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Topic: *Strengthening Legal Frameworks for Combating Human Trafficking and Enhancing Protection of Women and Children*

State Accountability for Gross Human Rights Violations Arising from Human Trafficking Syndicates Based on the Principle of Justice

Yayan Supiani

Faculty of Law, Universitas Islam Sultan Agung (UNISSULA) Semarang, Indonesia, E-mail: notyayansupiani16@gmail.com

Abstract. *The crime of human trafficking (TPPO) has now transformed into a form of modern slavery that is systemic and organized, reducing the most fundamental human rights into mere market commodities. When a state fails to fulfill its due diligence obligations to prevent, protect, and prosecute perpetrators, such inaction may be qualified as a form of gross human rights violation committed through omission. This study examines the urgency of recognizing human trafficking on a syndicate scale as a gross human rights violation that triggers state responsibility erga omnes. This research employs a normative-juridical method with conceptual and statutory approaches to deconstruct the concept of state responsibility in international and national law. The primary focus of the analysis lies in how to integrate the principle of Dignified Justice into the framework of state accountability, in order to shift the paradigm from merely imposing conventional criminal punishment toward the comprehensive restoration of victims' rights. The findings conclude that state accountability should no longer be limited to reactive and sporadic criminal law enforcement efforts. A reconstruction of legal norms is required to position the state as the primary party responsible for losses suffered by victims due to systemic negligence. This reconstruction is based on the state's obligation to provide restitution, rehabilitation, and compensation, as well as to guarantee non-recurrence through policy reforms that uphold the human dignity of victims as sovereign legal subjects.*

Keyword: *Justice; Principle; Trafficking; Violations.*

1. Introduction

Human Trafficking (TPPO) has now evolved into one of the most destructive transnational crimes against the global humanitarian order, where criminal syndicates operate beyond state jurisdictional boundaries by exploiting gaps in border control, systemic poverty, and social vulnerability. This crime can no longer be viewed merely as an ordinary criminal offense but has

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reached such a degree of systematic cruelty that it deserves to be classified as a gross human rights violation.

heoretically, the state bears a fundamental responsibility to ensure protection for all its citizens from the threat of modern slavery. This constitutional mandate is not a discretionary obligation but an imperative duty rooted in international law and the doctrine of popular sovereignty. The state's failure to stop the operations of human trafficking syndicates reflects a protection deficit that, sociologically, may be interpreted as a form of betrayal of the social contract.

Within the framework of human rights law, a state may be held accountable not only through direct actions (acts of commission) that violate rights but also through omissions when the state is aware of serious threats yet fails to take adequate preventive or protective measures. The sluggishness of law enforcement agencies in dismantling trafficking syndicates is often caused by systemic corruption or bureaucratic incapacity, which, from a justice perspective, places the state in the position of an indirect facilitator of human trafficking perpetrators.

Human trafficking involving syndicates is often highly organized, involving powerful actors with extensive political and economic networks. When the state is unable to penetrate the wall of impunity constructed by such syndicates, the dignity of law as a protector of the vulnerable becomes eroded. This causes victims especially women and children to become trapped in prolonged cycles of suffering without access to dignified justice.

The principle of justice in modern criminal law demands a shift in focus from pure retribution toward restoration. However, in cases of gross human rights violations arising from human trafficking, existing recovery systems remain heavily dependent on the state's ability to apprehend perpetrators. If perpetrators are not captured, victims' rights to justice are often buried as well, a reality that contradicts the essence of dignified justice, which should position victims at the center of legal protection.

The Theory of Dignified Justice teaches that law must not be mechanistic or merely a tool for the state to satisfy a desire for punishment. Law must honor human beings and provide genuine protection for their inherent rights. Therefore, state accountability in the context of human trafficking should be understood as an objective responsibility (strict liability), whereby the state remains responsible for victims' losses regardless of whether perpetrators are successfully prosecuted.

