

# RAPE AND ITS PROBLEMS IN CRIMINOLOGICAL THEORIES

Noryamin Aini\*

## ABSTRAK

Kasus pemerkosaan sempat meresahkan masyarakat. Dari tahun ke tahun dilaporkan bahwa angka kasus pemerkosaan terus meningkat, bahkan motif dan modus operandinya semakin kompleks. Perubahan motif dan modus ini, sayangnya, kurang diikuti dengan kecanggihan pengembangan teori-teori kriminologi. Teori umum yang mendominasi penjelasan persoalan pemerkosaan cenderung melingkar pada asumsi psikotik dan memusat pada analisis individu pelaku dan korban, sementara sumbangan system nilai budaya dan sosial terhadap peristiwa pemerkosaan nyaris dilupakan. Oleh karena itu, tokoh aliran yang melihat kasus pemerkosaan mengakar pada dan berkaitan erat dengan system nilai budaya dan sosial menegaskan bahwa kasus pemerkosaan harus dilihat pada konteks sosial dan kulturalnya.

"Experiencing sexual violence transforms people into victims and changes their lives forever. Once victimised, one can never again feels quite as invulnerable. Rape represents the most serious of all major crimes against the person" (Koss and Harvey 1991: 1).

"Sometimes she laughs alone, and her mother said that "what we feel is more than death" (*Tempo*, March 20, 1993: 95).

## I. INTRODUCTION

The above two quotations demonstrate how serious the impact of being raped is. Apart from this, the fear of rape has terrified women and imprisoned them within their social isolation. With references to the fear of rape, research has empirically found that women tend to avoid many public places where rape frequently has occurred. In Indonesia especially after the tragic case of rape which happened on Acan's family, the incidence of rape has widely horrified the public and has become a major concern. *Tempo* (August 28, 1993: 38) reported that "you should be careful if you have a daughter, because there are many candidates of rapist surrounding us who are difficult to be detected."

The purpose of this paper is to explore the theoretical problems of rape. In doing so, three major criminological theories of rape will be critically examined.

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\* Lecturer in Criminology at Syarif Hidayatullah School of Islamic Law, State Institute for Islamic Studies, Jakarta.

## II. CRIMINOLOGICAL THEORIES OF RAPE

The problem of rape as a social and criminal phenomenon is not new. People in primitive societies, for example, portrayed rape as something that will shook the stability of societal life (Sanday, 1981); rape was seen as a crime committed not only against an individual woman but also as a crime against the family and the community (Shapcott, 1988; Brownmiller, 1975; Sanday, 1981). However, many people in modern societies, especially feminists (Sanday, 1981), have criticised this view by arguing that the view is based on male interests which treat women no more than as family property. The cornerstone of the common view of rape has continually confined women under male dominance and does not treat women themselves as an individual with their own freedom.

There are three prominent theories<sup>1</sup> which generally dominate the explanation of rape, that is, a psychopathological insight (Groth, 1979; Smith and Bennet, 1985; Amir, 1971; Herman, 1988; Albin, 1977), an opportunity structure theory (Schwendinger and Schwendinger 1983; Cloward and Ohlin, 1989; Merton, 1967; Braithwaite, 1989), a gender inequality theory (Matoesian, 1993; Scully, 1990; Brownmiller, 1975; Estrich, 1987; Tong, 1984; Clark and Lewis, 1977; Sorenson and White, 1992; Donat and D'Emilio, 1992). In general these theories focus on the questions of why and under what "condition" does rape usually occur? Psychopathological theory attempts to answer this question by focusing on individual offenders, while other theories follow the logic of symbolic interactionism and the notion of functionalism.<sup>2</sup>

To begin with, many "traditional" explanations of rape address the issue at a psychopathological dimension (Groth, 1979) with its variations such as psychiatry, psychoanalysis and psychodynamic (Herman, 1988; Amir, 1971; Smith and Bennet, 1985; Albin, 1977). The proponents of psycho-pathological theory have attempted to establish the correlation among the incidence of rape, its causes and the offender's mental state (Amir, 1971; Herman, 1988; Albin, 1977). Groth (1979), for example, has contended that

