



## Analysis of the Importance of Regulating Cyber Gender-Based Violence (KBGS) in Indonesia Based on the Perspective of Legal System Theory

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### **Abstract**

Cyber gender-based violence (KBGS) is a form of gender-based violence carried out partially or fully with information and communication technology. Currently, there are many cases of cyber gender-based violence (KBGS) that occur, but regulations regarding various forms of cyber gender-based violence (KBGS) have not been regulated comprehensively so they have not received proper handling. The purpose of this study is to determine the urgency of regulating cyber gender-based violence (KBGS) in the legal system in Indonesia through handling cases of cyber gender-based violence (KBGS) that occur. This research uses normative juridical law research methods using a statutory approach, a case approach and a conceptual approach. The results of this study show that various regulations related to cyber gender-based violence (KBGS), namely Law No. 11 of 2008 concerning Electronic Information and Transactions (ITE Law), Law No. 44 of 2008 concerning Pornography, and Law No. 12 of 2022 concerning Sexual Violence Criminal Acts do not specifically and comprehensively regulate the form and handling to protect victims of cyber gender-based violence (KBGS). In the study of cyber gender-based violence (KBGS), namely the case of Baiq Nuril in Decision No. 265/Pid.Sus/2017/PN.Mtr, Cassation Decision No. 574 K/Pid.Sus/2018, and Review Decision No. 83 PK/PID. SUS/2019 shows that cases of cyber gender-based violence (KBGS) have not received justice in handling properly, and even tend to be able to victimize and criminalize victims. Based on considerations of legal structure, legal substance and legal culture, indicate that the legal system has not run well. Thus, there is a need for comprehensive regulation of cyber gender-based violence (KBGS).

**Keywords:** *Regulation; Cyber Gender-Based Violence (KBGS); Legal System Theory*

### **Introduction**

Today's technological advancements, the internet and information and communication technology (ICT) have created new spaces that are transforming the way people meet, communicate, interact, generally reshaping society. With the increasing use of social media platforms and technical applications, this has a positive impact on life in the current era of globalization, but there are other impacts arising from technological developments in the digital world, which can cause an increase in cases of violence

online or facilitated by Information and Communication Technology or *Information Communication Technology* (ICT), one of which is the existence of cyber gender-based violence (KBGS).<sup>1</sup>

Cyber gender-based violence (KBGS) is defined by the *Association of Progressive Communication* (APC) as a form of gender-based violence committed partially or wholly with information and communication technology such as mobile phones, the internet, social media platforms, and email. Gender-based violence is an act that harms a person based on inequalities resulting from gender roles. Gender-based violence is a social phenomenon that occurs with some support from other complex social orders, such as socio-religious morals, cultural perspectives, economic backgrounds, ideologies, and supporting legal systems. This gender-based violence mostly occurs based on patriarchal principles. In terms of gender-based violence, in general, there are several forms such as physical, psychological, economic violence and sexual violence. Thus, cyber gender-based violence (KBGS) is defined as a form of violence that occurs on the basis of gender power relations between victims and perpetrators in the online realm or who use digital technology as a medium.<sup>23456</sup>

Komnas Perempuan recorded various terms used by the public to indicate this phenomenon of violence, including online gender-based violence (KBGO), cyber gender-based violence (KBGS), violence against cyber women (KtP Cyber), and cyber gender-based violence (KBGS).<sup>7</sup>

In 2021, Komnas Perempuan also identified forms of sexual violence targeting women with electronic devices, including *Cyber Hacking, Impersonation, Cyber Surveillance, Stalking Tracking, Malicious Distribution, Illegal Content, Online Defamation, Cyber Recruitment, Cyber Grooming, Cyber trafficking, Morphing, Sexting, Revenge Porn, Cyber Harrasment, Sextortion, Doxing, Online mobbing, Trolling, Digital voyeurism, Gender hate speech, transmogrification, Cyberflashing, Online threats and blackmail, Identity theft and fake profiles, Non-consensual dissemination of intimate photos/videos, Femicide and online activity.*<sup>8</sup>

Based on data from direct complaints to Komnas Perempuan in the last 5 years, namely 2017-2021, every year cases of cyber gender-based violence (KBGS) have increased significantly. In 2017, there were 16 cases of KBGS, in 2018 there were 97 cases of KBGS, in 2019 there were 281 cases of KBGS, in 2020 there were 940 cases of KBGS, and in 2021 there were 1721 cases of KBGS. Based on these data, it can be seen that there is an 83% increase in KBGS cases from 2020, which is 940 cases, increasing to 1,721 cases in 2021. Thus, the increasing number of cases of gender-based violence in online/online/cyber spaces (KBGS) should be a serious concern for all parties.<sup>910</sup>

This increase in complaints of violence cases with technological media can be seen as a new pattern or way that makes someone the target of sexual violence. Of course, the high use of digital media

<sup>1</sup> Rhona K.M. Smith, D. 2008. *Hukum Hak Asasi Manusia*. Yogyakarta: PUSHAM UII. Pp. 87.

<sup>2</sup> Fadillah Adkiras, Fatma Reza Zubarita, and Zihan Tasha Maharani Fauzi, "Konstruksi Pengaturan Kekerasan Berbasis Gender Online Di Indonesia", *Lex Renaissance*, Vol. 6, No. 4, October 2021, Pp. 782.

<sup>3</sup> Anggreany Arief, "Fenomena Kekerasan Berbasis Gender & Upaya Penanggulangannya", *PETITUM*, Vol. 6, No. 2, October 2018, Pp. 78.

<sup>4</sup> *Ibid.*, Pp. 78.

<sup>5</sup> Elizabeth Siregar, Dessy Rakhmawaty, Zulham Adams Siregar, "Kekerasan Seksual Terhadap Perempuan Realitas dan Hukum", *PROGRESSIVE: Journal Law*, Vol. 14, No.1, June 2020, Pp. 2.

<sup>6</sup> *PurpleCode Collective*. 2020. "CTRL+ALT+Del Kekerasan Berbasis Gender Online (KBGO): Buku Saku #1 Mengenal Dasar-Dasar KBGO". Pp 20.

<sup>7</sup> Siti Aminah Tardi, Same Fadatul Khoiriah, dkk. 2022.. BERGERAK BERSAMA MEMBANGUN RUANG SIBER AMAN: BELAJAR DARI PENCEGAHAN DAN PENANGANAN KEKERASAN SIBER DI MANCANEGARA. Komisi Nasional Anti Kekerasan Terhadap Perempuan (Komnas Perempuan). Pp. 4.

<sup>8</sup> *Ibid.*, Pp. 17-20.

<sup>9</sup> CATAHU 2022: CATATAN TAHUNAN KEKERASAN TERHADAP PEREMPUAN TAHUN 2021, Bayang-Bayang Stagnansi: Daya Pencegahan dan Penanganan Berbanding Peningkatan Jumlah, Ragam dan Kompleksitas Kekerasan Berbasis Gender terhadap Perempuan. Komisi Nasional Anti Kekerasan terhadap Perempuan (KOMNAS PEREMPUAN), 2022. Pp. 67.

