

PLAGIARISM SCAN REPORT

Words 254 Date July 29,2019

Characters 1589 Exclude Url

0% Plagiarism	100% Unique	0 Plagiarized Sentences	13 Unique Sentences
------------------	----------------	----------------------------	------------------------

Content Checked For Plagiarism

The women as the victims of not fulfilment promise being married began from relationship between adult man and woman and not yet tied in marriage as lover couple. In this relationship, they usually promise each other to marry. Mostly, the man who gave his promise to the woman. This promise said face to face, by communication tools or handphone such as using message application WhatsApp. With this promise, often the woman would volunteraly give her body that intercourse happened. However, the man broke his promise finally. It showed a cause resulting an event where the woman asking for the promise that the man made, whether in preagnant condition or not that the woman often suffered any kinds of violence that finally the woman became the victim. It covered the personal intact involving physical and pscycological images of woman in constructing her self concept as a woman. Thus, showing the unfair phenomenon continuing happen in any forms, that "may result and "result" in violence action toward woman in not or pregnant conditions. Evenmore, the effect gave long term and short term result for the woman who suffered it. The suffering may form in: physical, psychic, sexual, social and economic ones. The problem formula of this study covered how the the legal implication and how the juridpredencial analysis of court decision toward the body integrity of the woman as the victim of not fulfilment the promise being married.This normative legal study used method of qualitative juridicial analysis. Keywords: Body Integrity, Legal Implication, Analysis of Jurisprudence

Sources	Similarity
---------	------------

PLAGIARISM SCAN REPORT

Words 918 Date July 29,2019

Characters 5703 Exclude Url

0% Plagiarism	100% Unique	0 Plagiarized Sentences	41 Unique Sentences
------------------	----------------	-------------------------------	------------------------

Content Checked For Plagiarism

A. Introduction The guaranty of human right must be performed through respect and upheld as well as guaranted the right protection by the country. The Human Right refers to series of rights embedding on nature of human existence as the God creatures and refers to His grace that must be respect, upheld and protected by the country, law, government, and anyone for the honour and protection of human dignity and prestige . The Women Right refers to Human Right. Upholding the women right becomes part of upholding the human right. As stated in the international commitment of United Nation Declaration in 1993, protection, fulfilment, and respect women right are responsibility of all parties of state institutions (executive, legislative, and judicative) as well as political party and Non-Governmental Organisation (NGO). Even, the citizen as individual has responsibility to protect and fulfill the womaen right. The phenomenon of violence toward women was increasingly in its intensity in line with the existence of human right that continuing to progress. In Indonesia, the regulation giving legal protection toward women right basically has been existed however it has not protected women right optimally. As we know, there were many critical conditions happenthat women in Indonesia need protection. In structure of patriarchy society, socioculturally the man has priority than woman, evenmore taking aside the woman. Moreover, wrong interpretation on gender has decreased the universal of women right in Indonesia. Such as what happened toward the woman as the victim of not fulfillment promise being married as a response of unfair phenomenon appeared in various forms. Thus, it placed the woman as the victim of not fulfillment promise being married suffering of injustice Based on the above table, there was disparity between one decision to others. It resulted from different conditions related to defendant condition, together with action and fulfilled or not the elements in the act being accused. Generally, the decision made showed, though the condition of victim was clear as the victim of not fulfillment promise being married, however the judge tended to give decision free because there was not any act or rule concretely with substance arranging on body integrity and honor of woman as the victim of not fulfillment promise being married Based on the violence forms suffered by the woman as the victim of not fulfillment promise being married, the Declaration of Abolishment Violence toward Woman Act 1 and 2 gave priority on several basic changes in line with social perspective on violence toward woman, first, admit on the existence of "gender based violence". Meaning, violence toward woman referred to an action based or resulted from someone is woman, and there was no relation to social status, economic status, racial different or others. This violence happened because the someone (victim) is woman. Second, it empeshized "may result in " (or is likely to result in). this changed social and legal perspective toward violence that tend to act "waiting for the proof" of happening violence using physical proof (for example, a woman who suffered because of afraid being murdered by his husband was not yet categorized as violence victim as long as she has not been killet yet). With the definition of the Declaration, it confessed that any action "may result in" equal to "result in", as long as the action in according with the whole definition. Third, it confessed the forms of physical, psychis, sexual, and economic violences that of course it became basic changing remember on the previously the law tended to formula violence as the physical violence only. Fourth, it confessed that violence toward woman may happen in private or public scopes (occurring in public or in private life), for example rape in household (marital rape). Therefore, the Declaration of Abolishment Violence toward Woman clearly has given changing of fundamental formula for the perspective of human right on the violence. This declaration involved the areas where the country has responsibility to do changing on the policy to abolish violence toward women . The woman as the victim of not fulfillment promise being married considered has againts the human nature of a woman and the action refered to an action resulting in big losses and sufferinging (Physic, psychic, sexual, social, and economy) toward woman, whether in preagnant condition or not. Moreover, the suffering happening in time of violence and after the event in fact give more traumatic than for the man. However, the principle one was that it was form of violence or denial toward human right resulting in woman lost her body integrity. The body integrity of the woman as the victim of not fulfillment promise being married was part of integral of right problem. In this case, the principle covered in The Universal Declaration of Human Rights. The body integrity referred to description of ideal body related body completeness of someone.

