*, Vol. 14, No. 3, University of Illinois of Chicago, 1999, p. 262-263.

⁵⁸Sana Sheikh, "Insight from Self-Blame and Victim Blaming", Vol. 25, No. 2, University of St. Andrews, 2014, p. 241

⁵⁹Uli Orth, "Secondary Victimization of Crime Victims by Criminal Proceedings", *Social Justice Research*, Vol. 15, No. 4, Universität Bern, 2002, p. 314.

The victims of sexual violence, when undergoing the criminal justice system proceedings, still bear the traumatic feelings after the primary victimization, so when the legal personnel is taking care of the victim, they must be especially careful in prosecuting them. In case when the legal enforcer blames the victim for being partially or fully entitled to the crimes, it might cause greater trauma for the victim of sexual violence and is considered as secondary victimization. The victim will eventually lose trust in the legal system by thinking that no justice can be implemented no matter where they go seeking the justice they deserve. The feelings of being alone on their side because of the victim blaming thrown by the institutions and the individuals among them and the feelings of no one believing the credibility of their testimony might as well be the same as the end of the world.

Going through the legal system seeking justice is not an easy step, especially for the victim of sexual violence. They bear the feelings of ashamed, the fear of being seen as someone who is not pure anymore (based on people's stereotypes), and the after-effect behavioural changes felt by the victim after experiencing the sexual violence, the lost trust in almost all human being, is not an easy matter that the victim of sexual violence can pass.

3.4 An Overview of Secondary Victimization from the perspective of Islamic Law

Islamic law affirms that human honour is a principle and crown that must be protected and maintained from all forms of threats and disturbances that will degrade or violate its noble values. Islamic law's affirmation of this honour is formulated more clearly in al-Fiqh al-Jina'I (Islamic Criminal Law). In Islamic legal theory, al-Mashalih al-Khamsa must be realized and maintained, namely the five principles in human life which include: the preservation of religion, soul, mind, honour and offspring, and the preservation of property, therefore any action that threatens the preservation of these five basic principles is a crime (jarimah) and is threatened with sanctions. Crimes related to honour are sexual crimes which include adultery, homosexuality, lesbianism, and the like. The prohibition of adultery in Islam aims to protect one's honour and offspring from disgrace and maintain the sanctity of society.⁶⁰

Islamic law categorizes rape as zina with coercion (al-wath'u bi al-ikrah) whose perpetrators can be subject to severe punishment (had). Based on the concept of adultery according to Islam is sexual intercourse between a man and a woman without being based on a legal marriage. The punishment of the doer of Zina Ghairu Muhsan (someone that never married or don't have a legal spouse) based on the Qur'an Surah An-Nur verse (2) will be

⁶⁰Suparman Marzuki, Eko Prasetyo, Aroma Elmina Martha, *Pelecehan Seksual*, dikutip dari Abd. Salam Arief, *Kejahatan Kesusilaan dan Pelecehan Seksual dalam Perspektif, Syari'ah dan KUHP*, Cetakan Pertama, Pustaka PelajarOffset, Yogyakarta, 1995, hlm 77

punished by flogging 100 lashes. And for the doer of Zina Muhsan (someone who owns a legal spouse) will be punished by stoning (rajm) till death.

In Islamic Law, adultery is a forbidden act as described in the Qur'an, and adulterers are categorized as a group of Jarimah that occupy the highest order in the hierarchy of Jarimah. This group of Jarimah hudud threatens the perpetrators with very severe punishments, and on average, in the form of loss of life, at least the loss of limbs of the perpetrators of the Jarimah. As has been explained, the punishment of adultery in QS An-Nur verse (2)

الرَّانِيَةُ وَالرَّانِي فَاجْلِدُوا كُلَّ وَاحِدٍ مِنْهُمَا مِائَةَ جَلْدَةٍ وَلَا تَأْخُذْكُمْ بِهِمَا رَأْفَةٌ فِي دِينِ اللَّهِ إِنْ كُنْتُمْ تُؤْمِنُونَ بِاللَّهِ وَالْيَوْمِ الْآخِرِ وَلَيْسَ لَهُدَّ عَذَابُهُمَا طَائِفَةٌ مِنَ الْمُؤْمِنِينَ

The translation:

The [unmarried] woman or [unmarried] man found guilty of sexual intercourse – lash each one of them with a hundred lashes, and do not be taken by pity for them in the religion of Allah. You should believe in Allah and the Last Day. And let a group of believers witness their punishment.

If in the offense of adultery, each perpetrator is subject to sanctions, then in this rape offense, the victim is free from prosecution.⁶¹

In Islamic Law, the doer of rape will be subjected to the same punishment that was imposed for the doer of the zina and can be subject to Ta'zir (punishment for offenses at the discretion of the judge (Qadi) or ruler

⁶¹Suparman Marzuki, Eko Prasetyo, Aroma Elmina Martha, *Pelecehan Seksual*, dikutip dari Abd. Salam Arief, *Kejahatan Kesusilaan dan Pelecehan Seksual dalam Perspektif, Syari'ah dan KUHP*, Cetakan Pertama, Pustaka PelajarOffset, Yogyakarta, 1995, hlm 80

of the state). If proven, the perpetrator can be sentenced to Had zina in the form of Rajm (throwing a small stone) till death if the perpetrator is in a marital relationship and Flogging (jald) 100 times if the perpetrator has never been married. For the perpetrator of rape that threaten the victim's life will also be punished by direct execution of death punishment.

For a woman who is raped, it is not considered a sin and therefore is not punished because she is helpless and does not commit an intentional offense. The basis can be found on (QS An-Nur (24): dal Al-An'am (6): 119). As Allah Almighty says in QS An-Nur (24): 33, which reads:

وَأَلْسِنَتُهُمْ لِيُحَدِّثُوا بِالْحَقِّ وَالَّذِينَ يَبْتَغُونَ الْكَيْدَ مِمَّا مَلَكَتْ
 أَيْمَانُكُمْ فَمَكَايَبُهُمْ إِنَّ عِلْمَئِهِمْ فِيهِمْ خَبْرًا ۗ وَأَتَوْهُم مِّن مَّالِ اللَّهِ الَّذِي آتَاكُمْ ۗ وَلَا تُكْرَهُوا فَتْيَلْبِسَكُمْ
 عَلَى الْبِغَاءِ ۚ إِنَّ أَرْدَنَ تَحَصُّنًا لِّتَبْتَعُوا عَرَضَ الْحَيَاةِ الدُّنْيَا ۗ وَمَن يُكْرِهِنَّ فَإِنَّ اللَّهَ مِن بَعْدِ
 إِكْرَاهِهِنَّ غَفُورٌ رَّحِيمٌ

Translate:

But let them who find not [the means for] marriages abstain [from sexual relations] until Allah enriches them from His bounty. And those who seek a contract [for eventual emancipation] from among your right hands possess – then make a contract with them if you know there is within them goodness and give them from the wealth of Allah which He has given you. And do not compel your slave girls to prostitution, if they desire chastity, to seek [thereby] the temporary interests of worldly life. And if someone should compel them, then indeed, Allah is [to them], after their compulsion, Forgiving and Merciful.

Therefore, this element of coercion makes the Prophet (peace be upon him) affirm that hudud should be avoided if there is an element of syubhat (doubt). According to Abd Al-Qadir' Audah in his book "Al-Tasyri' Al-Jina'I Al-Islami," if a man wants to rape a woman, while for self-defence, there is no other choice except by killing the perpetrator, then this act of self-defence is mandatory. In the crime of rape, the evidentiary process will not be the same as crimes of adultery when someone wants to prove the truth of the adultery, it is necessary to bring four witnesses. But in the crimes of rape that was done by the perpetrator in secret will choose a quiet place to carry out the crime of rape, thus this crime will be known only by the perpetrator and the victim themselves. In case a woman was raped and cannot bring witnesses, she can present other evidence, for example, through a doctor's examination or other evidence that leads to the conclusion that she has been raped.

Human rights are an honour inherent to all humans. Those who violate and damage it should be classified as criminal perpetrators who must be dealt with through Islamic Law. This handling is a form of action that is implemented.