The main argument of this paper is that human trafficking carried out by syndicates, when occurring on a massive and systematic scale with state involvement or acquiescence, should be

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recognized as a gross human rights violation. Such recognition would open the door to broader accountability mechanisms, including victims' rights to seek direct compensation from the state through civil or constitutional legal mechanisms without having to wait for the completion of often lengthy and complicated criminal proceedings.

The need for this legal reconstruction is becoming increasingly urgent given the complexity of syndicate modus operandi, which continues to evolve from physical trafficking to cyber-based exploitation. Existing legal instruments, including Law No. 21 of 2007, remain overly focused on prosecuting individual perpetrators and place insufficient emphasis on the state's positive obligation to ensure a complete and comprehensive protection system for victims.

This research aims to analyze how the principle of justice can be integrated into mechanisms of state accountability for gross human rights violations in human trafficking cases. The analysis will address not only formal legal aspects but also philosophical dimensions concerning the nature of the state as the primary protector of human dignity. The objective is to create a model of accountability that is responsive to victims' needs.

Through a normative-juridical and comparative approach, this article will examine how states can be compelled to become more accountable in carrying out their functions. It is hoped that the findings of this research will contribute to the development of national law in formulating policies that are more victim-oriented and strengthen the rule of law in a manner that is truly just and dignified.

2. Research Methods

This study employs normative legal research, namely research focused on doctrinal analysis of legal norms, legal principles, and applicable legislation. Research Approaches: Statutory Approach: Analyzing national regulations and international instruments related to human rights and human trafficking. Conceptual Approach: Exploring the doctrine of Dignified Justice and the concept of state responsibility in international law to construct arguments regarding state accountability. Primary Legal Materials: The 1945 Constitution of the Republic of Indonesia. Law Number 26 of 2000 concerning Human Rights Courts. Law Number 21 of 2007 concerning the Eradication of the Crime of Human Trafficking. The International Covenant on Civil and Political Rights (ICCPR). The Rome Statute of the International Criminal Court.

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3. Results and Discussion

3.1. Conceptualizing Human Trafficking as a Gross Human Rights Violation

Human trafficking, particularly when involving international syndicates, is not merely an ordinary transnational crime but a form of modern slavery that fundamentally deprives individuals of autonomy and human dignity. From a human rights perspective, any act that treats human beings as objects of exploitation—whether for sexual exploitation or forced labor—violates the right to live freely and the right not to be subjected to torture or cruel treatment. When such acts are carried out systematically by syndicates that control certain territories or economic sectors, the severity of the crime surpasses the threshold of ordinary criminal offenses.

The “gross” nature of a human rights violation is measured by the intensity of suffering inflicted and the breadth of its impact. Human trafficking syndicates rarely operate alone; they establish networks capable of penetrating state security systems. Their success in operating human supply chains with minimal interference demonstrates a structural failure of the state in carrying out prevention efforts. If such failures persist continuously, the state's conduct in allowing or even becoming part of such networks may be categorized as a gross human rights violation through omission.

The concept of state responsibility in international law affirms that a state can be held accountable for the actions of non-state actors (syndicates) when it fails to exercise due diligence. This due diligence includes the obligation to prevent, investigate, punish, and provide remedies for victims. If a state knowingly ignores reports of human trafficking or fails to provide adequate protection mechanisms, it breaches its international obligations. Therefore, classifying human trafficking as a gross human rights violation is not merely a label but a legal instrument to activate state responsibility.

It is important to understand that labeling an act as a “gross human rights violation” carries much broader legal implications than ordinary criminal offenses. Gross human rights violations are not subject to statutes of limitations, may trigger universal jurisdiction, and involve different evidentiary considerations. By recognizing human trafficking as a gross human rights violation, the justice system can compel the state to conduct more aggressive investigations, comprehensively seize syndicate assets, and provide adequate compensation to victims as part of the state's responsibility.