The Body Integrity referred to the whole or complete body of a woman covering bodily and non bodily. Woman would feel lost of her body integrity when she lost her body component one of them was her feminim part of body (virginity or woman vagina). The woman body integrity has close related to the description of woman self conceptthat must be kept and honor as its nature of human. This woman self concept covered her self feeling on whole personal with unique characteristic, that she would easily be known as someone with certain characteristic. Someone who able to know what becoming her need, benefit

and weakness will be able to think rational and objective.

Sources

Similarity

PLAGIARISM SCAN REPORT

Words 914 Date July 29,2019

Characters 5660 Exclude Url

0% Plagiarism	100% Unique	0 Plagiarized Sentences	41 Unique Sentences
------------------	----------------	-------------------------------	------------------------

Content Checked For Plagiarism

In line with violence forms suffered by the woman, it placed woman as the violence victim. The limitation of violence victim can be decided in victimological science. Victimology as a science studying the position and role of victim in a criminal action. The reason would be that in any criminal action there must be actor and victim. Therefore, the focus of victimology were the victim and the scope covering on how someone becoming victim, or the process of victimisation happen. According to Sahetapy, victimisation referred to physical or inclusive suffering taken from financial, economic, religion, or psychic meanings universally or mentally related to the action. The woman as the victim of not fulfillment promise being married that experienced specific events may call as the violence victim. B. Research Method This study referred to normative legal study, discussing the legal rules, legal concepts, philosophical ideas or legal bases as the cause that woman claimed for her body integrity referring the woman right and analyzing the legal implication and the court decisions related to the woman as the victim of not fulfillment promise being married. Thus, the justice access can be obtained toward the body integrity of woman as the victim of not fulfillment promise being married in the perspective of woman right. This study focused on philosophical, statute, conceptual, and case approaches. The legal material being collected was managed and analyzed qualitatively judicially with focusing on legal penalty that one of them using legal interpretation. C. Discussion 1. The Right of Woman Body Integrity In the World Conference of UN on any forms of violence toward woman, the right of woman body integrity in the Documents of UN A. 162/122/ADD. Paragraph 277 stated that the right of woman body integrity was used increasingly to catch scope of guaranty needed to protect anyone specially the woman in againsts the violence and harassment leading on the decreasing of health, freedom, and self integrity from any threats. In the dictionary of Wikipedia Indonesian language, human body belongs to a whole physical structure of human organism. Body refers to material appearing from the human. Using term of body integrity in this study, the writers conclude that body integrity is one unity and completeness of human organism. Etimologically, perempuan (woman) taken from the word empu means being honor. Moreover, it explains friction term from