An act is considered a Jarimah if it satisfies the following three general elements: nash (God's revelation or the text in the Quran that was directly received by the Prophet Muhammad SAW and the hadith of the Prophet Muhammad SAW), which forbids the act and includes punishment against it, and this element is commonly called formal (ar-rukn ash-syar'i), material

element (ar-rukun al-maddiy), that is, the existence of behaviours that forms the Jarimah either in the form of real deeds or unreal deeds. The moral element (ar-rukun al-'adabby) is that the perpetrator is a believer who can be accountable for the Jarimah he does.

Criminal liability in Islamic criminal law is the imposition of a person with the results (consequences) of an act or attitude of inaction. Two conditions must be found: understanding the Nash in Taklifi Law (the book contains the demands of commands and prohibitions) and deserving of being held accountable and punished.⁶²

Based on the explanation above, it is known that in Islamic Law, it is very easy to punish perpetrators of rape, where if there are no witnesses, the victim can present other evidence. In Islam, it is also mentioned that if, in the criminal act of rape occurs, and the victim cannot put up any other resistance other than killing the perpetrator, then it is permissible in Islamic penal law and the actions done by the victims will not be punished and not considered a sin.

3.5 Theory of Blaming the Victim

Rape involves a clear perpetrator (the rapist) and a clear victim (the individual who is raped); observers may be expected to assign blame to the perpetrator and to the perpetrator alone. On the other hand, assigning some degree of blame to the rape victims is not uncommon. The basic pattern of

⁶²Hj. Rahmatia HL, "Legal Protection of Rape Victims", *al-dawlah*, Vol.4, No. 1, 2015, p. 36-40.

relatively lenient judgements of perpetrators alongside relatively harsh judgement of victims in the case of rape has been found in examination of legal and medical proceedings, as well as social psychological experiments in which participants assign blame in the case of rape versus nonsexual crimes such as robbery.

In the middle of 1970s. William Ryan wrote a book called *Blaming the Victim*. The book shows that people on welfare were regularly characterized as being lazy or ignorant and their sorry conditions were their fault. It was assumed that anyone could pull oneself up by one/s “own bootstraps” if he or she only tried hard enough. It was not there: their bootstraps just kept ripping off. Ryan was one of the few to see what we now call structural violence, the fact that some harm result from the nature of the social itself.⁶³

Victim-blaming is a phenomenon that has been happening since at least the beginning of recorded history but has only recently been identified as a dynamic used to empower the criminal and maintain the status quo. Victim-blaming is perpetuated by sexism, the Just World Theory, cognitive biases, and the theories of self-blame. Victim-blaming occurs when the victim of a crime or abuse is held partly or entirely responsible for the actions committed against them. In other words, the victims are held accountable for the maltreatment they have been subjected to.

⁶³George Kent, “Blaming the Victim, Globally”, contained in <http://www2.hawaii.edu/~kent/BlamingtheVictimGlobally.pdf>, last accessed on 3rd August 2023.

Perpetrators of crimes for which they blame the victim commonly enjoy a privileged social status opposite the victim, and their blame typically involves use of stereotypical negative words. The phenomenon of victim blaming is thus common in hate crimes, discrimination, rape and bullying. The main motivation for people to victim-blame is to justify abuse or social injustice. However, it is not only the perpetrator who engages in the victim-blaming. Perpetrators, bystanders and society and even the victims themselves practice and enforce victim-blaming. Each group of people who blames the victim does so for different reasons based on their power or lack thereof, self-defence and desire to find logical reasons for abuse or social injustice.

William Ryan coined the phrase “blaming the victim” in his book *Blaming the Victim* in 1971, as a response to years of oppression and the civil rights movement. He describes victim-blaming as a way to preserve the interest of the privileged group in power (Zur). Since then, advocates for crime victims, particularly those of rape, have adopted the phrase. Although Ryan coined the phrase, the phenomenon is well developed in psychology and history. As previously stated, victim-blaming has been happening at least since the beginning of recorded history. There are many examples of victim-blaming in the Old Testament regarding tragedies justified by blaming the victims as sinners (Robinson 141). Unfortunately, victim-blaming is still rampant today and has only recently been identified as problematic.

Another oppressed group who is victim-blamed by their perpetrators are rape survivors. The blaming typically heard directly declares that in order to avoid being harassed or raped women should dress a certain way, behave a certain way and be careful about where they go. One reason women are told this is because cultural sexist expectations and criticisms of women that are used to victim-blame. Many rape survivors have been blamed by their rapists who claim the woman was “asking for it” because of her clothing or behaviours (Anderson, K. J., & Accomando 24-28). By blaming the woman, the rapist can avoid being punished and continue to feel power over women. They may also feel free to rape again if they believe they are not at fault.

The response to victim-blaming in the case of rape: Rapists also victim blame because they feel superior to women and in turn have a right to have control over them. This perceived power is because of sexism, which in turn leads to victim-blaming. More often than not, victims who are blamed for their abuse are often considered unequal to the perpetrator in some way. In this circumstance, male gender privilege allows the perpetrators to blame the victim without consequences (Anderson, K. J., & Accomando 24-28). The excuses made by rapists are fabricated to obscure the reasons they attack women. Victim-blaming is simply an easy way out to avoid consequences of wrongdoings and shift the blame to the underprivileged victim.

Over time, perpetrators, invariably members of a group that seeks to dominate the victim group, convince others with their victim-blaming to do the same. The phenomenon when individuals do not help in emergency situations and either instead ignore it or enforce it is called the bystander effect. In the circumstance of victim-blaming, the bystander effect is when individuals allow crimes and further victim-blaming to occur. This occurrence is perpetuated as the number of bystanders increases (Meyers). While someone may not himself or herself abuse someone, participating in the victim blaming not only reinforces the social expectations and fallacies perpetrated, but also prevents the victims' recourse for the crimes committed against them as well as their ability to recover. Bystanders and society at large victim-blames in order to protect themselves from the perpetrators. In other words, bystanders tell themselves that as long as they don't do what a victim did to "deserve" the abuse they will be safe. This phenomenon is called the Just World Theory; the idea is that only bad things happen to people if they did something wrong to deserve it.⁶⁴

Victim blaming behaviours occurs when the victim of a crime is blamed and held responsible for the crime, and often applies in the context of sexual violence. On this issue, several parameters determine how deserving a woman is of blame, for example: the availability of romantic contact based on the consent of both parties, the type of clothing worn at the time of the

⁶⁴Julia Churchill Schoellkopf, "Victim-Blaming: A New Term for an Old Trend", found in <https://digitalcommons.uri.edu/cgi/viewcontent.cgi?article=1032&context=glbtc>, last accessed on 3rd August 2023.

incident and inviting or accompanying a date to her place of residence. Forms of victim blaming include not believing the victim's story, blaming the victim, downplaying the severity of the assault, and inappropriate treatment after the crime by those in authority. Those who blame the victim include those closest to the victim starting from friends, family, relatives, even those who work in certain agencies such as police, lawyers, public prosecutors, judges, medical personnel.

Cordy (2010; in Campbell & Raja, 1999) states that victims, who should not be 'punished' and charged with a crime, must go through re-traumatization through individual and institutional responses to the horrific acts they receive. The behaviours of blaming the victim for the crime that occurred is one form of secondary victimization in which efforts to stigmatize the victim and the trauma, distress, and alienation he feels due to the responses he receives are not as expected, tend to blame him again, and are usually associated with government officials. Secondary victimization is lengthy and complex, rooted in negative, judgmental behaviours directed at the victim.⁶⁵

4. An Overview of Court Proceeding Process

As one of the series of criminal justice system, after going through the process of investigation, inquiry, and prosecution, the process will enter the core of the purpose of criminal procedure law, namely trial examination. In

⁶⁵ Erika Putri Wulandari, Hetty Krisnani, "Kecenderungan Menyalahkan Korban (*Victim-Blaming*) dalam Kekerasan Seksual Terhadap Perempuan Sebagai Dampak Kekeliruan Atribusi", *Social Work Jurnal*, Edisi No.2 Vol. 10, Universitas Padjadjaran, 2020, p. 189-190

this trial examination, the results of the inquiry which are concretized in the form of an indictment at the prosecution level will be tested to obtain material truth. The core of the trial examination process is evidence, in which the evidence will be assessed by the panel of judges to reach a conclusion, whether the defendant is guilty or not guilty of committing a criminal offense as charged by the public prosecutor. The trial is presided over by a panel of judges consisting of at least three judges appointed by the president of the district court as the panel of judges examining a case.⁶⁶

In handling cases of sexual violence, the ordinary examination procedure will be applied by the court. The ordinary examination is the main examination in a criminal case. Although it is called the ordinary examination procedure, this examination procedure is the most complete process compared to other examination procedures. Cases that are examined and adjudicated and decided by the ordinary examination procedure are criminal cases that are punishable by imprisonment of 5 years or more or criminal cases that require careful and thorough proof.