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However, the greatest challenge lies in the domestic legal system's lack of readiness to accommodate human trafficking within the framework of the Human Rights Court Law. Currently, Law No. 26 of 2000 limits gross human rights violations to genocide and crimes against humanity. Academic debate should be encouraged to reinterpret "crimes against humanity" in the context of modern slavery (human trafficking) involving numerous victims systematically, thereby expanding legal protection for victims.

The state must stop hiding behind the argument that human trafficking is carried out by private actors (syndicates). Under the law of state responsibility, the state is a single entity with an absolute obligation to ensure the safety of its citizens. If human trafficking syndicates are allowed to flourish within a jurisdiction, the state has indirectly adopted the consequences of their actions. This responsibility is objective and cannot be avoided on the grounds that the state lacked malicious intent.

Within the framework of Dignified Justice (Keadilan Bermartabat), a state that allows its citizens to become slaves is a state that has failed to uphold human dignity. Justice cannot prevail if human dignity can be traded at a certain price. Therefore, legal reconstruction should establish strict standards of state accountability, whereby every failure to protect victims of human trafficking is automatically regarded as a gross human rights violation requiring full compensation.

Conceptually, this transformation would shift the state's position from a mere supervisor to the primary bearer of responsibility. By recognizing human trafficking as a gross human rights violation, greater legal power is granted to victims to hold the state accountable not merely as a supplementary party, but as an entity responsible for the suffering endured. This is the essence of enforcing genuine justice in the face of organized criminal syndicates.

3.2. Analysis of the Failure of Current State Accountability Mechanisms

The current system of state accountability toward victims of human trafficking remains trapped in a formalistic model that is heavily dependent on the success of criminal proceedings. If the accused cannot be found or is acquitted by the court, victims' access to justice—particularly their rights to restitution and compensation—is often closed off. This mechanism is clearly unjust because it places victims' fate in the uncertainty of criminal proceedings, whereas the right to remedy should be independent of the perpetrator's criminal status.

Another major problem is the sectoral ego among law enforcement institutions, which causes fragmentation in case handling. The police, prosecution service, and Ministry of Social Affairs

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often operate independently without solid integration of data concerning trafficking victims. As a result, victims' rights are frequently overlooked amid the rush to gather criminal evidence. The state fails to appear as a unified entity obligated to restore victims' dignity, leaving victims stranded within a rigid bureaucracy.

Furthermore, the restitution scheme regulated under the Human Trafficking Law is often ineffective because it depends on the perpetrator's assets. In reality, trafficking syndicates are highly skilled at concealing assets, meaning that by the time a judgment is issued, there are often no assets left to seize for restitution payments. As the entity responsible for protecting human rights, the state should establish a victim trust fund financed by public funds to guarantee victims' recovery, yet this has not been optimally implemented.

State failure is also evident in the lack of protection for witnesses and victims in trafficking cases. Many victims are forced to withdraw their reports due to intimidation by syndicates, and the state often cannot guarantee their physical and psychological security. In the human rights context, the inability of the state to ensure witness security constitutes a fatal protection failure that ultimately allows syndicates to continue operating with complete impunity.

Moreover, law enforcement approaches still tend to criminalize victims, especially in trafficking cases involving sexual exploitation. Victims are often arrested on charges related to pornography or immigration violations instead of being recognized as victims requiring protection. This criminalization represents one of the most tangible forms of state human rights violations, where the state, which should act as a protector, instead becomes an oppressor of those who are already suffering.

The state's inability to conduct proactive asset tracing also creates a significant loophole. State accountability should include maximum efforts to impoverish trafficking syndicates. Without such measures, syndicates will always possess the resources necessary to continue operating and purchase protection from corrupt officials. Delays in asset confiscation are not merely technical legal issues but reflect the state's political will to fulfill its human rights obligations.

From the perspective of Dignified Justice, these failures stem from a mindset among officials that views human trafficking cases as statistical figures rather than humanitarian tragedies demanding empathy and concrete action. Authorities focus more on the quantity of arrests than the quality of victim recovery. This paradigm must be dismantled and replaced with an approach that regards the restoration of victims' dignity as the primary indicator of successful law enforcement.