wanita to perempuan is the word wanita considered taken from Sansekerta with the basic word wan meaning passion that the word wanita referring on the passion object Thus, changing the word wanita to perempuan refers to change object to subject. Using the title "perempuan", hopefully, it was not merely able to feel this life, but able to empower the woman potentials related to macro interest. Perempuan (woman) referred to someone (human) having genital organ, menstruate, pregnant, having birth, and feeding the baby. Therefore, the writers believe that body integrity of woman related to self/personal completeness as a whole bodily and non bodily of a woman showing a unity and cannot separated from woman life. It close related to protection toward personal completeness that also related to virginity (genital organ/miss V) and related to self concept and dignity of a woman. 2. Broken Promise to Marry The Indonesian Dictionary defines the term of ingkar (denial) and janji (promise). The definition of the word ingkar is : a)Do not justify, denial, not admit, deny, b)Not keeping up, c)Do not obey, do not want. The definition of janji refers to: a)Statement showing willingness and agreement to do, b)Agreement between two parties (each of them states willingness and agreement to do something), c)The requirement must be fulfilled. Taken from the meaning of ingkar and janji above, the writers obtained definition of ingkar janji(broken promise) as denial and not being kept up on the statement or agreement stating willingness and agreement to do something. Broken promise to marry in this study refers to broken promise conducted before legal marriage happen. This broken promise means denial and not kept up the statement or agreement stating willingness, agreement to do something by the two parties. 3. The Legal Implication: Legal Injustice and Woman becoming the Violence Victim Difficulty faced by woman as the victim of not fulfillment promise being married placed on paradigmatic problem becoming the basic on how the legal scholars and law enforcer gave the meaning on the law itself. This condition appeared in Indonesia where generally the legal scholars have focused on the legal meaning as norm and basic regulation. To isolate legal from social reality. That, the legal product, legal apparatus, and legal culture have not yet completely honor the woman. In line with the woman as the victim of not fulfillment promise being married, the Criminal Code stated that it was not criminal in the following conditions: 1. Two people not yet married do sexual activity, though: a. The Action considered againsts and bother the moral feeling of society b. The woman willing to do sexual activity because of trickery or promise being married, but denial c. Result in pregnancy of the woman and the man does not want to marry or there is obstacle to marry according to the law. 2. A man having wife impregnates a girl (meaning that they have do adultery), but his wife do not make any claim 3. Someone lives together with someone else as husband and wife but not in marriage relation, even though the action is despicable and againsts or bother the moral feeling of

PLAGIARISM SCAN REPORT

Words 795 Date July 29,2019

Characters 4612 Exclude Url

0% Plagiarism	100% Unique	0 Plagiarized Sentences	32 Unique Sentences
------------------	----------------	----------------------------	------------------------