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<sup>2</sup> A symbolic interaction theory emphasises that social interaction is mediated by signs and symbols and occurs as a result of interpreting the symbols. Accordingly, to some extent, a victim-precipitation theory and myths about women are based on interactionist assumption which emphasises the rapist's reaction to the victim. In Amir's point of view (1971:266), offenders and victims are mutually interacting partners, under which the victim sometimes encourages rape when she uses what could be interpreted as indecency in language and gesture or constitutes what could be takes as an invitation to sexual relations. In contrast, some feminist theories, for example MacKinnon (1989) seems more functionalist since they argue that rape is used with several functions. The most important of these functions is a weapon to control female acceptance and submission to of male's domination.

the determinant factors of rape rely exclusively on the problem of psychological disruption. According to his argument, rapists are those who are psychologically abnormal males, suffering from various forms of psychotic diseases requiring clinical assessment, psychiatric intervention and treatment, such as *mental illness*, *uncontrollable sexual impulses* and *aggressive tendencies*. Contending this point, Groth (1979:5-6) concludes that:

Rape is always a symptom of some psychological disfunction, either temporary and transient or chronic and repetitive... The rapist, in fact, is a person who has serious psychological difficulties which handicap him in his relationships to other people and which he discharges, when under stress, through sexual acting-out. His most prominent defect is the absence of any close, emotionally intimate relationship with other persons.

The incidence of rape often involves various dimensions. Groth (1979: 13) has pointed out that in all cases of forcible rape within his study, three components of rape crime are present: power, anger and sexuality. The hierarchy and interrelationships among these factors seem complex and vary from one rapist to another. For example, any incidence of rape may result from a combination of power and sexuality, power and anger, anger and sexuality, or all three components. While Groth generally emphasises the concept of anger rape<sup>3</sup>, other theorists argue that power rape is also important in terms of being a reflection of male domination (Muehlenhard and Hollabough, 1988; Matoesian, 1993) or as a symbolic expression of "an inequality state"<sup>4</sup> between the offender and the victim<sup>5</sup> (Smith and Bennett, 1985; LaFree, 1982) or as an expressive weapon of revenge (Scully, 1990; Scully and Marolla, 1985).

The logic of psychodynamics on the process of an offenders' psychological perception about women is central in Groth's explanation of the complex relationship between anger and rape. Along the line of the psychodynamic assumption, Schwendinger and Schwendinger (1983: 71; Herman, 1988: 703-709) argue that this perception is socially constructed through the process of identification and internalisation of such values during

<sup>3</sup> Mulyana W. Kusuma when he was asked to comment on the rape occurring on Acan's family said that it was an anger rape. This opinion has been criticised by Edriana. For further information on this critique, please see an article written by Erdiana and published at Kompas (1995:4).

<sup>4</sup> It can be economic, social, cultural, structural, ideological, political, psychological and physical beings. In terms of economic con-texts, for example, it is often found that a person who is economically dominant rapes a woman who is his dependent.

<sup>5</sup> It may be useful to remember the film of *Disclosure* in which a female director (Dammy Moore) forces her male secretary (Micheal Douglas) to have sex with her.

formative years. For example, the rapists may have acquired an intense hatred of women during childhood or have undergone experiences that triggered their latent homosexual tendencies. It is, therefore argued rape is inflicted when men are obsessively motivated by their feeling of hatred women and have a desperate need to convince themselves of their own masculinity (Groth, 1979). Cohen (cited from Albin, 1977: 430-431) summarises a psychological view by arguing that:

Every act of rape is expressive of psychopathology; of a disturbance, moderate or severe, in the developmental history of the offender and his current adaptive efforts... Cultural and sub-cultural factors, socio-political factor, and the characteristics and behavior of the victim play their role in the drama. The major determinants, however, reside as biological and psycho-logical factors within the rapist.