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In conclusion, current accountability mechanisms remain offender-oriented and neglect the human rights dimension. As long as the state views its responsibility as limited to punishing perpetrators, victims will continue to be neglected. Radical changes are required to obligate the state to guarantee victims' right to recovery regardless of the outcome of criminal proceedings, as a logical consequence of its responsibility for gross human rights violations that it has allowed to occur.

3.3. Reconstructing State Accountability Based on Dignified Justice

The reconstruction of state accountability must begin with a paradigm shift from fault-based liability to strict liability for the state in large-scale human trafficking cases. If the state fails to prevent syndicates from operating over an extended period, it should be presumed negligent and therefore obligated to provide compensation without requiring proof of specific fault. This reflects the state's commitment to placing the protection of human dignity above administrative interests.

The second step is integrating restitution and compensation rights into administrative justice mechanisms or specialized courts for human rights victims. Victims should not be forced to bear the burden of proving complex damages within criminal trials that focus solely on the defendant's guilt. An Administrative Reparation mechanism should be established whereby the state directly compensates trafficking victims as acknowledgment of its failure to provide protection, before subsequently seeking reimbursement from the perpetrator syndicates.

Victim protection institutions must be strengthened with full autonomy and independent budgets, no longer subordinated to the police or technical ministries. These institutions should possess the authority to make emergency decisions, including granting protection status, medical access, and psychological support immediately upon receiving reports. State responsibility is manifested through unconditional access for victims to recovery services funded by the state treasury.

In reconstructing legal norms, there must be an absolute Non-Criminalization clause for trafficking victims. The state must guarantee that victims cannot be prosecuted for any actions committed while under the control of trafficking syndicates. This is not merely an additional provision but a constitutional principle protecting the right to life and individual liberty. Failure by officials to apply this principle should be challengeable through compensation mechanisms funded by the state.

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Public participation and the involvement of NGOs in monitoring state performance must also be formally regulated by law. The state should be required to submit annual reports on the effectiveness of victim protection to an independent body consisting of human rights experts, practitioners, and victim representatives. Such transparency would compel law enforcement agencies to be more accountable in handling organized trafficking cases.

This reconstruction should also include elevating the status of human trafficking crimes within the Human Rights Court Law. Law No. 26 of 2000 should be revised to include “Organized Human Trafficking” within the category of crimes against humanity. This legislative step would provide a strong legal foundation for judges to determine state responsibility according to higher international legal standards and more comprehensive victim protection.

Philosophically, Dignified Justice requires that law always aim to humanize human beings. State accountability should no longer be measured by how many perpetrators are imprisoned but by how many victims have had their dignity and rights fully restored. Every legal policy should be tested by a simple question: “Does this protect the dignity of victims, or does it perpetuate their suffering”

This is Research this reconstruction is not merely about blaming the state but about placing the state in its proper position: as the highest protector of human rights. By imposing clear responsibilities on the state, justice is not only provided to victims who have suffered but also creates a deterrent effect against criminal syndicates that have long felt immune from the law. This is the path toward a justice system that is not merely a formality but one imbued with humanity and dignity.

4. Conclusion

State responsibility for gross human rights violations in human trafficking cases represents a manifestation of the constitutional obligation to protect the dignity of every citizen. The analysis demonstrates that the current mechanism, which relies heavily on criminal prosecution of perpetrators, has failed to provide adequate protection for victims. The necessary legal reconstruction must be based on the principle of Dignified Justice, under which the state bears strict liability to restore victims’ rights without depending on the outcome of criminal trials. By classifying human trafficking as a gross human rights violation and adopting proactive administrative compensation mechanisms, the state can transform into an effective protector. Ultimately, justice for victims of human trafficking will not be achieved through prison cells but through the state's full guarantee that human dignity will never again be compromised by the greed of criminal syndicates.

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