Content Checked For Plagiarism

In the scope of legal meaning, the problem of humanity on the victim of broken promise to marry was ignored. The legal enforcers have long debate on the legal procedure, bias logical structure that there is no humanity to the woman as the victim of broken promise being married. They debated in line with formal proofs that should be fulfilled called as the victim of broken promise to marry, witnessess information, voluntaily and others. The limitation of the victim of broken promise to marry was fixed. Even though, it was difficult to fulfill such criterion, as we know the effect of this action eliminated future socially and culturally. Whereas, there always any differences between written law and practical law in the society that finally collide and result in injustice. The law was not existed in vacuum place but exist in interest constilation of those who giving meaning to the law that were judge, police, advocate, government, and society. Many women as the victim of broken promise to marry covered what happen to them, as result of stigma labelling and threat of sanction that they may get by the society that tend to cornering and blaim them. That was the reason why many cases of woman as the victim of broken promise to marry being reported or found out were too late. Thus, it was difficult to bridge legal justice in order to make it closer to social justice. It was important to fulfill proof and truth of material however the justice for women as the victim of broken promise to marry could not be ignored. The Declaration of Universal Human Right giving confession of natural dignity and equal right as the fundamental of freedom, justice, and world peace must become basic of justice legal protection for the women as the victim of broken promise to marry. Not yet existence of substantive and concrete regulation to give protection toward body integrity and honor for women as the victim of broken promise to marry referred to ignorance of human right, and unprotected constitutional rights as mandated by the constitution The law that care of body integrity of woman as the victim of broken promise to marry could give justice as main idea and goal of humanity wealfare. In the General Declaration of Human Right (DUHAM) of 1948, as a human, woman has right to live, right to be honor her dignity, right to get feeling of safe, and right to be treated indiscriminative. The woman protection, specially in the private spaces, showed by appearing the CEDAW, Convention on The Elimination of all Forms of Discrimination Against Women, in 1979, then ratified by Indonesian government via the Law number 7 of 1984. Based on Acts 1 and 2, violence toward woman was categorized in several forms, namely, physical, sexual, psychological, and economic violence, and deprivation of liberty . In line with its scope, violence toward woman might happen in household or family (domestic violence), in the wide society (public) and in State environment (conducted by or in the country scope). As what happened to woman as the victim of broken promise to marry, for it related to be confessed social identity of woman as the victim of broken promise to marry with emphiric fact, including: 1. 1. Strong myth giving lost for woman with the condition that man did sexual action with woman because of love relationship thus, though the man gave promise to marry her, the woman should not believe and should not give her body and honor; 2. The did conducted volunterily, that when the man did not keep his promise to marry and he decided to break the love without any formal reason was considered normal because the woman consiciously has given her body and honor; 3. Only unkind woman who willing to gave her body and honor to the man though there was any promise to marry, in not preagnant condition, the woman may have another relationship to other man, and when she got preagnant, it was her own problem; 4. The woman as the victim of broken promise to marry could leave her couple anytime she want; 5. The woman as the victim of broken promise to marry did not belong to criminal toward the country or society, only on personal/private integrity (in this case, the woman self—victim); 6. The woman as the victim of broken promise to marry could not get protection for there was no national regulation yet in spesific and concrete ways; If the woman suffered above fact meant that her right to live as a human and a woman has been violated and lead her suffering loss appeared in any forms, that “can result in” and “result in ” violated action toward woman in preagnant condition or not.

Sources	Similarity
---------	------------

PLAGIARISM SCAN REPORT

Words 984 Date July 29,2019

Characters 5998 Exclude Url

0% Plagiarism	100% Unique	0 Plagiarized Sentences	46 Unique Sentences
------------------	----------------	----------------------------	------------------------