By arguing that rape results from a combination of anger and other psychological disruption, Groth (1979: 2) seems to criticise a common misconception of rape which emphasises the rapist's behavior as being primarily motivated by sexual desire and gratification of sexual needs. In effect, Groth (1979: 2) argues that rape is an inevitable effect of the expression of anger, while the rape itself is not a primary goal. In further analysis, he argues that the erroneous but popular belief that rape is the result from sexual arousal and frustration creates a foundation for a whole superstructure of related misconceptions pertaining to the offender, the offence and the victim (Groth, 1979: 14-15). From this point of view, it seems that, instead, Groth wants to redirect the focus of studying rape from former understanding of the individual victim and the psychological condition under which a rape has occurred to substantiate analysing the individual rapist, why and how he raped.

The psychopathological theory has been a subject of many critiques especially related to the point emphasising in uncontrollable sexual impulse and psychological disturbance as primary sources of rape. This emphasis has some practical and theoretical implication (Herman, 1988; Scully, 1990: 45-47). Firstly, since men who have raped could not control their behavior, they were not consciously responsible for it. To some extent, this condition will minimise the judicial function to work out the case of rape. In some cases, it is true that rape is likely to occur within the context of psychotic disorder. For example, a respondent of an attempted rape in Groth's study (1979: 6-7) said that:

I was very depressed at the time (of rape). Empty, lonely, out-of-feeling. I was trying like a bastard to get someone to stop me. No one listened. I wanted to kill the woman; I didn't intend to rape her... When I was strangling her, I thought I heard a child cry in the next room. I stopped and apologized and left. I bought a package of razor blades and went into a theatre to kill myself, and the police picked me up there.

Another offender who raped his wife states: "I hated (her) at the time, but I don't know if it was her (the victim: his wife) ... even though we were getting back together" (Scully and Marolla, 1985:) (256; Herman, 1988:) (701).

However, the evidence and the sample used to support the psycho-pathological assertion have been methodologically criticised. Abel *et al.* (1980) for example, have found that only as few as 5 percent of rapist men are psychotic at the time of their crimes (Shapcott, 1988; Matoesian 1993). Moreover, Edriana (1995: 4) referring to the data provided by the Institute of Kalyana-mitra has contended that only around one percent of rapists were psychologically abnormal. In other words, the proportion of psychotic rapists is significantly insufficient to establish the causal relationship between rape and the state of psychological disturbance.

Secondly, the idea that women whether consciously or subconsciously precipitate their own victimisation has a similar tragic consequence. Attention is focused on the behavior and motives of the victim at the time of rape rather than on the offender. Thus, responsibility is also shifted to the victim. This implication is supported and goes on the line of the general myth of rape which puts uneven responsibilities on the victim, for example, "only bad girls get raped", "any healthy woman can resist a rapist if she really wants to", "women ask for it", "she enjoyed it", and "women 'cry rape' only when they've been jilted or have something to cover up" (Burt, 1980:) (217; Muehlenhard and Hollabough, 1988; Burt and Albin, 1981; Shapcott, 1988). Other popular myths about rape stereotype that "she herself enjoys being raped" and "if she becomes pregnant, how could she have been raped?".

Thirdly, psychopathological explanations make the assumption that male aggressive sexual behavior is unusual or strange. Therefore, sexual offender is removed from the realm of the everyday or normal world and placed in the category of special behavior. Consequently, sexually violent men are cast as "outsiders" and any connection to "normal" men is thereby eliminated. Behavior attributed to an aggressive action beyond the individual's control carries an obligation to admit illness and seek medical help. This point has an implication on the way by which rapists should be treated such as housing them at lunatic asylum. However, in reality, they are socially and psychologically still treated as a normal individual. Therefore, it is crucial to question the bottom line of reasoning, which suggests that rape is a problem of psychological disturbance.