<sup>10</sup> *Ibid.*, Pp. 52.

is one of the factors and reasons that drive the increase in cyber violence cases. Moreover, the COVID-19 pandemic which limits meetings in physical spaces has also increased the intensity of using digital platforms.

Cases of cyber gender-based violence (KBGS) increased during the covid-19 pandemic in various provinces, including in Lampung Province. In many cases of cyber gender-based violence (KBGS) that occurred in Lampung Province, Bandar Lampung City became the largest contributor. The Damar Women's Advocacy Institute Bandar Lampung City reported six cases of KBGS from January to March 2021. The Ministry of Women's Empowerment and Child Protection of the Republic of Indonesia in collaboration with the Office of Women's Empowerment and Child Protection of Lampung Province<sup>11</sup> also carried out UPTD Capacity Building Activities and Service Providers on Electronic Document Evidence/Electronic Information in the Handling of KBGS in Lampung Province.<sup>12</sup>

In the national scope, as mandated in Article 28D Paragraph (1) of the Constitution of the Republic of Indonesia Year 1945 that everyone has the right to recognition, guarantee, protection, and fair legal certainty, Article 28G Paragraph (1) of the Constitution of the Republic of Indonesia Year 1945 which mandates personal protection, honor and dignity and the right to a sense of security, and Article 28I Paragraph (3) of the Constitution of the Republic of Indonesia Year 1945 which prohibiting discrimination on any basis, there are several arrangements currently used in cases related to cyber gender-based violence (KBGS) including law enforcement through, Law Number 11 of 2008 concerning Electronic Information and Transactions (ITE Law), Law Number 44 of 2008 concerning Pornography (Pornography Law),<sup>13</sup> and Law No. 12 of 2022 concerning the Sexual Violence Criminal Act (TPKS Law).<sup>14</sup> however, from some of the existing laws and regulations, it has not provided good protection against various cases of cyber gender-based violence (KBGS) that occur.

Victims of cyber gender-based violence (KBGS) are vulnerable to being criminalized on suspicion of violating Law Number 44 of 2008 concerning Pornography. Law Number 44 of 2008 concerning Pornography recognizes the term "pornographic object", where a person can be placed as a pornographic object when pornographic videos are distributed and transmitted massively which can then be subject to criminal sanctions as Article 34 of Law Number 44 of 2008 concerning Pornography.

There is also a problem in Article 27 paragraph (1) of Law Number 11 of 2008 concerning Electronic Information and Transactions which does not provide criminal exemptions for personal correspondence. So that the actions of victims who have previously transmitted intimate content to perpetrators can also be criminalized. This causes a large gap in criminalization of victims of cyber gender-based violence (KBGS) in Law Number 11 of 2008 concerning Electronic Information and Transactions.

After previously being included in the 2021 Priority National Legislation Prolegnas, the Draft Law on Sexual Violence has now been passed into Law No. 12 of 2022 concerning the Law on Sexual Violence (TPKS Law). In the regulation, several forms of cyber gender-based violence (KBGS) are also regulated, but the law also does not comprehensively accommodate all forms of cyber gender-based violence (KBGS) that occur today. Thus, there is an urgency for a regulation that comprehensively provides protection against cyber gender-based violence (KBGS), considering that in practice KBGS cases that continue to occur cause insecurity.

<sup>11</sup> <https://m.lampost.co/berita-damar-ungkap-dilema-jerat-hukum-k-asus-sexual-harassment-i-online-i.html>, Accessed at date 15 November 2022, hit 6:00 p.m.

<sup>12</sup> <https://dinaspppa.lampungprov.go.id/detail-post/kegiatan-pengembangan-kapasitas-uptd-dan-pengada-layanan-tentang-barang-bukti-dokumen-elektronik-informasi-elektronik-dalam-penanganan-kbgo-provinsi-lampung>, Accessed at date 15 November 2022, hit 6:00 p.m.

<sup>13</sup> The 1945 Constitution of the Republic of Indonesia.

<sup>14</sup> Alfianita Atiq Junaelis Subarkah And Faiq Tobroni, "Urgensi Pengesahan RUU PKS Terhadap Instrumen Penegakan Hak Asasi Perempuan", *Supremacy Law* Vol. 9, No. 2, November 2020, Pp 91.

An example of injustice in law enforcement regarding the cyber gender-based violence (KBGS) case is the case of Baiq Nuril which has binding legal force in Decision No. 265/Pid.Sus/2017/PN.Mtr<sup>15</sup>, Cassation Decision No. 574 K/Pid.Sus/2018, and Review Decision No. 83 PK/PID. SUS/2019. Basically, what Baiq Nuril experienced was a form of criminalization of<sup>1617</sup> victims. There are many cases of cyber gender-based violence (KBGS) that do not receive protection and justice because there is no specific and comprehensive regulation regulating cyber gender-based violence (KBGS).

Based on the description above, it can be seen that so far there has been a vacuum and legal uncertainty in the enforcement of cyber gender-based violence (KBGS), so that victims often do not get justice and recovery from the various impacts of violence they experience. Even though victims of cyber gender-based violence (KBGS) have resulted in victims experiencing psychological burden, depression, humiliation, suicidal ideation, loss of victim self-esteem, community bullying and even experiencing income reduction (impoverishment).<sup>18</sup>

Thus, there is a need for regulations or legal rules that comprehensively accommodate various forms of cyber gender-based violence (KBGS) including prevention, handling and recovery of victims. So it is expected to provide guarantees of protection and legal certainty for victims of violence in a more perfect range in its application so as to minimize cases that occur.

Thus, this study analyzes the problem of the importance of regulating cyber gender-based violence (KBGS) in Indonesia as seen from the perspective legal system. This research refers to Soerjono Soekanto's opinion, which uses normative juridical legal research.<sup>19</sup> Normative juridical legal research methods using a statutory approach, a case approach and a concept approach.

## Discussion

### a) Regulations Related to Cyber Gender-Based Violence (KBGS) in Indonesia

The variety of terms and definitions of cyber violence directed at women in the form of categories and forms of violence against women by means of Information and Communication Technology, has several differences depending on how electronic/cyber violence is understood.

In 2021, Komnas Perempuan also identified forms of sexual violence targeting women with electronic devices. The series of identifications are shown in the following table:<sup>20</sup>

Table 1. Forms of Cyber Gender-Based Violence

No.	Term	Terjemahan	Understanding
1	<i>Cyber Hacking</i>	Peretasan Siber	Illegal use of technology to access a system for the purpose of obtaining personal information, altering information, or damaging the reputation of the victim.
2	<i>Impersonation</i>	Impersonasi	Use of technology to take the identity of another person for the purpose of accessing personal information, humiliating the victim, contacting the victim or creating false documents.

<sup>15</sup> Verdict Court Country Killed No. 265/Pid.Sus/2017/PN.Mtr.

<sup>16</sup> Verdict Cassation No. 574 K/Pid.Sus/2018.

<sup>17</sup> Verdict Review Return No. 83 PK/PID. SUS/2019.