The Chief Judge presides over the examination in court, which is conducted orally in Indonesian and understood by the defendant and witnesses. In the examination of witnesses, witnesses will be examined individually and in turn so that the witness's answers are pure and not influenced by other witnesses. In the examination of victim witnesses,

⁶⁶Tolib Effendi, *Dasar-dasar Hukum Acara Pidana*, Ctk. Pertama, Setara Press, Malang, 2014, p.150

victim witnesses will be prioritized by the chief judge to provide testimony and be examined first. The examination of witnesses will begin with questions about identity first and then will be asked about the relationship with the defendant. Witnesses will take an oath according to their respective religions as stipulated in Article 160 paragraph (3) of the Criminal Procedure Code that witnesses will provide testimony that is true and not other than the truth. After the witness has testified, the presiding judge must ask the defendant what he or she thinks about the testimony given by the witness, and the defendant may deny the witness's testimony in its entirety, deny part of it and confirm the rest or confirm the entire testimony.

The system of evidence in a trial

- a. *Conviction in time*, which means a system of evidence where the process of determining the guilt or innocence of the defendant is solely determined by the judge's judgment of belief. The judge is not bound by the types of evidence available; the judge can use the evidence to obtain a conviction of the defendant's guilt, or ignore the evidence by only using the belief inferred from witness testimony and the defendant's confession.
- b. *Conviction in raisonee*, a system of evidence that emphasizes the judge's belief based on clear reasons. If the conviction in time evidentiary system gives discretion to the judge without any restrictions on where the belief arises, the conviction in raisonee evidentiary system limits the judge's belief to be based on clear reasons. The judge is

obliged to describe and explain what reasons underlie the belief in the defendant's guilt.

- c. Positive statutory proof, meaning that proof can only be deduced from the evidence specified by law without any interference from the judge's belief. When the defendant's actions can be proven based on the available evidence, then the defendant is found guilty, and therefore sentenced, conversely, when the evidence cannot prove the defendant's guilt, then the defendant is declared innocent. In this system, the judge seems to be just a law enforcer machine that has no conscience, conscience does not participate in determining the guilt or innocence of the defendant.
- d. Negative statutory proof, this proof system is a mixed proof system between conviction *raisonnee* and positive statutory proof system. The formulation of this system of proof is that the guilt or innocence of a defendant is determined by the judge's belief based on the method and with legal evidence according to the law.

The KUHAP expressly refers to the negative statutory system of proof as stated in Article 183 of the KUHAP which reads, "The judge shall not impose a sentence on a person unless he is convinced by at least two valid pieces of evidence that a criminal offense has actually occurred, and that the defendant is guilty of committing it".

Witness testimony is based on Article 1 point 27 of the Criminal Procedure Code which reads "witness testimony is one of the pieces of

evidence in a criminal case in the form of a statement from a witness regarding a criminal event that he heard himself, saw himself and experienced himself by stating the reasons for his knowledge".

As evidence, not all witness testimony can be used or assessed as evidence at trial, as evidence at trial to shed light on a criminal case. These conditions include:

- (1) It shall be stated in a court session in person.
- (2) The statement is given under oath.
- (3) The testimony of a witness is not a witness. This principle can be deviated from if the testimony of a witness is supported by other evidence.
- (4) In the case of independent witness testimony about an event or situation, it can be considered as evidence if the testimony of the witnesses is interrelated and related to one another.
- (5) Conformity between the testimony of one witness and another witness.
- (6) Compatibility between witness testimony and other evidence.
- (7) The way of life and morality of the witness and everything that can generally affect whether or not the testimony can be trusted should be considered by the judge in assessing witness testimony.⁶⁷

⁶⁷Tolib Effendi, *Dasar-dasar Hukum Acara Pidana*, Ctk. Pertama, Setara Press, Malang, 2014, p. 162-175

CHAPTER III

FINDINGS AND RESULT

When someone becomes a victim of sexual violence, the state should provide protection and fulfilments of rights to victims whose rights have been deprived or eliminated by the perpetrator of the crime. In protecting the rights of victims of sexual violence, several laws have been issued by the government such as Law Number 31 of 2014 concerning amendments to Law Number 13 of 2006 concerning Witness and Victim Protection, and the newest Law Number 12 of 2022 concerning Criminal Acts of Sexual Violence which is a *lex specialis* law that was issued due to the emergency of sexual crimes in Indonesia.

Victims of sexual violence who then report the criminal act will then undergo a criminal justice process where after reporting to the police, an investigation will be carried out to find out whether a criminal offense has actually occurred, after the investigation, an inquiry will be carried out if there are clues that a crime has indeed occurred and at this stage the investigator will collect evidence of the crime and arrest the suspect. After the investigation at the police is finished, the case will move to the prosecution stage by the public prosecutor, which based on Article 1 point 7 of the Criminal Procedure Code, prosecution is a public prosecutor's action to submit a criminal case to the competent district court in the case and in the manner provided for in this law with a request that it be examined and decided by a judge at the court hearing. After the prosecution stage is carried out, it will then proceed to the examination stage in court, where the examination process is an evidentiary process,

in which the evidence will be assessed by the panel of judges to reach a conclusion, whether the defendant is guilty or not guilty of committing a criminal offense as charged by the public prosecutor.⁶⁸

As a result of the violence received, victims can experience psychological disorders, which can be in the form of emotional disorders, behavioural disorders, and cognition disorders. The emotional disorder in question is an unstable emotion that impacts worsening mood. Then behavioural disorders tend to be seen in changing the victim's behaviour to more negative things such as excessive laziness. Finally, cognition disorders affect the victim's thinking patterns, making concentrating difficult, often daydreaming and empty thoughts or other similar things.

The psychological impact of violence is not as simple as how the general public thinks. Once the psychological of a victim is affected, the victim's mindset changes and affects various things. They started from how to think about something, vulnerable emotional stability, and even depression. The psychological impact can be said to be a type of Post Traumatic Syndrome Depression. Where this trauma is impactful enough to affect the victim's psychological condition, especially causing excessive fear and anxiety as a result of the brain accidentally re-calling unpleasant incidents that have been experienced by the crime victims of sexual violence.⁶⁹

⁶⁸ Tolib Effendi, *Dasar-dasar Hukum Acara Pidana*, Ctk. Pertama, Setara Press, Malang, 2014, p. 150

⁶⁹ Astri Anindya, Yinu Indah Syafira Dewi, Zahida Dwi Oentari, "Dampak Psikologis dan Upaya Penanggulangan Kekerasan Seksual Terhadap Perempuan", Vol. 1, Universitas Duta Bangsa, 2020, p. 138.

In undergoing the criminal justice process, victims of sexual violence who have experienced situations and events that disturb their psychological condition and still have trauma related to the crime of sexual violence must undergo a criminal justice process which is very tiring and often times puts victims of sexual violence in a vulnerable position. Victims of sexual violence with severe trauma and depression must deal with the criminal justice process, which has the potential to cause excessive stress and worsen the victim's psychological condition. Because of the current condition of the victims, they need special attention and must be handled carefully in consideration of their mental state. While also must assuring the fulfilments of their rights, providing proper protection and ensuring the uphold of the justice.

When undergoing the examination process, it is not uncommon for victims to be faced with situations that puts them in a vulnerable position which when they have to be faced with numerous uncomfortable situations which can cause excessive stress worsen their psychological condition. This can be in the form of reactions given by agencies in the criminal justice system such as the police officer, the prosecutors, and the judges. Often times victims are negatively stigmatized and got blamed for the crimes that befell them. This is referred to as secondary victimization, and secondary victimization occurs not because of the crime but through institutional and individual responses to the victim. Institutional responses can come from criminal justice system institutions, social institutions, or government institutions. In contrast, individual responses can come from law enforcement officials, friends, family of the victim, or

even the wider community. Secondary victimization is most commonly arising within the criminal justice system.⁷⁰

One form of secondary victimization that often occurs in the criminal justice process is victim blaming behaviour. Based on William Ryan, Victim Blaming is the justification of injustice by finding defects or mistakes in the victim of injustice, this victim blaming concept tries to find justification by utilizing defects or gaps made by the victim so that the victim becomes blameworthy for the disaster that occurred⁷¹. Victim blaming behaviour carried out by law enforcement officials to victims of sexual violence is the imposing of negative stigma such as asking questions or statements that demean, intimidate, discriminate, and blame victims of sexual violence for the crimes that occurred. Victim blaming has resulted in several negative and bad impacts towards the victims of sexual violence, such as the lowered self-esteem, the self-blaming behaviour as an impact of believing they took part into the crimes that befell them, depression, self-isolating, and in the worst case scenario is committing suicide.