Fourthly, the psychopathological model views rape as no more than a collection of individualistic and idiosyncratic problems. This creates a tendency to look for the cause of rape and its solution to complex psychological problems within individuals (offender

and victim) by ignoring the social, cultural and structural contexts in which a rape occurs. The net effect of individualistic explanations is to create an approach to the problem that never reaches beyond the individual offender and victim.

Finally, the notion that rape is a symptom of emotional disturbance performed by a small "lunatic fringe" (Groth, 1979) has also been widely criticised, especially by feminists. Scully (1990: 37) argues that hypothetically, impulse theory could be used to explain any behavior particularly in the context of crimes and if the courts extended the logic of irresistible impulse to its limits, *no one would be legally responsible for anything*. Further to this critique, the idea of an uncontrollable male sex urge only fits the traditional image of a naturally boundless and untameable male sex drive in contrast to the natural passivity of women (Brownmiller, 1975; Shapcott, 1988; Scully, 1990).

In conjunction to the above critiques, research findings which involve the individual study on rapists do not consistently support the psychopathological assertion (Matoesian, 1993; Clark and Lewis, 1977; Scully, 1990). In addition, the psychopathological approach has been criticised for bias in its sample representation. Scully (1990) argues that while the sample used for the psychopathological study had been developed on a specific context within a clinical laboratory of psychological treatment, the conclusion has been widely generated to all rapists with little exception.

Based on the previous weaknesses, many feminists (Scully, 1990; Sanday, 1981; Matoesian, 1993; Estrich, 1987; Brownmiller, 1975; London Rape Action Group, 1985; Rhodes and McNeill, 1985; Clark and Lewis, 1977) have questioned various issues relating to the construction of emotional disturbance. For example, if rapists are mentally sick, we need to know more about them; how sick they are emotionally. Why are women in some societies the target and the scapegoat of such a uniquely male psychological problem? (Scully, 1990: 46; Matoesian, 1993: 6). How far do social and cultural structures mediate the incidence of rape by maintaining many stereotypes against women within patriarchal societies? Why are rapes only perpetrated by a tiny segment of the male population, whereas others do not? (Russell, 1984: 65). Psychopathological theory seems not to answer these questions satisfactorily, because of its focus on the individual level, whereas rape itself is actually a multi dimensional issue related to complex social values, belief systems and cultures.

An alternative theory of rape is "*opportunity structure theory*" (Clark and Lewis, 1977; Smith and Bennett, 1985; Schwendinger and Schwendinger, 1983). This approach is primarily developed from Merton's thesis on social structure and anomie (Merton, 1967; Braithwaite, 1989; Clinard, 1989; Cloward and Ohlin, 1989). According to Merton

(1967: 256), in any society there are a number of widely shared certain goals<sup>6</sup> which provide a frame of aspirational reference. In conjunction to those goals which are held up as "worth striving for", there are defined legitimate institutionalised means which can be norms, mores, law, social and religious belief or other value systems for achieving the goals. For example, the legitimate means for achieving the goal of material success include a good education, a good job and prudent investment. In terms of sexual satisfaction, the legitimate means can be such things as money, social status and an attractive physical appearance.

Ultimately, any kind of goals would be obtained through a legitimate procedure. However, because the social, physical, ideological and economic condition of people varies in terms of their genetic background, social status, economic capability, cultural or physical capital and when an individual man has internalised a certain goal of, say, sexual desire, and his legitimate means for achieving that goal are blocked, he is under pressure to resort to illegitimate means to grasp the goal<sup>7</sup>. Pointing out Merton's weakness of the anomie theory, Cloward and Ohlin (1989: 157, 159) contend the importance of availability of illegitimate means and learning process to understand it. Therefore, apart from the blocking legitimate opportunities and the availability of the illegitimate, people should know how to deal with the illegitimate through a learning process. Rape, according to this theory, can be viewed as an expression of the blocked legitimate means accompanied by the availability of illegitimate opportunity and rapists know how to utilise it (Schwendinger and Schwendinger, 1983).