<sup>18</sup> CATAHU 2021 : Note Annual Violence Towards Woman Year 2020, *Op.Cit.*, Pp 52.

<sup>19</sup> Wiranata, I Gede A.B., 2017, *Metode Penelitian Dan Penulisan Ilmiah Bidang Hukum*, Zam Zam Tower, Bandar Lampung., Pp 34.

<sup>20</sup> Siti Aminah Tardi, Same Fadatul Khoiriah, dkk. *Op. Cit.* Pp. 17-20.

3	<b>Cyber Surveillance Stalking Tracking)</b>	Supervision Penguntitan Tracking	the use of technology for stalking carried out by direct observation or tracing of the victim's tracks
4	<b>Malicious Distribution</b>	Deployment of destructive content	disseminate content that damages the reputation of victims or women's rights organizations regardless of the truth.
5	<b>Illegal Content</b>	Illegal Content	Crimes committed by entering data or information on the internet about things that are not true, unethical, violate the law, and disturb public order.
6	<b>Online Defamation</b>	Baik Defamation	defamation/defamation, mass hate speech, perpetrators spreading lies or false information about themselves through private posts or in communities/groups
7	<b>Cyber Recruitment</b>	Cyber Recruitment	is the use of technology to contact, invite or engage in certain actions
8	<b>Cyber Grooming</b>	Deceptive approach	The use of technology to deliberately seek potential victims who have the potential (whether educational, age, body condition, or economic) to be harassed or deceived. For example, efforts to find victims through introductions on Facebook, online dating agencies, online job vacancies, or other social media, including cyber prostitution activities offered in chat rooms or advertisements on websites covertly.
9	<b>Cyber trafficking</b>	Cyber People Trading	by recruiting victims through social media for trafficking purposes
10	<b>Morphing</b>	Image/Video Conversion	altering an image or video with the intention of damaging the reputation of the person in the image or video.
11	<b>Sexting</b>	Sexual Messaging	Sending pornographic images or videos to victims
12	<b>Revenge Porn</b>	Revenge Pornography	is a special form of malicious distribution carried out by spreading pornographic content of victims on the basis of revenge.
13	<b>Cyber Harrasment</b>	Cyberharassmen t	Use of technology to contact, harass, or humiliate victims
14	<b>Sextortion</b>	Sexual Blackmail	Blackmail with threats of abuse of the victim's sexual content with the aim of obtaining money or engaging in sex with the victim through coercion
15	<b>Doxing</b>	Publication of Personal Information	publication of personal information, such as contact details, on the Internet with malicious intent, usually with insinuations that the victim is asking for sex (researching and broadcasting personally identifiable information about a person without consent, sometimes with the intention of exposing women to the "real" world for harassment and/or other purposes). This includes situations where personal information and data taken by perpetrators are published with malicious intent
16	<b>Online bullying</b>	Online siege	Mobbing for intimidation or harassment by a group of people against women
17	<b>Trolling</b>	provocation by making	posting messages, uploading images or videos and creating hashtags for the purpose of disturbing, provoking or inciting

		offensive comments, and inciting quarrels	violence against women and girls. Many "trolls" are anonymous and use fake accounts to generate hate speech.
18	<i>Digital voyeurism</i>	Digital voyeurism	illegal video making, watching and sharing videos of women's bodies online, through live streaming or recording. Non-consensual filming takes place through hidden cameras in everyday items such as car keys, matches, hats, buttons and hair dryers. It can also happen when a woman uploads a photo of her, the image can then be "stolen" and disseminated without her consent. Women's faces can also be "faked" to online images
19	<i>Gender hate speech</i>	Gender-based hate speech	includes hateful, insulting, demeaning, humiliating, and incisive comments and other forms of expression, based on a person's gender, often concluding that the person should hurt themselves or that the person should be harassed or harmed (psychologically or physically). Gender hate speech can lead to cyberbullying
20	<i>transmogrification</i>	Transmogrifikasi	Very specific forms of digital sexual violence are morphing, transmogrifying or splicing photos or videos (e.g., using a "deep fake" app to turn a victim/survivor's head into another image), and uploading it, including to pornographic websites.
21	<i>Cyberflashing</i>	Cyberflashing	sending unsolicited images of male genitalia with the intent to silence women
22	<i>Online threats and blackmail</i>	Online Threats and Blackmail	Blackmail is very common and deters women from getting ahead. Women who have filed cases against these practices have been intimidated and forced to admit their guilt through further blackmail, such as threats to release harmful material or images (whether real or fake) online
23	<i>Identity theft and fake profiles</i>	Identity theft and fake profiles	Identity theft and fake profiling involve perpetrators posing as victims/survivors and acting on their behalf, often in embarrassing or dangerous ways. For example, perpetrators can pretend to be women, advertise sexual services online, and provide addresses and other contact information.
24	<i>Non-consensual dissemination of intimate photos/videos</i>	Dissemination of intimate content without consent	Access and/or upload and share intimate photos, videos or audio clips without consent
25	<i>Femicide and online activity</i>	Femicide and Online Activities	Whether offline or online, women are targeted when they deviate from the gender norms, behaviors, ideas, views, or attitudes that society expects. For example, women and girls can be subject to VAWG for being active online or if their photos and videos are posted, even if not by them.

Based on these forms of cyber gender-based violence (KBGS), Indonesia does not yet have laws and regulations that specifically regulate KBGS. However, some existing legal and statutory products actually have a number of regulatory dimensions related to KBG S, and have even been applied in handling KBGS cases. This research found several laws and regulations in Indonesia that have included the dimensions of KBG S and can be utilized in handling KBGS cases, namely: Law No. 11 of 2008 concerning Information and Electronic Transactions (UU ITE), Law No. 22 of 2008 concerning pornography (Law on Pornography) and Law No. 12 of 2022 concerning sexual violence (TPKS Law).

## 1. Law Number 11 of 2008 concerning Electronic Information and Transactions (ITE Law)

Hukum about cyber is one of the legal framework methods commonly used to reach the prohibition of actions related to KBGS. In Indonesia, the law on cyber is regulated in Law No. 19 of 2016 *jo.* Law No. 11 of 2008 concerning Electronic Information and Transactions (ITE Law). The provisions of this ITE Law contain criminalization of actions that can reach the criminalization of KBGS cases, including Article 30 paragraph (3) of the ITE Law to criminalize acts related to accessing data or communication without permission, Article 31 paragraph (2) of the ITE Law to fund online stalking if accompanied by asceticism, Article 35 of the ITE Law to convict codification of data or communication without permission, and Article 27 paragraph (4) of the ITE Law to fund KBG S accompanied by extortion, Article 29 of the ITE Law to convict KBG S accompanied by threats, Article 27 paragraph (1) of the ITE Law to fund KBG S related to the distribution of content that violates decency. Article 27 paragraph (1) of the ITE Law reads:

*"Everyone intentionally and without rights distributes and/or transmits and/or makes accessible Electronic Information and/or Electronic Documents that have content that violates decency. "*

The intimate content often used in KBGS is often related to "decency". Meanwhile, the Criminal Code has not yet addressed the term sexual violence or violence over one's sexual autonomy. What is known in the Criminal Code is "crimes against decency" or "crimes against decency". Modesty here is related to the meaning of the word "decency" (*zeden, eerbaarheid*), which according to R. Soesilo is a feeling of shame, which is related to genital lust, such as having intercourse, touching women's breasts, touching women's public places, showing female or male pubic members, kissing, and so on. In this case the female genitals are explained as part of decency. This article can be used to imprison the actions of KBGS. Based on Article 27 paragraph (1) of this ITE Law, the orientation of the prohibition is the value or content of the content, not on the acquisition or legitimacy of ownership/distribution of the content. The regulatory orientation of this law focuses on the content, which is formulated with regard to moral aspects. Thus, this provision can actually ensnare victims, and not protect victims who do not want their personal content to be disseminated at all.