The impact of sexual violence that occurs is also characterized by powerlessness, where victims feel helpless and tormented when disclosing the sexual abuse incident. The description of psychosocial factors in victims of sexual violence is described in the dimensions of affection, cognition, psychomotor, and social. Psychosocial factors such as negative emotional tendencies such as feelings of hatred and holding grudges, the desire to live a free life, assessments that tend to be negative

⁷⁰Mahrus Ali, *Victimology*, Ctk. Pertama, First Edition, PT RajaGrafindo Persada, Depok, 2021, p. 40.

⁷¹*Mengapa Kita Melakukan Victim Blaming?*, contained in <http://www.psikogenesis.com/2019/07/mengapa-kita-melakukan-victim-blaming.html>. Accessed on 16th august 2023.

about themselves and the life they live, unnatural sexual behaviour, and poor relationships with family or the surrounding environment.⁷²

A. Secondary Victimization still occurs in the examination of victims of sexual violence in court proceedings caused from several factors.

When a victim of sexual violence reports a case of violence against her, the case will be processed under the criminal justice system. Starting from the investigation and inquiry stage in the police, then proceeding to the prosecution stage in the prosecutor's office, and finally the evidentiary process in court. In the examination stage that victims of sexual violence must undergo, it is not uncommon for the victim to feel a negative impact and resulted on the worsening of the psychological state of the victim, this is due to the secondary victimization carried out by law enforcement officials to victims of sexual violence. secondary victimization occurs not because of the crime but through institutional and individual responses to the victim. The following is a case example of sexual violence crime where the victim when being examined by the law enforcement officials experienced secondary victimization at the examination stage in court.

At the examination of victims in court, victims often experience secondary victimization, where this secondary victimization can take the form of imposing negative stigma and also not fulfilling the rights of victims of sexual violence. In an interview conducted at the Rifka Annisa Women's Crisis

⁷²Sri Indrayani, "Dinamika Psikososial Remaja Korban Kekerasan Seksual", Jurnal Psikolog, Universitas Brawijaya, 2018, p.4.

Center institution, which is a non-profit institution that provides legal assistance and psychological assistance for women and children victims of sexual violence, said that there was still a lot of secondary victimization in the examination of victims in court. It is known that in 2022 there were 189 cases of sexual violence reported at Rifka Annisa Women's Crisis Center. During the examination in court, victims are usually asked questions that are not related to proving sexual violence, such as:

1. Negative stigmatization of victims

During the examination, victims are often asked questions that have nothing to do with the substantiation of sexual violence and this causes the psychological state of victims of sexual violence to fluctuate when undergoing examination in court.

- a. During the examination of the victim in court, the victim was often asked about why the victim did not immediately report the incident and this shows that law enforcement officials do not understand the victim's condition, which is that if someone is a victim of sexual violence it will be difficult for the victim to decide to tell others because the victim will consider themselves unholy, a disgrace, or feel guilty because they could not resist when the rape occurred.

Deciding to report a crime of sexual violence is a decision that requires great courage and strength for the victim, it is not a decision that can be made immediately because victims of sexual violence will experience severe mental and psychological distress as a result of the

crime. The victim who received this question then asked the legal assistant why the judge asked the victim such a question, and whether the judge did not believe the statement issued by the victim or what.

A victim in an unstable psychological state will have a different reaction compared to someone with a stable psychological state. The victim will feel guilty and will feel even worse.

- b. Means that you have previously has sexual intercourse with the defendant before. This question is also often asked by law enforcement officials who examine victims of violence. The intent of this question is also often interpreted as the unreliability of the testimony given by the victim witness in relation to this act of rape. Asking about the sexual experience of victims of sexual violence and using it as a justification to reduce the punishment of the perpetrator is common, sometimes law enforcement officers do not hesitate to consider that the sexual intercourse that occurred was not rape but a situation where the victim was actually willing to have intercourse with the perpetrator. Instead of looking for the criminal element of rape, law enforcers ask about the victim's sexual background which has nothing to do with proving the crime.
- c. You don't have to think about it, there is nothing damaged in you anyway. This is a statement given by law enforcement officials that minimizes the impact of sexual violence felt by victims. By seeing that the victim's physical body has no damage, law enforcement officials

then draw the conclusion that there is actually no impact felt by the victim after the rape. Underestimating the suffering of victims of sexual violence is also a form of secondary victimization that results because the authorities do not understand the psychological condition of victims after the crime, and what impacts victims of sexual violence can feel as a result of the crime. Straight up assuming that no part of the victim is damaged as a result of the sexual violence that occurred is a statement that is very offensive to victims who have experienced mental and psychological suffering due to this rape. The statement made by the law enforcer caused the victim's psychological condition to fluctuate.

- d. You are a woman, why would you want to be invited to a place like that. In the examination of victims of sexual violence, questions like this are often asked. The questions given seem to give the impression that the victim also took part in making the crime of rape occur. Instead of asking questions related to the elements of the crime of rape, namely the existence of coercion and/or threats, law enforcers ask questions that corner victims of sexual violence.

It is not uncommon for victims of sexual violence to be asked questions that indicate that women must follow the standards that have been embedded in the social order, such as having to pay attention to where they go, how they behave, how they dress, at what times women can and cannot travel so that they do not become victims of rape. So instead of recognizing that the crime of rape occurred simply because

the perpetrator was consciously committing the rape, law enforcement officials handling cases of sexual violence victims ask questions that are not relevant to the evidentiary process and blame the victim for the rape.

2. Non-fulfilments of the victim's interest

When victims of sexual violence are being examined in court, their rights often go unfulfilled. In this case, what the victim wants in relation to the sentence imposed on the defendant often makes the victim feel disappointed because she feels that the sentence given is relatively light and not proportional to the impact felt by the victim as a result of the crime.

In cases of sexual violence, victims have the right to request restitution to the perpetrator of the crime of sexual violence. In the granting of requests for restitution made by victims, it is always granted by the judge, but in practice this restitution is often not implemented. The non-implementation of restitution is also a lack of fulfilments of the rights of victims of sexual violence.

Based on the interview that was done, the kinds of secondary victimization experienced by victims are in the form of giving negative stigma to victims and also the lack of fulfilments of protection provided to victims.

As victims of sexual violence who have been deprived of their rights by others and are in a traumatized psychological condition after the crime, making the decision to be courageous and report the crime of sexual violence that occurred to them is a very difficult decision for victims to make. Many victims

ultimately decide not to report crimes of sexual violence and choose to remain silent for fear of being negatively stigmatized both by individuals around the victim and by law enforcement officials who will handle the victim's case.

There are several factors causing the secondary victimization still happen up till now in the examination process of the victims of sexual violence in the court proceedings.

a. Lack of the victim's perspective

Secondary victimization in the form of victim blaming still often occurs because law enforcement officials still do not have a victim's perspective. Not having a victim's perspective is when law enforcement officials do not own a pro-victim attitude and do not understand the dynamics of the victim⁷³. The impact that occurs due to the lack of perspective of victims of sexual violence on law enforcement officials will lead to the mispositioning of the negative stigma towards the victim, not understanding the suffering felt by the victims, not fulfilling the victim's rights and need, and not understanding the interest of the victim. Conditions where the victims of sexual violence experience prolonged trauma, have concerns about telling stories related to criminal acts of sexual violence that occur will result in the hesitant behaviour on reporting the case to the police officer.

⁷³Interview with Lisa Oktavia, S.H., PLT Manager of the Assistance Division at Rifka Annisa Women's Crisis Center

When the law enforcement officials then proceed to impose a negative stigma to the victims, such as asking why reporting is only done now when the criminal act has long occurred, is a question that underestimates the trauma felt by the victim and does not understand what the victim has experienced. The victim needs more strength to be brave and finally decide to report the sexual violence case she experienced. If a victim in a traumatized state after a crime was faced to deal with law enforcement officials who blame them for the crimes that befell them, this will worsen the victim's psychological condition. For some people, their psychological condition will not be displayed directly on their face, behaviour, and various things that can be seen visually. However, the victim's psychological condition will affect the victim's thinking patterns in the future, will change the victim's perspective regarding several things in life, and in the worst-case scenario, it will lead to suicidal behaviour.