Clark and Lewis (1977: 128-129), however, have critically applied the opportunity structure theory for interpreting sexual violence that lead to rape. To begin with, they propose that men regard women as owners of saleable sexual properties. According to

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<sup>6</sup> Clark and Lewis (1977) expand the use of Merton's concept of "goal" into any kind of expected targets which are intentionally wanted to be achieved such as sexual satisfaction.

<sup>7</sup> Braithwaite (1989:31-32) gives a good example: The child from a poor family learns that he should strive for the cultural goal of material success, but legitimate means of achieving that goal are closed to him because he cannot do well at school, he does not have the 'connections', the 'polish' or the 'presentability' to wangle a good job, and he does no capital for investment. He is therefore in the market for an illegitimate means of achieving the cultural goal he has been taught to value so highly.

<sup>8</sup> Though sexuality sometimes is used to describe the characteristic of being female (especially by feminist psychologists, it is also used to indicate female sexual activity and sexual pleasure (see Schwendinger and Schwendinger, 1983; and Clark and Lewis, 1977)

the male point of view, therefore, female "sexuality" is a commodity in the possession of women, or at least should be paid by such price. Even if sexuality is something, men are likely to come to own and control women under certain circumstances. Women are thereby seen as hoarders and miserly dispensers of a much desired commodity and men must constantly wheedle, bargain and pay a price for what they want in respect to sexual gratification. If anything lies at the root of misogyny in particular or operates under economic inequality or other incapability, the source of rape does exist. Men then naturally, ideologically and socially, come to resent and hate women because they see them as having something they want and they feel they have a perfect right to, but women are unwilling to give them freely. From this perspective, the right on female sexuality must be purchased or stolen.

Female sexuality is allegedly bought and sold in an open market. However, the market is dominated by male conceptions of property and therefore the best bargain a woman can achieve for the price of her sexuality is still restrictive. Berninghausen and Kerstan (1992: 113) contend that within marriage systems, girls are not free to determine something for themselves; their bodies are traded by their families. In some societies-patriarchal-based-ideology, it is not a women's right to state the dowry.

When bargaining for sex, men reportedly use various forms of coercion. They may make promises they cannot or will not really fulfil. They may harass women or threaten them with physical harm. Clark and Lewis (1977: 129) note that the tactic or coercion a man uses will depend on the personal assets which he has at hand. Men who have enough money and other resources can drive a bargain in their own interests easily. Other men who are ugly, old, perhaps, but certainly if they are poor, will take sexuality from women by force, because they have no other legitimate means of driving a bargain. Rape is, thus, a reflection of this state of limited assets.

The implications of this argument suggest that rape is more likely to occur in the context of "inequality" and "incapability". Clark and Lewis (1977: 130) argue that "nor is it surprising that rapists from low socio-economic backgrounds should frequently choose middle-class women as their victims". In a society which allots women different prices tags, it is inevitable that some women will be too expensive or socially not comparable for some men, but that those men will nonetheless desire what they cannot afford. Some of these men will take what they want; they literally "steal" the female sexuality they desire because they lack the necessary social and economic means of acquiring it legitimately. Thus, it is clear that Clark and Lewis's theory suggests that sexual violence is based partly on coercion and partly on a competitive market. Supporting the assertion made by Clark and Lewis, Prakuso (n.d.) found that convicted rapists greatly come from low levels of social-economics.



From the opportunity structure theory, rape operates to the disadvantage of those who are least favoured to begin with, who do not begin from a position of equality and capability in the bargaining relationship. Clark and Lewis (1977:) (131) conclude that "within the technical [legal] limits of the term, rape will always be an inevitable consequence of the fact that some men do not have the [legitimate] means to achieve sexual relations with women, except through physical violence". To some degree, the opportunity structure theory can explain several phenomena of rape. However, a critical question may be raised such as if rape occurs due to the blocking legitimate means, why many other men do not commit rape when their legitimate way is also blocked? The opportunity structure theory unsatisfactorily answers that question.