In the regulation of the ITE Law, it is vulnerable to threatening the organization of KBG S. The articles in the ITE Law relating to KBG S, as described above, cannot necessarily be used for protection for victims. In the current Indonesian legal system, the issue of regulating the act of disseminating intimate content is formulated with an orientation of "violating decency". In Article 27 paragraph (1) of the ITE Law, prohibited acts are distributing and/or transmitting and/or making accessible Electronic Information and/or Electronic Documents that have content that violates decency. The definition of violating decency in the ITE Law is not clearly formulated, but intimate content can certainly be included in the definition of decency. One source of the problem is that Article 27 paragraph (1) of the ITE Law does not provide criminal exemptions for personal correspondence. So that the actions of victims who have previously transmitted intimate content to perpetrators can also be criminalized. This causes there to be a large loophole in the criminalization of KBGS victims in the ITE Law.

Article 27 paragraph (1) of the ITE Law itself is very detrimental to victims of sexual crimes because it makes victims vulnerable to criminalization by being considered involved in making audiovisual media that violate decency. In fact, the victim does not approve of taking the audiovisual media which is taken when the perpetrator and the victim have sexual intercourse or is taken secretly by the perpetrator by peeping at the victim. In addition, criminalization space can occur against victims because the perpetrator accesses the victim's device that stores a victim's personal audiovisual media and disseminates it. This condition provides room for criminalization for perpetrators because it can be considered to provide access to audiovisual media that violate decency. This certainly causes injustice for the victim and also exacerbates the impact of sexual crimes that befall him. In addition, article 27 paragraph (1) of the ITE Law does not specifically regulate what is meant by the act of violating decency.

The explanation section of the article also does not include the forms of moral violations in question, so that it can cause multi interpretation in its implementation. Therefore, specific information is needed regarding the type of violation of decency.

## 2. Law Number 44 Of 2008 on Pornographic

This law regulates the definition of pornography as images, sketches, illustrations, photographs, writing, sounds, sounds, moving images, animations, cartoons, conversations, gestures, or other forms of messages through various forms of communication media and/or public performances, which contain obscenity or sexual exploitation that violates the norms of decency in society. This law is related to KBGS in regulating the act of creating, possessing and storing intimate content. However, the arrangements in this law also carry the vulnerability of criminalization of KBG S victims. In the Law on Pornography, there are articles that can ensnare perpetrators for several acts of KBGS. The explanation of this arrangement is explained in Article 4 of Undang-Undang No. 44 of 2008 concerning Pornography against the dissemination of intimate content without consent:

### Article 4

Any person shall not produce, manufacture, reproduce, duplicate, distribute, broadcast, import, export, offer, trade, rent, or otherwise make available pornography that explicitly contains: a. compounds, including deviant compounds; b. sexual violence; c. masturbation or masturbation; d. nudity or an impressive display of nudity; e. genitals; or f. child pornography.

Any person shall not provide pornographic services that: a. present explicit nudity or an impressive display of nudity; b. presenting explicitly the genitals; c. exploit or exhibit sexual activity; or d. offer or advertise, either directly or indirectly, sexual services.

Meanwhile, in the explanation of Origin 4 of Law No. 44 of 2008 concerning Pornography, it is explained that what is meant by "sexual violence" includes: intercourse preceded by acts of violence (persecution), or molesting by force, or rape. Production of pornographic content that is carried out with threats, so that the victim finally agrees and experiences compulsion to create the content, can be associated with the act of *Image-Based Sexual Abuse/Non-consensual Distribution of Intimate Images*.

Article 8 of Law No. 44 of 2008 concerning Pornography also needs to be an important note to avoid criminalization of victims involved in content. This article regulates the prohibition of being an object or model containing pornographic content. Article 8 reads: *"Everyone is prohibited intentionally or with his consent from being an object or model containing pornographic content."*

Based on Article 8 of Law No. 44 of 2008 concerning Pornography, a person can only be charged with this article, if the person in the content intentionally or with consent is involved in the content. However, without intentionality or consent, then a person or victim, cannot be convicted. A person who is in such pornographic content through coercion by threat, or threatened, or under the power or pressure of another person, persuaded or deceived, or lied to by another person, also cannot be punished.

## 3. Law No. 12 of 2022 concerning Sexual Violence (TPKS Law)

The Criminal Act of Sexual Violence (KBSE) in the Law on Criminal Acts of Sexual Violence defines Criminal Acts of Sexual Violence as all acts that meet the elements of criminal acts mentioned in as stipulated in the Law on Criminal Acts of Sexual Violence and other acts of sexual violence as stipulated in law as long as specified in Law No. 12 of 2022 concerning Criminal Acts of Sexual Violence. This means that there are violent and sexual crimes whose elements of action are regulated in Law No. 12 of 2022 concerning Sexual Violence Criminal Acts and there are also sexual violence crimes whose elements of actions are regulated outside Law No. 12 of 2022 concerning Sexual Violence Crimes.



Sexual violence whose acts are regulated in Law No. 12 of 2022 concerning Sexual Violence Criminal Acts is mentioned in Article 4 paragraph (1), consisting of:<sup>21</sup>

- a. Nonphysical sexual abuse.
- b. Physical sexual abuse.
- c. Coercion of contraception.
- d. Forced sterilization.
- e. Forced marriage.
- f. Sexual torture.
- g. Sexual exploitation.
- h. Sexual slavery.
- i. Electronic-based sexual violence.

Article 4 paragraph 2 is also called the "bridge article" which connects the enforceability of one law with another. The Criminal Act of Sexual Violence mentioned in article 4 paragraph 2, the regulation has been regulated in the Criminal Code, Law No. 23 of 2002 concerning Child Protection, Law No. 21 of 2007 concerning the Eradication of Trafficking in Persons, Law No. 23 of 2004 concerning the Elimination of Domestic Violence, Law No. 15 of 2002 concerning Money Laundering, Undang-Undang No. 44 of 2008 concerning Pornography and laws that will be born in the future relating to the criminal act of sexual violence. Through this bridge article, provisions related to procedural law, such as the evidence system and victims' rights are subject to or apply to the provisions in Law No. 12 of 2022 concerning Sexual Violence Crimes. One of the criminal acts of causal violence is electronic-based sexual violence (KSBE). This action is regulated in Article 4 Paragraph (1) letter i *jo*. Article 14, which states:

#### Article 14

(1) Any Person without rights:<sup>22</sup>

- a. Record and/or take sexually charged images or screenshots against the will or without the consent of the person who is the object of the recording or the image or screenshot.
- b. Transmit electronic information and/or electronic documents that are sexually charged against the recipient's will directed against sexual desires; and/or
- c. Stalking and/or tracking using an electronic system against persons who are objects in electronic information/documents for sexual purposes, shall be convicted of committing electronic-based sexual violence, with a maximum imprisonment of 4 (four) years and/or a maximum fine of Rp200,000,000.00 (two hundred million rupiah).