With the victim's perspective, law enforcement officials will pay attention to the position of the victim who will act as a witness in the trial, law enforcement officials will also understand the interests and suffering of the victim as a result of the crime of sexual violence that occurred so that what is the hope of the victim against the perpetrator can more or less be concretized in the judge's decision. The judge can consider the severity of the punishment to be imposed on the defendant by looking at how much suffering the victim of sexual violence has experienced. This consideration can also be measured based on how much trauma the victim has

experienced, what physical injuries the victim has suffered as a result of the sexual violence, and other factors that can be taken into consideration.⁷⁴ This victim perspective can be used as a guideline in an effort to eliminate and minimize the occurrence of the secondary victimization that was usually done by the law enforcement officials in the examination process of the victims of sexual violence.

b. Not understanding the dynamic of the victim

The lack of understanding of the law enforcement officials related to the psychological dynamics of victims after sexual violence is also one of the factors causing secondary victimization in the examination of the victims of sexual violence. The dynamics of victims of sexual violence, they will have different views and perspectives when they have not been victims of sexual violence and after being victims of sexual violence. Victims will have fears for their future, feel frightened easily, angry with themselves for not being able to fight back, the little things could trigger the past memories of the sexual violence and in the worst-case scenario the victims won't be able to imagine themselves still living in this world after the crime that befell them.

Victim blaming behaviour will have a negative impact on victims of sexual violence. After becoming a victim, there will be several psychological disorders experienced by victims such as: victims can

⁷⁴Joice Soraya, *Viktimologi: Kajian dalam Perspektif Korban Kejahatan*, Ctk. Pertama, Media Nusa Creative, Malang, 2022, p.13.

experience Post-Traumatic Stress Disorder (PTSD), if victims of sexual violence experience excessive stress due to criminal acts, it will trigger PTSD which if not handled properly will lead to the victim's desire to commit suicide; psychological pressure can also trigger physical symptoms, victims of sexual violence will experience trauma and it is difficult for someone to deal with the trauma, when under heavy psychological pressure, the body will begin to be overwhelmed and cause several physical symptoms such as muscle pain, headaches, and even chronic physical health problems.⁷⁵ The psychological condition of victims who have experienced deep trauma will worsen when they receive victim blaming behaviour, and this behaviour will give victims the perception that they are at fault and are the cause of this crime or make them believe that they contributed to the sexual violence that befell them.

If the law enforcement officials do not understand the dynamics of victims, then this will result in not providing a proper treatment to victims of sexual violence as how they should be treated and can also display an attitude of underestimating the impact of criminal acts that occur. Thus, victims need a careful assistance when they are being examined in the court proceedings. By understanding the dynamics of the victim, law enforcement officials will have an understanding of the psychological condition of the victim after the crime. Law enforcement officials will

⁷⁵*Hati-Hati, Ini Dampak Kekerasan Seksual pada Psikis dan Fisik Korban*, contained in <https://www.halodoc.com/artikel/hati-hati-ini-dampak-kekerasan-seksual-pada-psikis-dan-fisik-korban>. accessed on 16th August 2023.

approach the victim slowly, make the victim comfortable and feel safe, and ask questions and issue a statements wisely and is not offensive towards the victims.

c. Patriarchal culture

Patriarchal culture influences society's mindset. Gender differences have created various injustices, especially for women. In Indonesia, the habit of blaming the victim is strongly influenced by patriarchal culture, an ideology that recognizes the unequal relationship between women and men. In this patriarchal culture, the position of men is more dominant, more influential, while women are positioned as subordinates. As a result, men demand women's respect and obedience in various aspects of life. Crimes of sexual violence often put women in a vulnerable position to be victims, and also in a position where they are vulnerable to being blamed when they are the victims of sexual violence.

In cases of sexual violence where most of the victims are women, the culture of victim blaming is being further normalized. This act of victim blaming can be done by anyone including the perpetrator of the crime, the law enforcer, and other individuals. The intention of the person who commits victim blaming against victims of sexual violence is to get away with the crime they committed by blaming the victim such as, I committed this rape because the victim was wearing revealing clothes and was inviting my lust, statements like this that are usually issued by the perpetrator of rape to justify the crime that has occurred.

Victim blaming by law enforcement officials also often occurs to victims of sexual violence when undergoing the criminal justice process and asking questions such as, you are a woman why do you want to go to a place like that, implying that women must comply with things that should not be done based on standards recognized by society so that something bad like rape happens to them (the victims). When the crime of rape occurs, there should be no justification. The important thing to do is to acknowledge and realize that the rape happened because the perpetrator wanted to rape the victim.

B. To prevent Secondary Victimization of victim of sexual violence during court hearings will be based on several factors.

1. Prevention of Secondary Victimization by Rifka Annisa as legal counsel for victims of sexual violence at the examination stage in court

Rifka Annisa Women's Crisis Center is a non-governmental organization committed to the elimination of violence against women. Rifka Annisa provides legal and psychological assistance to victims of sexual violence who want to undergo the criminal justice legal process. In accordance with the needs of victims of sexual violence, victims will be provided with legal assistance as well as psychological assistance at each stage of the examination, namely at the investigation and inquiry stage in the police, the prosecution stage in the prosecutor's office, and the examination stage in court. Before carrying out legal assistance, Rifka Annisa will conduct an assessment of victims of sexual violence, in this

assessment victims will be informed of the information needed when they will undergo criminal justice, what stages will be passed, what assistance will be provided, and also given an appeal in advance related to the rights of victims and also their right to apply for restitution and compensation to perpetrators of sexual violence.

Rifka Annisa's role as a legal companion for victims of sexual violence is very important and needed by victims. With this legal and psychological assistance, it will be very easy for victims to process at every stage of criminal justice. Victims will feel cared for, not alone, and also heard. In an effort to prevent secondary victimization of victims of sexual violence, legal assistance is needed by victims. The fact that secondary victimization still often occurs in the criminal justice system provides evidence that the handling of victims of sexual violence is still very lacking in fulfilling the rights of victims.

Based on the results of interviews conducted with Lisa Oktavia, S.H as PLT Manager of Assistance at Rifka Annisa, it is known that when there is secondary victimization committed by law enforcement officials, the victim's companion will try to equalize perceptions related to law enforcement officials related to victims so that law enforcement officials have better understanding of the psychological dynamics of victims after the crime. This existence of the legal assistance task is very important to avoid uncomfortable processes that victims will go through. Legal assistance is

needed to ensure the fulfilments of the victim's rights and to ensure the smoothness of the process that the victim will go through.

Rifka Annisa Women Crisis's Center has made various efforts so that the majority of law enforcement officials can have a victim's perspective and also understand the dynamics of victims. Rifka Annisa Women's Crisis Center has organized trainings related to women and children's issues aimed at the law enforcement officials namely the police officer, the prosecutors, and also the judges, and this is one of the efforts to increase their understanding of the dynamics of victims with the intention that when there is a victims of sexual violence, the law enforcement officials could understand the victim's current psychological condition and could handle the victims accordingly in considerations of their condition.

2. Prevention of secondary victimization done by the prosecutor

In an interview conducted with Ariyana Widayati S.H, one of the prosecutors at the Yogyakarta District Attorney's Office, stated that in handling female victims in the crime of sexual violence. All prosecutors can handle cases of sexual violence, but in cases of sexual violence against women, the appointed prosecutor has prioritized to be a female prosecutor. An additional requirement is to have additional skills needed to handle victims of sexual violence and be accompanied by an SP (Letter of Appointment) from the provincial prosecutor's office.

When the delegation of the case and the evidence from the police has been submitted to the prosecutor, the public prosecutor will detain the

suspect in the crime of sexual violence and put him in the Yogyakarta Class IIA State Detention Center located at JL. Taman Siswa No. 6A. If during the examination of the victim at the prosecutor's office, she feels afraid and intimidated, she can ask to be assisted by any legal assistance for example like the kinds of assistance given by Rifka Annisa Women's Crisis Center, which is an institutions made to handle gender-based violence that provides psychological counselling facilities and legal assistance free of charge.