Also undermining the logic of the opportunity structure theory, to some extent, it is evident that the sexual violence also stems from ethnic barriers, such as a relationship between black men and white women. In this context, black men do not rape white women as they are too economically expensive to them, but instead, they epitomise a value system and racially advantaged group of people. One respondent who has raped a white woman in Scully and Marolla's study (1985: 259) states that it was as the "ultimate experience" and "high status" and it gave me a feeling of status, power and macho" he said. In relation to this critique, the opportunity structure theory cannot explain the rape in the political context. Why did Serbian soldiers rape Muslim women in Bosnian and Japanese soldiers rape Korean women? From this point of view, it is clear that rape is not only the problem of psychological disturbance or the market constraint of female sexuality.

Further to the previous weaknesses, other critiques also have been made. For example, in questioning the appropriateness of opportunity structure theory, does Clark and Lewis's theory stand up under close analysis? Schwendinger and Schwendinger (1983: 79) suggest that rather than reviewing the inherent deficiencies, it seems more appropriate to simply ask: if the lack of opportunity, money or other resources is causally important, why do men of wealth, good looks or charm commit crimes such as rape? To a certain extent, it is true that Schwendinger and Schwendinger are correct to assess the opportunity structure theory from this view and it is also true that opportunity structure theory cannot solely explain a complex phenomenon of rape. By and large, it does give an important basis for the development of feminist theory.

### III. AN ALTERNATIVE CRIMINOLOGICAL INSIGHT

Many feminists have rejected core points of psychopathological theory. Scully (1990) for example has argued that the psychopathological theory fails to explain the phenomena

of rape beyond the individual offender and victim. In addition, this theory does not take into account social values and systems, and cultural structures which subordinate women within societies making them vulnerable to the crime of rape. For example, within patriarchal society, the economic dependence of women places women in a subordinate position and give men more power to deal with sexual authority. Sexual pleasure seems to be a privilege of men, while on the other hand, women are seen to just play a "complementary" role in that sexual activity. Therefore, it is not surprising that the rate of marital rapes are generally higher within the society-patriarchal-based ideology compared to the same phenomenon within societies which highly respect women (Sanday, 1981; Matoesian, 1993; Scully, 1990; Donat and D'Emilio 1992). An implication of these critiques is, therefore, that the policy, treatment and attempt at the prevention of rape hardly do much to protect women from being raped.

To encounter the weaknesses of the psychopathological and opportunity structure theories, feminists have proposed a theory of gender inequality to explain the nature of rape. In this context Matoesian (1993:13) argues that gender is not just about difference, but is primarily about "power". Male-female differences conceal the dynamically structured relations of domination and subordination embedded in those difference. The core of feminist thesis is that patriarchal ideology shapes attitudes and beliefs, women's roles, men's roles and their relationship to each other which disadvantage them in dealing with sexual matters and ultimately determining all forms of violence against women. Rape is a manifestation of the male dominance over women and a strategy used by them to preserve their control over women. Matoesian (1993:10-11) argues that rape and other sexual violence are sufficiently systematic and persistent across space and time with sufficiently patterned outcomes throughout the legal system, to constitute a social structure.

Based on their criticism of the cultural and structural organisation within society, feminists have looked at the social, cultural and structural factors which influence the crime of rape. Their analyses lie in historical, anthropological, cultural, structural and social investigation. Sanday (1981; see also Brownmiller, 1975; Shapcott, 1988; Donat and D'Emilio, 1992) on her historical-anthropological study, has found that rape-prone societies with a high incidence of rape are characterised by male domination sustained by male-based value system and the segregation of men and women which accuses women as a main cause for male sexual offences. In some of these societies, rape is ritually and ideologically condoned and a means by which men express their superiority over women (Matoesian, 1993). Even in some communities, it is widely known that women could be sacrificed for socio-religious rituals. Sanday told her finding (1981: 8). She says that normal

heterosexual intercourse between Gusii males and females (an African tribe) is conceived as an act in which a man overcomes the resistance of a woman and causes her pain. When a bride is unable to walk after her wedding night, the groom is considered by his friends as "a real man" and he is able to boast of his exploits, particularly if he has been able to make her cry. Gusii Older women contribute to the groom's desire to hurt his new wife. These women insult the groom.