Content Checked For Plagiarism

The effect gave long term and short one. Thus, the woman suffering as the victim of broken promise to marry has cause-effect relation in various forms such as: 1) Physical violence (when woman wanted to claim for the promise being stated by the man, what she got usually hitting, violatiom such as: slap, hit, pull hair, kick, cornerred with ciggarette, wound with weapon) appeared from the violence was outside injure or in body, collision, serious injure, broken bone, physical defective even death. Lossing of eating passion, sleep disorder (insomnia, nightmare, difficult to sleep), central nerve disorder and worry disorder. Even when the woman in preagnant condition, it would give risk to her physically and to the baby in her womb. 2) Psychic suffering, underestimate woman image, using words or action hurting, bad words, screaming, insertion, threat preassuring woman emotion, disstress and feeling (thus, she felt lost or underestimated her dignity and prestidge as human). The action resulted in fear, lost of self confidence, lost of ability to act, hopeless and/or serious psychic suffer on someone bother or preasured victim emotional. The effect were in forms of traumatic, nightmare or self afraid, afraid to meet other people, sleep or eat disorder, emotional disorder, fair of close relationship, untrust the man, guilty feeling, shy and insulted, feeling of mad, may cause to suicide. 3). the sexual suffer (being taken away dignity, disorder of reproduction organ, getting the sexual deases, and pregnancy disorder). 4). The social suffer experience by the victim refred to strength of social relation because feeling of not accepted by the society, stigma labelling as woman who has did sexual activity with man, hopless feeling, anti social action, low confidence, suicide trial, depression, shame, worry, sleep or eat disorder, depression, drunk, using drugs, smoke, free sex to try to commit suicide. Often, the woman moved to other place because of being mockery object. 5). The economic suffer covered spending fee for recovery as result of physical and psychic effect experienced, recovering mentally health from psychological interference, spending fee for pregnancy cost, giving birth to growing the kid. With the suffer being experienced, the woman as the victim of broken promise to marry decreased her right on her life would decrease its value. The right for woman refered to the right on her body and honor. Such suffer considered as violanve toward woman referring to peak suffering. The effect of violance suffered by the woman as the victim of broken promise to marry was lost of prestidge and self concept of woman. She would see hersel negatively, blame herself, considered herself as the one who responsibility on violanced action being suffered. 4. The Analysis of Jurisprudence/Judge Decision toward the Case of Broken Promise to Marry In deciding a case, the judge did process, read, examine deeply from his perspective in doing interpretation and found legal finding. Reading rule was not only using regulation logic, but also social logic purposing to give meaning related to the fact and need of today society. The analysis of decision related to the case of broken promise to marry. It related to decision considering justice to the woman as the victim of broken promise to marry by doing analogy. The interpretation trying to find out a justice to the woman the victim of broken promise to marry. In this case, the judge tried to find purpose from creating rule by doing interpretation toward the law applied and tried to any relation one formula to another in a legal systematic. This formula was in needed to examine condition suffering by woman. This interpretation purposed to justice and put high the human in protection substance toward human right as specially the women as the victim of broken promise to marry. In this situation, Satjipto Rahardjo stated as interpretation with not always be based on logic, but also leave logical routinity. The Decision of Military Court III-18 Ambon In 1986, the courth handled its member case who had sexual action to the victim labelling S, but with trickery and promise to marry. The suspect asked the victim S to came to Namlea, the place of suspect, with a promise being asked victim to meet his bos to ask permission to marry. In the court, it applied act 378 of the Criminal Code, that the element of unity comand and series or lies using promise to face the commander of unity finally make the victim gave thing or honor to the suspect considered as the proof. The judge interpreted that honor or the victim genital organ as the proof, and had been used. The Military Court stated in its decision to the suspect that first the suspect proven had committed fraud and second he had falsified the document. The decision Number.33/MMT-III/X/AD/87 of the Military High Court Surabaya strenghten the previous decision where the suspect had proven conducting falsifying the document and fraud. The suspect appealed with its memory postulate related to widen the meaning of thing. He stated that the judge did not use correctly the meaning of genital organ or woman honor as thing. He believed sexual activity being conducted based on willingness of the two parties. The postulate (reason) filed by the suspect was accepted by the Supreme Court that the Appellate Assemby stated that the previous judge decision was wrong in implementing the law because widening the meaning of thing as woman honor or genital organ. Thus, using act 378 of the Criminal Code, there was nothing that the voctim given to the suspect. Finally, the suspect was free from any indictment that he had committed fraud. The judge interpretation to the

second case almost the same as the decision of judge Bismar Siregar, specially in the case with no regulation yet, the judge should be able to stand based on the condition and feeling of the woman. Hopefully, there is serious discussion toward any statements with no proof value.