(2) In the event that the act as referred to in paragraph (1) is carried out with the intent:

- a. To carry out blackmail or threats, coerce; or
- b. Misleading and/or deceiving, a person to do, allow to be done, or not to do something, shall be punished with a maximum imprisonment of 6 (six) years and/or a maximum fine of Rp.300,000,000.00. (three hundred million rupiah).

(2) Electronic-based sexual violence as referred to in paragraph (1) is a complaint offense, unless the Victim is a Child or Person with a Disabilities.

(3) In the event that the acts referred to in paragraph (1) letter a and letter b are carried out in the public interest or for the defense of themselves from the Criminal Act of Sexual Violence, it cannot be criminalized.

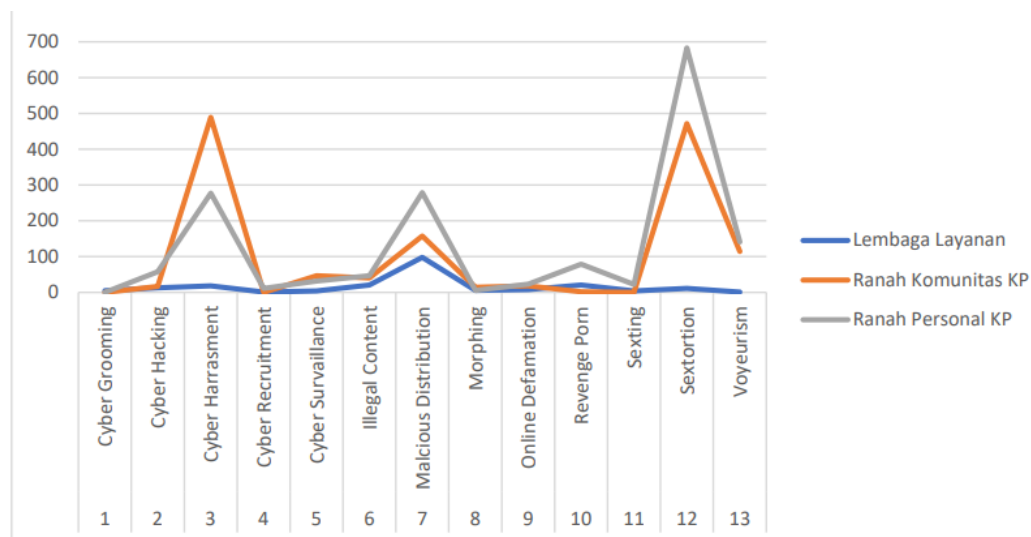
<sup>21</sup> Article 4 Verse 1 Law No. 12 Year 2022 about Follow Punishment Violence Sexual.

<sup>22</sup> Article 14 Law No. 12 Year 2022 about Follow Punishment Violence Sexual.

- (4) In the event that the victim of electronic-based sexual violence as referred to in paragraph (1) letter a and letter b is a Child or Person with a Disabilities, the will or agreement of the Victim does not eliminate criminal charges.

One of the legal breakthroughs to overcome the barriers to justice of victims in the criminal justice system is the evidence system. Law No. 12 of 2022 concerning Sexual Violence Crimes expands legal evidence in proving Sexual Violence Crimes. Making electronic information and/or electronic documents as evidence will help prove criminal acts of sexual violence, especially electronic-based sexual violence (KSBE). In addition, one characteristic of electronic-based sexual violence (KSBE) is the speed and breadth of content dissemination, which leaves a digital footprint and affects the recovery process of victims. However, the implementing regulation of Law No. 12 of 2022 concerning Sexual Violence Criminal Acts has not yet been formed, so there needs to be follow-up to immediately make government regulations in order to provide comprehensive protection. Law No. 12 of 2022 concerning Sexual Violence is only limited to regulating electronic-based sexual violence (KBSE) in the form of recording and/or taking sexually charged images or screenshots, transmitting electronic information and/or sexually charged electronic documents against the recipient's will, and stalking and/or tracking using electronic systems for sexual purposes.

The limited scope of regulation related to cyber gender-based violence (KBGS) limits the problems experienced by victims, for example related to *sextortion*, namely blackmail with the threat of misuse of victims' sex content with the aim of obtaining money or engaging in sex with victims through coercion. In many cases, if there is only a limited threat, then the case cannot be processed until there is an action to disseminate the content carried out by the perpetrator. Thus, victims will find it difficult to get protection when they get the threat. While<sup>23</sup> *sextortion* is one of the forms of KBGS with the highest number as listed in the following graph:



Graph 1: Distribution of KBGS Categorization of Komnas Perempuan Service and Complaint Institutions in 2021

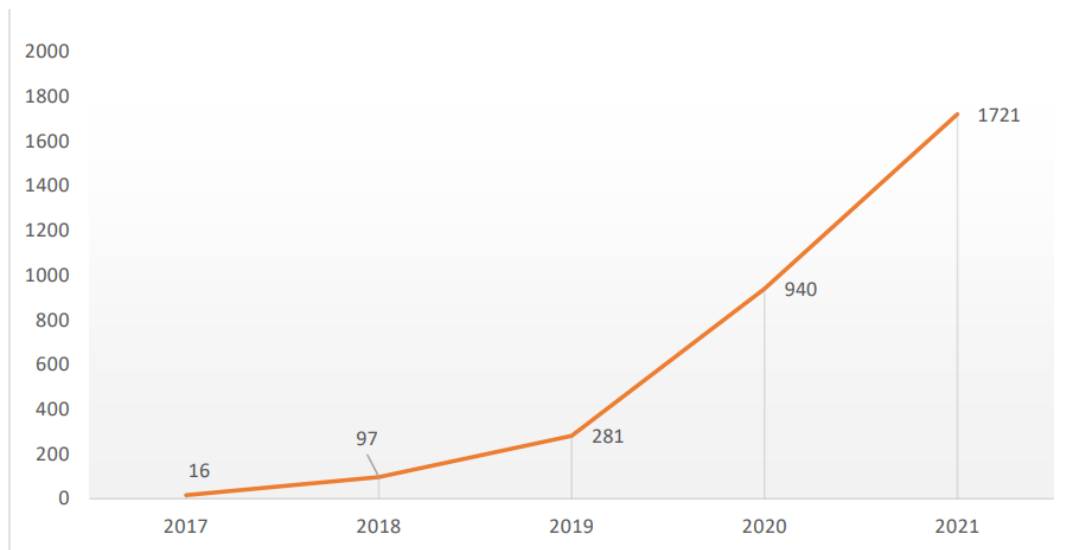
Based on various regulations related to cyber gender-based violence (KBGS), it still does not fully regulate and accommodate comprehensively the various forms of cyber gender-based violence (KBGS) that occur. Neither Undang-Undang No. 11 of 2008 concerning Information and Electronic Transactions (ITE Law) nor Undang-Undang No. 44 of 2008 concerning Pornography is not in line with the spirit of protection of victims of cyber gender-based violence (KBGS), because specifically both U

<sup>23</sup> Interview Sources Institution Advocacy Women Vein, 15 January 2023, hit 13.00 WIB.