The public prosecutor will first do a preliminary meeting with the victim of sexual violence before starting the prosecution stage with the intention that this victim can feel familiar and comfortable explaining and telling the events of the crime that occurred and give full trust to the public prosecutor who was in charge of handling the victim's case.⁷⁶

Fulfilling access to justice for women in handling criminal cases has become a legal necessity in society to protect the interests and rights of female victims who are in conflict with the law. In an integrated criminal justice system, prosecutors play an important role in guarding and ensuring the fulfilment of access to justice for female victims.

In handling cases of sexual violence against women victims, the prosecutor in Yogyakarta District Prosecutor office must refer to a certain procedure namely the Guidelines for Prosecutor of the Republic of Indonesia No.1 of 2021, and must refer to the newest regulations regarding

⁷⁶Wawancara dengan Ariyana Widayati, S.H., one of the prosecutor at the Yogyakarta District attorney's office.

criminal act of sexual violence Law No. 12 of 2022. In the Prosecutor Guidelines have regulates regarding certain things:

Investigation and Inquiry

- a. Victims and witnesses are provided with information about the judicial process, their rights to damages, restitution, and compensation, and the procedures for applying for them.
- b. Suppose a female victim cannot attend the trial for health, security, safety, and/or other legitimate reasons. In that case, her testimony shall be given under oath, and a record of the swearing shall be made.⁷⁷

Preparations of case files

- a. A detailed description of the facts can be made as long as it is necessary to support the proof of the offense and the perpetrator's guilt.
- b. To protect information and/or documents related to sexuality, the public prosecutor, as the investigator, separates documents containing images, illustrations, and/or photographs showing sexual organs, sexual activities, and/or objects from the case file. In these documents, the prosecutor keeps the identity and information confidential.⁷⁸

Pre-Prosecution

In this stage, the victim was explained the victim's right to indemnity, restitution, or compensation and the procedure for applying for it. It must

⁷⁷Chapter III, guideline no. 1 of 2021, on access to justice for women and children in handling criminal cases

⁷⁸Chapter III, guideline no. 1 of 2021, on access to justice for women and children in handling criminal cases

also consider the ability of the victim or witness to provide testimony in court related to health, safety, security, and other legitimate reasons.⁷⁹

Preliminary Meeting

The public prosecutor will inform the witness and/or victim about the judicial process, their right to apply for indemnity, restitution, and/or compensation, the consequences of the victim's and/or witness's decision to attend or not to attend the hearing to ensure they understand the situation. The judge's order may conduct the audiovisual remote direct examination if the female victim cannot attend the hearing due to health, security, safety, and other legitimate reasons.⁸⁰

Proofing

In questioning and/or examining a female victim, the public prosecutor must not ask questions that are sexist and/or discriminatory based on sex or gender that are irrelevant to the case, make irrelevant assumptions about her socioeconomic background or a particular condition that unfairly justifies, demeans, and harms her existence as a human being.⁸¹

⁷⁹Chapter IV, guideline no. 1 of 2021, on access to justice for women and children in handling criminal cases

⁸⁰Chapter V, guideline no. 1 of 2021, on access to justice for women and children in handling criminal cases

⁸¹Chapter VI, guideline no. 1 of 2021, on access to justice for women and children in handling criminal cases

The public prosecutor needs to know the related:

The psychological/mental state at the time of the crime or as a result of the crime, gender-stereotyped conditions that make them bound to a certain position or position in the family and/or community, domination relationships that place them in subordination, power relations between the perpetrator and the victim, psychological responses or certain syndromes that show deviations in relationships or misinterpretation of relationships that cause tolerance of the defendant's actions due to certain situations, circumstances or history. This needs to be built by the public prosecutor in the juridical analysis by being able to be considered as an aggravating circumstance for the perpetrator by paying attention to the legal facts at trial in a proportional manner.

Prosecution and enforcement of court decisions:

In formulating the charges related to aggravation and mitigation, the prosecutor must know the consequences of the criminal act on the victim. Additional punishment in the form of restriction of movement of the perpetrator is determined to be at least 100 meters from the victim within a minimum of one month and a maximum of one year (this is a form of consideration of law enforcement officials for victims of sexual violence).⁸²

⁸²guideline no. 1 of 2021, on access to justice for women and children in handling criminal cases

Based on the newest regulation that regulates the criminal offense of sexual violence thus is law No. 12 of 2022, has regulated the procedures of handling the victim of sexual violence in the prosecution stage.

- a. The public prosecutor may conduct a preliminary meeting after the handover of the suspect and evidence with witnesses and/or victims after the prosecutor receives or re-receives the complete results of the investigation from the investigator. (Article 56)
- b. For the preliminary meeting, the public prosecutor summons the witness and/or victim by stating the time, place, and reason for the summons. This meeting can be conducted through electronic media with consideration of the health, security, and safety of the witness and/or victim. (Article 56)
- c. In the preliminary meeting, the witness and/or victim may be accompanied by a companion and/or family and may be attended by the investigator. (Article 56)
- d. The public prosecutor shall convey and explain information regarding the judicial process, the rights of witnesses and/or victims, including the right to seek restitution and the procedures for applying for it, the consequences of the decision of witnesses and/or victims to attend or not attend the examination in court to ensure that witnesses and/or victims can understand the situation, examination outside of court through electronic recording and/or remote direct examination with audiovisual communication devices can be carried out if witnesses

and/or victims cannot attend the trial for reasons of health, security, safety, and/or other reasons deemed legitimate. (Article 56)⁸³

- e. In the indictment description of facts and acts related to sexuality, the public prosecutor should avoid overly detailed, vulgar, and excessive descriptions while still paying attention to careful, clear, and complete descriptions. This is aimed at respecting the human rights, dignity, and privacy of victims and preventing the revictimization of victims. (article 57)
- f. Detailed, graphic, and excessive factual descriptions may be made to the extent necessary to support the proof of the elements of the article and/or criminal offense, including criminal liability and the perpetrator's guilt. (article 57)⁸⁴

3. Prevention of Secondary Victimization based on the judges in the examination of court proceeding process.

Based on an interview that the author conducted on June 22, 2023 with one of the judges at the Yogyakarta District Court, Tri Asnuri Herkutanto, S.H., M.H. The handling of female victims of sexual violence has its own procedures, which refer to Law No. 12 of 2022, and to Perma No. 03 of 2017. Before the trial begins, victims of sexual violence receive special treatment before the trial, at the Yogyakarta District Court has a special room called the "relaxation room" which is provided for female victims of sexual

⁸³Article 56, Law No. 12 of 2022 on the Crime of Sexual Violence

⁸⁴Article 57, Law No. 12 of 2022 on the Crime of Sexual Violence

violence when they are waiting to be examined inside of the court proceedings, and this was provided in order to make the victims feels comfortable and not exposed if in case the victims are in a traumatized situations.⁸⁵

Law No. 12 of 2022 does not require special certification for judges in handling sexual violence cases. If the TPKS law does not require special certification, then all judges at the Yogyakarta District Court can handle sexual violence cases, there is no specifications that must be fulfilled in handling the case of sexual violence.

In the considerations of the victim's mental state conditions, in cases where the victim does not want to see the perpetrator during the examination of the victim witness at trial, the judge will ask the perpetrator to leave the courtroom when the examination of the victim is about to take place. After the examination is complete, the victim leaves the courtroom, the defendant will enter the courtroom again, and the victim's statement will be conveyed by the judge to the defendant and asked if there are any statements of the victim that will be refute by the defendant.

In the event that the victim's psychological state is severely impaired as a result of the crime, the female victim is unable to conduct the examination in court in person. The judge will then allow the examination to be conducted via audio-visual.

⁸⁵Wawancara dengan Tri Asnuri Herkutanto, S.H., M.H., one of the judges at the Yogyakarta District court.

If at this stage of the examination in court the victim requests assistance, then the victim will be provided with legal assistance, namely from Sapda. Sapda is an institution that stands for the Advocacy Centre for Women with Disabilities and Children, but assistance can also be requested for female victims of sexual violence.

The consideration in the aggravation of charges against the perpetrator can be seen from the analysis of the psychological condition of the victim because the psychological impact after the criminal act is related to the criminal act, the greater the psychological impact felt by the victim, the more severe the criminal act that occurred. The decision as much as possible contains these 3 important elements, namely, philosophical, juridical, and sociological. The judge will refer to these 3 aspects, from a juridical perspective it can be seen from the law, sociology can be seen from the community, and this philosophy is the principle of expediency. In this decision, the principle of expediency of prosecution for victims of sexual violence must be considered.