Sources

Similarity

PLAGIARISM SCAN REPORT

Words 925 Date July 29,2019

Characters 5396 Exclude Url

0% Plagiarism	100% Unique	0 Plagiarized Sentences	48 Unique Sentences
------------------	----------------	----------------------------	------------------------

Content Checked For Plagiarism

The element of voluntarily still needed the agreement of the two parties. The availability of violence and threat would result in that there was no the agreement. The judge consideration was only based on suspect's statement. He did not examined psychologically of the promise value that the woman gave away voluntarily her honor. However, the fact that the victim met the suspect and lived together with him should be an evidence for the judge to make decision that the relationship happened because of promise to marry. In the Legal Area of Kupang State Court No reg.75/PDT-PN/2010/PN In line with broken promise to marry, the judge decided the man not guilty though the woman had experienced suffering such as pregnant without marriage, gave birth and took care the kid and the consquency in living in the society. The violence againts the woman in Indonesia should not always be seen as a conduct that begun by (physical) violence or physical violence threat. The violence againts the woman must be seen comprehensively using consideration of many things such as the case of the violence happen in which the decision making of the woman to give her honor resulted from a promise to be married by the man that finally made her to do the action should be a consideration for the judge to protect the woman. The verdict of the case Number 522 K/ Sip / 1994 The Supreme Court gave decision to punish the man with initial D who conducting sexual activity with the woman with initial R by a promise to marry and finally the woman got pregnant. The pregnancy brought D to force R to do abortion because the pregnancy was not expected. The effort to force R was conducted by hiting and kicking. The Supreme Court punished D using penal that he had attacked moral honor, stolen with violence, and persecuted resulting in serious injure. In this case, the Supreme Court stated that not fulfillment promise to marry considered action againts the law. Therefore, the suspect was given punishment by paying for compensation to the plaintiff in this case recovery the plaintiff's image. The Supreme Court stated that the man's conduct was againts the moral decency and norm in the society. The promise to marry conducted by the man belonged to seduction because there was lure to be married that the woman gave away her honor. The decision of the Supreme Court of this case gave breakthrough in the act 58 the Civic Code , using the act on the action againts the law belonged to award given to the woman related to her legal protection, however the using of the term action againts the law has wide meaning that may be asked for compensation of the conduct. In several judge's decisions above, it showed the judge attitude, generally, however, related to the action for not fulfilled the promise to marry, the society showed less honor on the woman right as individual who has body integrity as part of her huminity natural. Thus, it wounded other right. The society has not yet seen this action as form of againts the human right. Even though, this action should be seen not only destroy future, but also destroy the body integrity of woman as individual and belonged to violation of woman right. It involved the judge in interpreting the meaning of acts applied. The progressive interpretation to uphold woman right and justice for the woman as the victim of not fulfillment prome to marry were needed. The woman experience before and after becoming the victim should be more considered in making the national regulation. The Decision of Medan High Court Number 144 / PID / 1983 / PT Medan. The Judge of Medan Hihg Court, Bismar Siregar, renewed the decision of the Court. He stated that the defendant, MR Sidabutar, had proven to do fraud. In his decision, the judge gave punishment 3 years in prison, in which Bismar gave analogy that the woman genital organ as thing (bonda). The Tapanuli word gave meaning to bonda (honor, genital organ) as thing. The defendant, MR Sidabutar, was claimed because he did not responsible of his conduct toward the victim with intial K boru Siahaan. The first indictment was the defendant accused to have done fornication with underage woman based on act 293 of the Criminal Code. The second indictment was fraud using act 378 of the Criminal Code. The third one was making annoying feeling based on act 335 of the Criminal Code. In this level, the Public Prosecutor gave commulative (additional) indictment. The 3 years punishment because of proven guilty to do fornication with underage woman that was not his wife. The prosecutor asked for appeal but did not claim for appeal memory. The judge Hakim Bismar considered the indictment of the prosecutor, that there should be any other choices. He thought that the Act 293 of the Criminal Code was not fulfilled for the victim K was only 21 years old, thus, the first indictment element was not proven, finally he used act 378 of the Criminal Code. In this act, he did widening interpretation toward the word thing belong to service.

Sexual activity conducted had given benefit to the defendant, for it meant that he had accepted service from the victim. He added that when the victim gave her honor because of persuation, meaning that by giving thing. However, the Supreme Court cancelled the Bismar's decision in the level of appeal stating that MR Sidabutar was free. In the Supreme Court, the cancelling