Undang-Undang No. 11 of 2008 concerning Electronic Information and Transactions (ITE Law) and Undang-Undang No. 44 of 2008 concerning Pornography do not specifically regulate the form and handling to protect the victims of cyber gender-based violence (KBGS).<sup>24</sup> Law No. 12 of 2022 concerning Sexual Violence Criminal Acts has not yet regulated comprehensively regarding forms of cyber gender-based violence (KBGS).

## 2. Application of Regulations Related to Cyber Gender-Based Violence (KBGS) Against Cases in Bandar Lampung City

Cyber gender-based violence (KBGS) is a new term used to identify violence based on inequality of power relations through electronic media. Threats that occur in the cyber world are usually classified as cases of Cyber Gender-Based Violence (KBGS) against women. Cyber Gender-Based Violence (KBGS) in the personal realm has a similar pattern, where the victim is threatened by the perpetrator by sharing sexually suggestive photos or videos of the victim on social media when the victim refuses to have sex with the perpetrator or the victim does not reconnect with the perpetrator or break off his relationship. The form of sexual violence using media technology or cyber crime has become a case over the past 4 years.



Graph 2: Cyber Gender-Based Violence Cases  
Based on Data on Direct Complaints to Komnas Perempuan in 2017-2021

The picture above shows, in the last 5 years, every year has experienced a significant increase, as seen in the number (Case of Cyber Gender-Based Violence (KBGS) Complaint to Komnas Perempuan 2017-2021). There was an 83% increase in cases of Cyber Gender-Based Violence (KBGS) from 2020 (940 cases) to 2021 (1,721 cases).<sup>25</sup>

The cases of cyber gender-based violence (KBGS) that occurred are:<sup>26</sup> Kasus Baiq Nuril which has binding legal force in Decision No.265/Pid.Sus/2017/PN.Mtr<sup>27</sup>, Cassation Decision No.574

<sup>24</sup> <https://awaskbgo.id/2022/04/18/setengah-hati-perlindungan-hukum-korban-kekerasan-seksual-berbasis-elektronik-dalam-uu-tpks/>.

<sup>25</sup> Data By CATAHU 2022 : CATATAN TAHUNAN KEKERASAN TERHADAP PEREMPUAN TAHUN 2021, Bayang-Bayang Stagnansi: Daya Pencegahan dan Penanganan Berbanding Peningkatan Jumlah, Ragam dan Kompleksitas Kekerasan Berbasis Gender terhadap Perempuan. Komisi Nasional Anti Kekerasan terhadap Perempuan (KOMNAS PEREMPUAN),. Pp. 67.

<sup>26</sup> <https://putusan3.mahkamahagung.go.id/pengadilan/profil/pengadilan/pn-tanjung-karang.html>, Accessed at date 15 January 2023, Hit 13.00 WIB.

<sup>27</sup> Verdict Court Country Killed No. 265/Pid.Sus/2017/PN.Mtr.

K/Pid.Sus/2018, and Review Decision No. 83 PK/PID. SUS/2019. Basically, what Baiq Nuril experienced was a form of criminalization. From the beginning, he did not record the conversation with the intention to defame M, but rather as evidence that he had been harassed by M and just in case bad things happened in the future. Unfortunately, the panel of cassation judges actually viewed this as an act of defamation carried out by disseminating immoral content through electronics deliberately carried out by Baiq Nuril. In fact, the previous Mataram PN verdict had stated that Baiq Nuril was not guilty of the article charges. However, in the Review Decision, the Supreme Court only tried cases that made Baiq Nuril a defendant in the ITE Law Case.<sup>28,29</sup> In this ruling, Stated that the defendant Baiq Nuril Maknun was legally and conclusively proven guilty of committing a criminal act "intentionally and without the right to distribute and/or transmit and/or make accessible electronic information and/or electronic documents that have content that violates decency" as charged by the Public Prosecutor violating Article 27 Paragraph (1) juncto Article 45 Paragraph (1) of Law Number 11 of 2008 on Electronic Information and Transactions. The Supreme Court only adjudicates cases based on the articles charged. Furthermore, the Supreme Court considered that the case of violation of the ITE Law and sexual harassment experienced by Baiq Nuril were things that must be distinguished and could not be united.

Komnas Perempuan found that in the process of examination in court and the publication of the verdict had committed caution in this case. First, the trial was conducted openly to the public. Second, the Court had published this Decision to the Court Case Tracing Information System (SIPP) and the Supreme Court Decision Directory by not paying attention to some of the information clearly displayed in the form of a complete account of the victim and action, a complete description of the victim and witnesses, the victim's educational background, electronic evidence in the form of photographs- Photos of the victim's breasts and vagina disseminated by the perpetrator without the victim's consent, the content of sexually nuanced messages written by the perpetrator are disseminated to the victim's family and friends. It victimizes the victim and places the victim as the party who experiences layered violence from the real public and from the Court because the sexual content is accessible to the public. This is also because the use of the article in this case is Article 27 paragraph (1) of the ITE Law. The use of Article 27 paragraph (1) of the ITE Law is a criminal act of decency facilitated by technology and information. Therefore, the rights of victims of Article 27 (1) of the ITE Law are the same as victims of other moral crimes. Thus, it is necessary to consider the following legal instruments in handling similar cases, namely through:

- 1) The decision of the Chief Justice of the Supreme Court 1-144/KMA/SK/I/2011 has regulated the procedure for obscuring information.
- 2) The fulfillment of the guarantee of confidentiality of the identity of the victim has been guaranteed in Article 5 Paragraph (1) letter I of Law Number 31 of 2014 concerning Amendments to Law Number 13 of 2006 concerning the Protection of Witnesses and Victims Law Number 12 of 2022 concerning Sexual Violence Criminal Acts (TPKS Law) has stipulated that the examination of cases must be carried out in closed sessions (Article 58). With this regulation, it is hoped that the removal of victim content will not hinder the ongoing legal process. Given that this removal effort may conflict with the current law, namely Article 39 paragraph (1) of the Code of Criminal Procedure (KUHAP) which states that evidence addressed in court must be original, not a copy.

Thus, various cases of cyber gender-based violence (KBGS) have not been handled properly in providing protection to victims, even arrangements regarding handling mechanisms tend to be able to victimize victims and potentially criminalize victims.

<sup>28</sup> Verdict Cassation No. 574 K/Pid.Sus/2018.