An interesting fact is narrated by LeVine (1959: 969) about the woman's nightmare, namely, her wedding night in which older women mock the groom by saying that: "You are not strong, you can't do anything to our daughter. When you slept with her you didn't do it like a man. You have a small penis which can do nothing. You should grab our daughter and she would be hurt and scream – then you're a man." The groom answer boastfully: "I am a man! If you were to see my penis you would run away. When I grabbed her she screamed. I am not a man to be joked with. Didn't she tell you? She cried -ask her!"<sup>9</sup>

The above finding clearly indicates that women have ideologically been victimised. By contrast, rape-free-societies are characterised by sexual equality and mutual respect between males and females (Sanday 1981:16-18). Being aware of this situation, it can be suggested that when ideology, economic and political power, including the organisation of violence is concentrated in the hands of males, the use of force and sexual violence against women will be high.

The subordination of women within patriarchal system makes them vulnerable to crimes such as rape. Further to this, their position is continually reinforced where there is a belief system which stereotypes women. For example a convicted rapist said "I thought she is an easy going girl" (*Tempo*, November 13, 1993: 31). Psychologically, this pre-assumption to some degree has justified his offence and encouraged him to commit that crime.

Matoesian (1993: 13-14, Scully; 1990: 97-117) argues that rape and sexual violence against women are reproduced and legitimate through culturally and socially mediated interpretative devices which justify, excuse and glorify male violence against female. Rape myths (Burt, 1980; Burt and Albin, 1981; Bart and O'Brien, 1985; Shapcott, 1988), techniques of neutralisation (Sykes and Matza, 1957; Scully and Marolla, 1985; Scully,

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<sup>9</sup> I would apologise to mention this example. By this I want to demonstrate that women's victimisation is culturally, socially and ideologically induced.

1990) or more generally, patriarchal ideologies provide the linguistic rationalisation and interpretative frameworks for assessing the rape incidence. For example, many studies (Scully and Marolla 1985, Scully 1990, Shapcott 1988) have found that a significant number of convicted rapists did not acknowledge that they had committed a rape. A common notion amongst them is that what they have done is not rape but rather other forms of sexual violence.

It seems important to elaborate more critically why and how these myths and stereotypes work in the context of rape. In a complementary vein from the symbolic interactionist perspective, Scully (1990: 98; Scully and Marolla, 1985) notes how the structure of patriarchal society provides both rapists and normal males with accounts and situated vocabularies of motives with which to rationalise, excuse and justify their sexual aggression against females. To put more theoretically, the misalignment between culture and action is articulated in and through socially structured and culturally approved linguistic devices which militate against and cognitively repress the untoward, indeed criminal, interpretations of their deviant misdeeds (Matoesian, 1993: 13-14).

In addition to this, rape against women has also traditionally been institutionalised and legitimated through the legal system of the state (Smart, 1989; Matoesian, 1993). There is evidence to suggest that the state fails to intervene against sexual violence (MacKinnon, 1989). For example, the definition of rape within criminal laws has disadvantaged women by burdening them with providing legal evidence within an adversarial legal system. The responsibility for providing legal evidence is unfairly placed on the victim.

This disadvantage becomes worse when the institutions which are authorised to investigate the rape crime are often biased toward re-presenting male interests (Matoesian, 1993:15). For example, a well-known American attorney once began a rape trial by placing a coke bottle on a table, spinning it and demonstrating to the jury his difficulty in forcing a pencil into opening (Donat and D'Emilio, 1992: 13). The implication was that a woman would be able to fend off a man attempting to rape her (Schwendinger and Schwendinger, 1983). This example clearly indicates that the social structure, myths and beliefs about women, the judicial institution and the legal system have disadvantaged women in relation to rape.