In examining female victims of sexual violence in the Yogyakarta District Court does not have its own procedures because the judges that examine the victims must refer to the related regulations that already provided namely the Supreme Court of the Republic of Indonesia Regulations No. 3 of 2017 regulation that elaborates regarding the guidelines for trying cases of women dealing with the law and also will refer

to the newest regulations namely Law No. 12 of 2022 concerning Criminal Acts of Sexual Violence.⁸⁶

Regulation of the Supreme Court of the Republic of Indonesia No. 3 of 2017 concerning guidelines for adjudicating cases of women in conflict with the law. This Supreme Court Regulation on Guidelines for Adjudicating Cases of Women Against the Law intends to protect women from discrimination and ensure equal protection for all people based on any grounds, including sex or gender. To assure the world of the state's obligation to ensure that women have access to justice and are free from discrimination in the justice system.

Handling of victims of sexual violence in court proceedings

- a. Judges in adjudicating cases of women in conflict with the law must be based on the principles of respect for human dignity, the principle of non-discrimination, the principle of gender equality, the principle of equality before the law, the principle of justice, the principle of benefit, and the principle of legal certainty. (Article 2)⁸⁷
- b. These guidelines for judging women in conflict with the law aim to enable judges to apply these principles, identify unequal treatment

⁸⁶Wawancara dengan Tri Asnuri Herkutanto, S.H., M.H., one of the judges at the Yogyakarta District court.

⁸⁷Article 2, Regulation of the Supreme Court of the Republic of Indonesia Number 3 of 2017 concerning guidelines for adjudicating cases of women in conflict with the law

situations that result in discrimination against women, and guarantee women's right to equal access to justice. (Article 3)⁸⁸

- c. In examining cases, judges need to consider gender equality and non-discrimination by identifying trial facts such as equality of social status between conflicted parties, inequality of legal protection that has an impact on access to justice, discrimination, psychological impacts experienced by victims, physical and psychological helplessness of victims, power relations that result in victims/witnesses being powerless, and a history of violence from perpetrators against victims/witnesses. (article 4)⁸⁹
- d. In the examination process, Judges must not show attitudes or ask questions that demean, blame, and/or intimidate women in conflict with the law, justify discrimination against women using culture, customary rules, and other traditional practices, or use gender-biased expert interpretations, question and or consider the experience or background of the victim's sexuality as a basis for acquitting the perpetrator or reducing the perpetrator's sentence, and issue statements or views that contain gender stereotypes. (Article 5)⁹⁰
- e. During examination in court, judges should prevent and/or reprimand parties, legal counsel, public prosecutors, and/or attorneys who behave

⁸⁸Article 3, Regulation of the Supreme Court of the Republic of Indonesia Number 3 of 2017 concerning guidelines for adjudicating cases of women in conflict with the law

⁸⁹Article 4, Regulation of the Supreme Court of the Republic of Indonesia Number 3 of 2017 concerning guidelines for adjudicating cases of women in conflict with the law

⁹⁰Article 5, Regulation of the Supreme Court of the Republic of Indonesia Number 3 of 2017 concerning guidelines for adjudicating cases of women in conflict with the law

or make statements that demean, blame, intimidate and/or use the experience or sexual background of women in conflict with the law.

(Article 7)⁹¹

- f. The judge asks the woman victim about her losses, the impact of the case, and the need for remedy. (Article 8)⁹²
- g. Suppose the victim is physically or psychologically challenged and requires assistance. In that case, the judge may advise the victim to present a companion, and the judge may grant the request to present a companion. (Article 9)⁹³
- h. The judge, on his/her own initiative and/or at the request of the parties, the public prosecutor, legal counsel, and/or the victim, may order the victim to be heard through examination by remote audiovisual communication at the local court or elsewhere, if the psychological condition of the victim is unhealthy due to fear/psychic trauma based on the assessment of a doctor or psychologist if based on the judge's assessment that the safety of the female victim is not guaranteed if she is in a public and open place, or based on the decision of the Institute for the Protection of Witnesses and Victims (LPSK), women dealing with the law are declared to be in the witness and/or victim protection program and according to the assessment of LPSK cannot be present at

⁹¹Article 7, Regulation of the Supreme Court of the Republic of Indonesia Number 3 of 2017 concerning guidelines for adjudicating cases of women in conflict with the law

⁹²Article 8, Regulation of the Supreme Court of the Republic of Indonesia Number 3 of 2017 concerning guidelines for adjudicating cases of women in conflict with the law

⁹³Article 9, Regulation of the Supreme Court of the Republic of Indonesia Number 3 of 2017 concerning guidelines for adjudicating cases of women in conflict with the law

the trial to provide testimony either for security reasons or for reasons of physical and psychological obstacles.⁹⁴

Based on the newest regulation that regulates the criminal offense of sexual violence thus is law No. 12 of 2022 has regulations regarding the procedures of handling the victim of sexual violence during the hearing process in court.

- a. Examination of cases of sexual violence shall be conducted in a closed session. (Article 58).⁹⁵
- b. In reading out a verdict, the judge must keep confidential information containing the identity of witnesses and/or victims in the verdict or court order. (Article 59)⁹⁶
- c. Examination of witnesses and/or victims shall be conducted by upholding their human rights, honour, and dignity, without intimidation, and without justifying their guilt, way of life, and decency, including the sexual experience of witnesses and/or victims with questions that are incriminating or unrelated to the crime of sexual violence as a reason to alleviate the defendant. (Article 60)
- d. Judges and public prosecutors explore and consider the special circumstances behind the crime of sexual violence and/or the impact on victims. (Article 60)

⁹⁴Regulation of the Supreme Court of the Republic of Indonesia Number 3 of 2017 concerning guidelines for adjudicating cases of women in conflict with the law

⁹⁵Article 58, Law No. 12 of 2022 on the Crime of Sexual Violence

⁹⁶Article 59, Law No. 12 of 2022 on the Crime of Sexual Violence

- e. Questions and/or statements that are demeaning, blaming, intimidating, and use sexual experiences and/or backgrounds shall not be asked. (Article 60)⁹⁷
- f. The court shall endeavor to provide the necessary facilities and protection to enable the witness or victim to give testimony. (Article 61)⁹⁸
- g. The panel of judges may order the institution providing assistance to replace the victim's advocate at the victim's request, the victim's family, or the victim's guardian. (Article 62)⁹⁹
- h. The panel of judges shall consider the recovery of victims in the verdict as provided in the law. (article 63)¹⁰⁰

⁹⁷Article 60, Law No. 12 of 2022 on the Crime of Sexual Violence

⁹⁸Article 61, Law No. 12 of 2022 on the Crime of Sexual Violence

⁹⁹Article 62, Law No. 12 of 2022 on the Crime of Sexual Violence

¹⁰⁰Article 63, Law No. 12 of 2022 on the Crime of Sexual Violence

CHAPTER IV

CLOSING REMARKS

A. CONCLUSION

Based on the result of the and analysis carried out on the problems in the previous problem formulation, the following conclusions can be drawn:

1. Secondary victimization in the form of victim blaming still often occurs at the examination stage in court because many law enforcement officials who handle sexual violence cases do not have a victim's perspective and do not understand the dynamics of victims. Victims in a traumatized condition after the crime must be faced with court processes that put victims in a vulnerable position. The lack of protection provided by law enforcement officials to victims of sexual violence can cause excessive stress to victims. The lack of a victim's perspective by law enforcement officials results in a lot of negative stigma being given to victims of sexual violence when they undergo the criminal justice process. The patriarchal culture embedded in Indonesia also plays a role in the victim blaming culture that often occurs for victims of sexual violence. The patriarchal mindset that places the position of women below men. The intention of the person who commits victim blaming against victims of sexual violence is to get away with the crime they committed by blaming the victim.
2. There are several precautions that can be taken to prevent secondary victimization of victims of sexual violence at the examination stage in court. Having a legal assistant to accompany victims of sexual violence at the examination stage will help and accompany victims to avoid unpleasant

processes. Legal assistance such as that provided by Rifka Annisa WCC will assist victims to get their rights, and victims will also be provided with psychological assistance to understand how the victim's condition after this crime and what needs to be done so that the victim's psychological condition does not deteriorate. At the examination in court, the public prosecutor has guidelines in handling cases of sexual violence against women, namely the Prosecutor's Office of the Republic of Indonesia No.1 of 2021 which regulates the procedures for handling female victims of sexual violence during the criminal justice process. Judges handling cases of sexual violence against female victims must refer to Perma No. 03 of 2017, which regulates how to handle victims so that victims in undergoing the court process can get all their rights.