<sup>29</sup> Verdict Review Return No. 83 PK/PID. SUS/2019.

### 3. The Urgency of Regulating Cyber Gender-Based Violence (KBGS) in the Legal System in Indonesia Based on the Handling of Cyber Gender-Based Violence (KBGS) Cases in Bandar Lampung City

Some laws and regulations have indeed regulated the issue of cyber gender-based violence (KBGS) but all of these regulations are very limited and have not fully understood comprehensively the in-depth problems related to cyber gender-based violence (KBGS). In addition, existing laws and regulations must still be supplemented both materially and formally, need to be improved and have not provided mechanisms for prevention, protection and handling in favor of victims. Furthermore, there is a big problem, how the existing law provides a deterrent effect and breaks impunity for perpetrators of sexual violence so that there is no recurrence.

The purpose of the law will be achieved if the law has been effectively carried out. The effectiveness and success of law system enforcement must touch on three legal components presented by Lawrence M. Friedman which include: (a) Legal structure, in the sense that legal structure is a legal institution that supports the legal system itself, consisting of legal forms, legal institutions, legal instruments, and their processes and performance. (b) Legal *substance*, which is the content of the law itself, meaning that the content of the law must be something that aims to create justice and can be applied in society. (c) Legal *culture*, this is related to the professionalism of law enforcers in carrying out their duties, and of course public awareness in obeying the law itself. Therefore, regarding <sup>30</sup>the effectiveness of handling cases of cyber gender-based violence (KBGS), there are at least several things that can be used as a basis, namely:

#### a. Legal Structure

The problem illustrates that in terms of handling cases of cyber gender-based violence (KBGS) and victim protection, law enforcement, both police, prosecutors and justice, have not fully provided special service references for cyber gender-based violence (KBGS). Even though it is already in some places, the facilities are not adequate. For example, in handling cases of cyber gender-based violence (KBGS) there is a special section on cyber-crime, but there are still obstacles in handling to detect the identity of the perpetrator if in that case the account or media used to commit the violence does not use real identity. In the cyber violence evidence system, it requires *digital forensics*, but the *cyber-crime* unit is only at the Regional Police (Polda) level, so that limited human resources and equipment at the Polda level cause difficulties for victims to collect evidence. Regarding facilities in assisting victims, it is still limited, such as, the number of clinical psychologists is limited. Though this is important in order to carry out assistance and recovery.

#### b. Legal Substance

Thenational law has not comprehensively regulated the scope of cyber gender-based violence (KBGS). Material substance in several laws contains problems, including the limit of the scope of cyber gender-based violence (KBGS) regarding various forms of cyber gender-based violence (KBGS) regulated in Law No. 44 of 2008 concerning Pornography, Law No. 11 of 2011 concerning Electronic Information and Transactions, and Law No. 12 of 2022 concerning Criminal Acts of Sexual Violence. In the legislation, it still does not fully regulate and accommodate comprehensively the various forms of cyber gender-based violence (KBGS) that occur. Both Law No. 11 of 2008 jo. Law No. 19 of 2016 concerning Electronic Information and Transactions (ITE Law) and Law No. 44 of 2008 concerning Pornography are not in line with the spirit of protection of victims of cyber gender-based violence (KBGS), because specifically both Law No. 11 of 2008 jo. Neither Law No. 19 of 2016 concerning Information and Electronic Transactions (ITE Law) nor Law No. 44 of 2008 concerning Pornography

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<sup>30</sup> Lutfil Ansori, *Op.Cit.*, Pp 153.

specifically regulates the form and handling to protect victims of cyber gender-based violence (KBGS). Law No. 12 of 2022 concerning Sexual Violence also does not comprehensively regulate forms of cyber gender-based violence (KBGS). Law No. 12 of 2022 concerning Sexual Violence is only limited to regulating electronic-based sexual violence (KBSE) in the form of recording and/or taking sexually charged images or screenshots, transmitting electronic information and/or electronic documents with sexual content against the recipient's will, and stalking and/or tracking using electronic systems for sexual purposes. The limited scope of regulation related to cyber gender-based violence (KBGS) limits the problems experienced by victims, for example related to *sextortion*, namely blackmail with the threat of misuse of victims' sex content with the aim of obtaining money or engaging in sex with victims through coercion. In many cases, if there is only a limited threat, then the case cannot be processed until there is an action to disseminate the content carried out by the perpetrator. Thus, victims will find it difficult to get protection when they get the threat.

### c. Legal Culture

To be able to conduct a holistic study of legal culture, an approach from empirical legal aspects is needed that allows the enactment of law in society. Legal culture or legal culture (<sup>31</sup>*legal culture*) is a living law (*living law*) adopted in a society. <sup>32</sup> Legal culture, in this case is related to the professionalism of law enforcers in carrying out their duties, and of course public awareness in obeying the law itself. <sup>33</sup>

A legal cultural factor that becomes an obstacle in cyber gender-based violence (KBGS) cases is the development of *victim blaming*. *Victim blaming* is done by blaming the victim and assuming the action occurred as a result of the victim's behavior. Generally, people will blame the victim by labeling and pointing fingers at the victim and assume that the victim is considered the party who caused the cyber gender-based violence (KBGS) that happened to him. This causes victims not to dare to report their cases to their families or law enforcement officials.

The strong patriarchal culture adopted by the majority of society makes women unable to freely express their opinions. The patriarchal system that places women below men creates a stigma that women are always wrong. Men have the main control role in society, while women have little or no influence on common areas of society. This causes women to be put in subordinate positions. The restriction of women's roles by patriarchal culture makes women shackled and discriminated against.<sup>34</sup>

There are several reasons that make a person tend to blame the victim for the crime that happened to them. These reasons stem from misunderstandings about the victim, the perpetrator, and the nature of the violent act. Victims are sometimes mistakenly portrayed as passive individuals who seek and submit to the violence they experience. Offenders are seen as unfortunate individuals who are forced to act violently by forces they cannot control, which is essentially due to the lingering patriarchal system in society.<sup>35</sup>

At the level of social construction, Indonesian society still mostly uses the patriarchal paradigm. Basically, patriarchy is a power relationship that subordinate's women and places men in a more prominent and superior position. Patriarchal culture is the root of male domination over women. Finally, women are only considered a group of devotees and everything done by women is undervalued or not

<sup>31</sup> Anthon Fathanudien." Analisis Budaya Hukum Masyarakat Dalam Penanggulangan Pelacuran Di Kabupaten Indramayu Ditinjau Dari Perspektif Hukum Dan Gender", Mahkamah, Vol. 4, No. 1, June 2019, Pp. 9.

<sup>32</sup> Sulistyowati Irianto, Women and Law (Towards The law that Perspective Equality and Justice), Work with The Convention Watch, University of Indonesia and Foundation Domain Twitter, 87

<sup>33</sup> Friedman, Lawrence M, The Legal System: A Social Science Perspective, Russel Soge Foundation, 1969, New York, hlm.241.