Along with the line of the logic of their criticism of patriarchal ideologies, feminists<sup>11</sup> (Matoesian, 1990; Estrich, 1987; Temkin, 1987: 206) argued that the way to solve the

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<sup>10</sup> MacKinnon (1989) and Smart (1989) have contributed a critical study in this context.

problem of rape or to prevent women from being raped is inadequate if only tackled by legal reforms. However it also should be underpinned by the changing of social beliefs and views about women. Insomuch as the rape myths, rape definitions and male domination within societies do not change, it is hopeless to prevent women from being raped. This point is especially true since it is evident that heavy punishment does not work accurately as to deter candidates of crimes or criminals.

Apart from the critical ideas developed by many feminists, it is crucial to raise several questions; How far can the gender inequality explain the nature of rape, especially when women have been raped by men who are subordinate to them or interracial rape, for example, the black raped the white, Serbian soldier have raped Bosnian women, Pakistani soldier raped Bengali women, and Japanese soldier raped Korean women? Based on the previous questions, it seems to me that the gender inequality theory overemphasises social structures where women are subordinated to men, whereas fails to consider such as women who are not subordinate to men, and the growing homosexual and lesbian phenomena. Could the feminist theory be applied in the context in which a woman victimises a man sexually, or rape between homosexual men or between lesbian women? From this point of views, I thought that the feminist theory, contradictory to their core idea, reflects such bias representing a particular dominant group within society.

Based on the weaknesses of three individual theories discussed, I propose that the nature of rape may be explained in terms of the *dependence* and *domination* between the offender and the victim. This dependence can be economy, gender-ideology, political power, physical and psychological states. Therefore, to understand better the issue revolving around rape, it is crucial to investigate the problem of rape within its economic, social, cultural and political and psychological contexts. In other words, by using a single theory, it is inadequate to explain the complexity of rape, because rape is a multi dimensional phenomenon.

#### IV. CONCLUSION

This paper has critically discussed some important issues revolving around rape crimes. Rape as a social and criminal phenomenon is not new. It was also found even in very "primitive" societies. However, the contentious discussion concerning rape, particularly within the context of criminological theories, generally speaking, emerged at the 1970s when feminist movements successfully contributed major studies from social, cultural, historical and anthropological perspectives.

There are several points which seem appropriate to be stressed in this final section.

Insomuch as rape is a multi dimensional phenomenon, the problems of rape may not be comprehensively worked out and explained without considering local contexts where rape occurs. Psychopathological theory, to some extent, has failed to comprehend the complexity of rape by only referring it to the individual rapists. Rape is not an individual problem, but it is more an inevitable product of "social change" and a major social component which stems from social, cultural and political values.

If rape is a social problem, we would investigate its causation within social and cultural basis. Opportunity structure and inequality theories have contributed major influences for research on rape. The core points of these theories have demonstrated strong effects of social structures and culture on the rape crime. If we focus on rape in Indonesian, there can be suggested several criminological issues. First, considering the effect of social and cultural (local) factors on social phenomena, the nature of rape cannot be deliberately generalised. It reflects and is related to its specific contexts. For example, to some extent, prominent criminological theories cannot explain why some Indonesian families' victim prefer to marry their daughter to a man who has raped her, and why the proportion of fathers raping their daughter is quite high in Indonesia as compared to that in other countries.

The first point implies that the application of general theories which are generally developed from western cultural and social contexts should be taken into account with some caution. From this point of view, it may be suggested that it is crucial for Indonesian people to develop a specific criminological explanation of rape which should be based on Indonesian value systems. However, to do so, Indonesian scholars could not ignore general theories as far as they can provide them with basic criminological insights. Secondly, it can be suggested that the problem of rape may not be adequately explained a single theory. Therefore, it may be better for some people to synthesize various theories to comprehend the complexity of rape.

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