B. SUGGESTION

Based on the discussion that has been carried out above, the authors have several suggestions related to the results of the research conducted, as follows:

1. It is hoped that more law enforcement officials who deal with victims of sexual violence can have a victim's perspective, and also understand the psychological dynamics of victims after the crime. In order to deepen understanding related to the victim's perspective, the government can periodically conduct training that must be attended by law enforcement officials such as police, prosecutors, and judges. By receiving training related to victims of sexual violence, law enforcement officials will have better understanding regarding the dynamics of victims and will handle victims of sexual violence accordingly. So that victims

of sexual violence can undergo the criminal justice process with ease, safely, and without fear of the negative stigma that will befall them.

2. To the government, so that the regulation of law number 12 of 2022 can be implemented immediately so that law enforcement officials can prioritize the interests of victims and implement related procedures for handling victims of sexual violence in the criminal justice system so that there is no secondary victimization of victims of sexual violence. Victims can comfortably and safely seek protection as they should with law enforcement officials.

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ATTACHMENTS

KEPOLISIAN NEGARA REPUBLIK INDONESIA
DAERAH ISTIMEWA YOGYAKARTA
DIREKTORAT RESERSE KRIMINAL UMUM

D.I. YOGYAKARTA

SURAT KETERANGAN
NOMOR : SKET/ 16 /VI/2023/Ditreskrim

Kepala Kepolisian D.I. Yogyakarta menerangkan bahwa :

1. Nama : DINAH FAIZAH SYAHBUR
2. NIM : 19410612
3. Fakultas /Prodi : HUKUM / HUKUM INTERNATIONAL PROGRAM
4. Universitas : UNIVERSITAS ISLAM INDONESIA
5. Semester : VIII


Telah selesai mengadakan penelitian dan pengumpulan data dengan cara Observasi, Wawancara dan pengambilan dokumentasi sebagai bahan penelitian yang berjudul :

*“ PROCEDURE FOR HANDLING VICTIMS OF VICTIM OF SEXUAL VIOLENCE
IN YOGYAKARTA CITY TO PREVENT SECONDARY VICTIMIZATION
BASED ON THE CRIMINAL JUSTICE SYSTEM “*

Demikian untuk menjadikan maklum dan agar dapat dipergunakan sebagaimana mestinya.

Yogyakarta, 14 Juni 2023

a.n. DIRRESKRIMUM POLDA DIY
KASUBBAGRENMIN


INDAH MUNAINI
AKP NRP 69060211



¹⁰¹Lampiran Keterangan sudah melakukan wawancara pada Polda DIY, pada tanggal 14 Juni 2023.



KEJAKSAAN NEGERI YOGYAKARTA

SURAT KETERANGAN
NOMOR : B-1407/M.4.10/06/2023

Kepala Kejaksaan Negeri Yogyakarta, bersama ini menerangkan bahwa:

Nama	: DINAH FAIZAL SYAHBUR
No. Mahasiswa	: 19410612
Fakultas	: Hukum Universitas Islam Indonesia Yogyakarta
Program Studi	: Ilmu Hukum

Telah selesai mengadakan penelitian/riset di Kejaksaan Negeri Yogyakarta dalam rangka untuk keperluan Karya Tulis Ilmiah yang berjudul: "Procedure for Handling Victims of Victims of Sexual Violence in Yogyakarta City to Prevent Secondary Victimization Based on the Criminal Justice System".

Demikian surat keterangan ini diberikan dengan sebenarnya agar dapat dipergunakan seperlunya.

Yogyakarta, 08 Juni 2023
KEPALA KEJAKSAAN NEGERI YOGYAKARTA



Saptana Setya Budi, S.H., M.H.
Jaksa Utama Pratama NIP. 19660617 199303 1 003

102

¹⁰² Lampiran keterangan telah melaksanakan wawancara pada Kejaksaan Negeri Yogyakarta, pada tanggal 08 Juni 2023.



**PENGADILAN NEGERI/HUBUNGAN INDUSTRIAL
DANTINDAK PIDANA KORUPSI YOGYAKARTA**
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Website : <http://pn-yogyakarta.go.id>, e-mail : kotaksurat@pn-yogyakarta.go.id

SURAT KETERANGAN TELAH MELAKUKAN PENELITIAN
NOMOR : 57/RISET/VI/2023/PN.Yyk

Kami, Panitera Muda Kepaniteraan Hukum Pengadilan Negeri/Hubungan Industrial dan Tindak Pidana Korupsi Yogyakarta Kelas 1A menerangkan bahwa Mahasiswa yang bernama :

Nama : DINAH FAIZAH SYAHBUR
NIM : 19410612
Fakultas : Hukum
Program Studi : Hukum International Program
Perguruan Tinggi : UNIVERSITAS ISLAM INDONESIA
Judul Penelitian :

**“PROCEDURE FOR HANDLING VICTIMS OF VICTIM OF SEXUAL
VIOLENCE IN YOGYAKARTA CITY TO PREVENT SECONDARY
VICTIMIZATION BASED ON THE CRIMINAL JUSTICE SYSTEM ”**

Telah melakukan penelitian dan wawancara di Pengadilan Negeri/Hubungan Industrial dan Tindak Pidana Korupsi Yogyakarta Kelas 1A pada tanggal 22 Juni 2023.

Demikian surat keterangan selesai penelitian ini agar dapat dipergunakan seperlunya.

Yogyakarta, 23 Juni 2023
Panitera Muda Hukum

EKA SURYA SETIAWAN, S.H.



Jalan Jambon IV No. 69A Komplek Jatimulyo Indah
Kricak, Kec. Tegallrejo, Yogyakarta.
Daerah Istimewa Yogyakarta, Indonesia 55242.
+62-274 553333 | www.rifka-annisa.org

No : 01/30/L/RA/VIII/2023
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**Kepada : Yth. Dekan Fakultas Hukum
UNIVERSITAS ISLAM INDONESIA
Di Yogyakarta**

Dengan hormat,

Yang bertanda tangan di bawah ini:

Nama : Dewi Julianti, SH.
Jabatan : HUMAS Rifka Annisa WCC
Alamat : Jl. Jambon IV No. 69 A, Perum Jatimulyo Indah Yogyakarta

Dengan ini menerangkan bahwa:

Nama : Dinah Faizah S
NIM : 19410612
Fakultas : Hukum (International Program)
Perguruan tinggi : Universitas Islam Indonesia
Judul Penelitian : "Prevention of Secondary Victimization for Victims of Sexual Violence in Court Proceeding Process"

Telah melaksanakan penelitian berupa wawancara dan studi data di Rifka Annisa WCC pada 14 Agustus 2023

Demikian surat ini kami buat untuk dapat dipergunakan sebagaimana mestinya.

Yogyakarta, 31 Agustus 2023

RIFKA ANNISA
Women's Crisis Center
Dewi Julianti, SH
HUMAS RIFKA ANNISA WCC

¹⁰⁴ Lampiran keterangan telah melaksanakan wawancara pada Rifka Annisa Women's Crisis Center, pada tanggal 14 Agustus 2023.



**FAKULTAS
HUKUM**

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Jl. Kaliurang km 14,5 Yogyakarta 55584
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SURAT KETERANGAN BEBAS PLAGIASI

No. : 470/Perpus-S1/20/H/X/2023

Bismillaahirrahmaanirrahaim

Yang bertanda tangan di bawah ini:

Nama : **M. Arief Satejo Kinady, A.Md.**
 NIK : **001002450**
 Jabatan : **Kepala Divisi Adm. Akademik Fakultas Hukum UII**

Dengan ini menerangkan bahwa :

Nama : **DINAH FAIZAH SYAHBUR**
 No Mahasiswa : **19410612**
 Fakultas/Prodi : **Hukum**
 Judul karya ilmiah : **PREVENTION OF SECONDARY
 VICTIMIZATION FOR CRIME VICTIMS OF
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Yogyakarta, 4 Oktober 2023 M
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Kepala Divisi Adm. Akademik

 M. Arief Satejo Kinady, A.Md

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