<sup>34</sup> Sakina, A. I., & Siti, D. H. (2007). Menyoroti Budaya Patriarki di Indonesia. Share Social Work Vol. 7 No. 1, 1-29

<sup>35</sup> Aulya Enggarining Restikawasti"ALASAN PEREMPUAN MELAKUKAN VICTIM BLAMING PADA KORBAN PELECEHAN SEKSUAL", JCMS Vol. 4 No. 1 Year 2019, Page 11.

taken into account. At the individual level, patriarchy is the cause of various injustices and violence experienced by women.<sup>36,37</sup>

Patriarchal culture positions men as brave and tends to do anything to women freely. When men are closely associated with masculinity and ego while femininity itself is ignored and perceived as a weakness, this culture also belongs to the mindset. Men are considered seductresses and women's bodies are objects that deserve to be the cause of violence itself.<sup>38</sup> This is one of the triggers for gender-based violence which is currently starting to develop through electronic media called cyber gender-based violence (KBGS).

In the process of accessing services, women victims also experience obstacles. These obstacles are in the form of the attitude of officers who blame victims in various services and service fees that are still charged to victims. This obstacle is also experienced by victims in the criminal justice system.<sup>39</sup>

In cases of denial of police reports, evidence imposed on victims, prosecutions and verdicts that do not meet the sense of justice, community stigma against victims is also still strong. Attitudes that ostracize and blame the victim have an impact on the psychological burden, resulting in the victim feeling depressed and traumatized so that they need to undergo a recovery process.<sup>40</sup>

Stereotypes or stigma, exclusion and threats of violence are also not only carried out by perpetrators, families, and communities, but also by law enforcement officials, causing victims difficulty in obtaining justice. Even for survivors of sexual assault, those barriers are often greater.<sup>41</sup> Victims who should be protected, are instead placed as the guilty party to the sexual violence cases they experience and get punishment. Reasons that are often used are that women wear certain clothes such as wearing miniskirts or shorts, wearing tight clothes and revealing their curves, or women's behaviors such as going outside the house at night, visiting the perpetrator's house or boarding house, having had sexual relations before, or women's responses to violence such as not shouting.<sup>42</sup>

Stereotypes by law enforcement officials to victims can deepen the victim's trauma and prevent victims from continuing their cases both at the stage of report, investigation, investigation, prosecution, examination in court to court verdict (verdict).<sup>43</sup>

Thus, there are several problems at the level of legal substance, legal structure, and legal culture that have not worked well. In terms of legal substance, the available tools of legislation have not been able to provide legal certainty to reach various forms and complexities of cyber gender-based violence (KBGS) cases and protection of victims' rights. The lack of understanding of forms of cyber gender-based violence (KBGS) causes the existing legal umbrella to be unable to cover and provide a way out of the obstacles experienced by victims in the legal process. Furthermore, efforts to protect victims of cyber gender-based violence (KBGS) to fulfill their right to justice will continue to experience difficulties, if

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<sup>36</sup> Echo Mukminto, "Hukum, Ideologi Patriarki, dan Kekerasan Sistematis Atas Perempuan— Suatu Kajian Žizekian", NURANI HUKUM : JURNAL ILMU HUKUM Volume 3 Number 1, June 2020, p.6.

<sup>37</sup> Saifuddin Zuhri, Diana Amalia, "KETIDAKADILAN GENDER DAN BUDAYA PATRIARKI DI KEHIDUPAN MASYARAKAT INDONESIA", Murabbi: Jurnal Ilmiah dalam Bidang Pendidikan, Volume 05 No.01 January-June 2022, p.31.

<sup>38</sup> *Ibid.*, p.32.

<sup>39</sup> Laila Hafidhoh, dkk., Pengalaman Advokasi Dan Implementasi Penyelenggaraan Akses Keadilan Bagi Perempuan Dan Anak Korban Kekerasan Terhadap Sistem Peradilan Pidana Terpadu (SPPTPKKTP) Di Jawa Tengah, LRC-KJHAM, Semarang, Pp. 45.

<sup>40</sup> *Ibid.*, Pp. 45.

<sup>41</sup> Sulistyowati Irianto, L.I. Nurtjahyo, female in Trial, Pemantauan Peradilan Berperspektif Women, Foundation Domain Indonesia, Jakarta, 2006, Pp 77.

<sup>42</sup> Laila Hafidhoh, dkk., *Op. Cit.*, Pp. 45.

<sup>43</sup> Simone Cusack, Menghapuskan Judicial Stereotyping, Akses yang Setara terhadap Keadilan bagi Perempuan dalam Kasus Kekerasan Berbasis Gender, Office of the High Commissioner for Human Rights (OHCHR), Juni, 2014, Diterjemahkan UN Women Indonesia, Year 2014. Pp. 56.

inadequate laws and regulations that even discriminate against victims are not immediately changed or new laws and regulations are not formed that have the perspective of victims, gender, and human rights.

The limited understanding of cyber-*crime* investigators on the issue of cyber gender-based violence (KBGS) causes several obstacles in providing protection. From the victim's side, reporting to the police does not make the perpetrator stop disseminating content and potential victims are made suspects because they are considered to participate in making pornographic content, and the victim's experience that if it is a threat to the spread of intimate content, the report has not been accepted. In addition, *anonymity* causes the perpetrator to be unknown or not have enough identity to be recognized in reality, and the perpetrator who has been consulted. In the cyber violence evidence system, it requires *digital forensics*, but the *cyber-crime* unit is only at the Regional Police (Polda) level, so that limited human resources and equipment at the Polda level cause difficulties for victims to collect evidence. The existence of cyber gender-based violence (KBGS) carried out across countries will also make it difficult for jurisdictions to handle criminal acts. In addition, in terms of victim recovery, there are still limited numbers of clinical psychologists only at the provincial level.

Distrust of the legal system that still conducts victim *blaming* against victims, both carried out by the community and law enforcement officials, causes many victims who do not dare to report the incident they experienced, especially if there are many questions that corner the victim. The professionalism of law enforcement officials to remove or eliminate stigma against victims is very important, especially if the victim is a woman, this stigma seriously inhibits, undermines, and hinders the right to justice and truth.

## **Conclusion**

Regarding the importance of regulating cyber gender-based violence (KBGS) in Indonesia, there are several problems at the level of legal substance, legal structure, and legal culture that indicate that the legal system has not run well so that there is urgency in terms of regulation of cyber gender-based violence (KBGS). Structurally, the limited understanding of investigators and equipment the *cyber-crime* unit on the issue of cyber gender-based violence (KBGS), as well as the limitations of clinical psychologists cause several obstacles in providing protection. In terms of legal substance, the available tools of legislation have not been able to provide legal certainty to reach various forms and complexities of cyber gender-based violence (KBGS) cases and the protection of victims' rights. So that many cases have not been processed properly and there is even the potential for criminalization of victims. In legal culture, there is still *victim blaming* against victims, both carried out by families, communities and law enforcement officials, causing many victims who do not dare to report their incidents, this is what seriously hinders the right to justice.

## **Suggestion**

Regulating provisions regarding cyber gender-based violence (KBGS) in statutory regulations, either in the form of separate laws or revising related regulations.

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