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

Reconceptualizing Victim Protection Frameworks for Women and Children Against Human Trafficking: A Human Rights-Based Approach in Indonesia

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Abstract. Human trafficking remains one of the most serious human rights violations, disproportionately affecting women and children as the most vulnerable groups. Although Indonesia has established a relatively comprehensive legal framework through national legislation and the ratification of international human rights instruments, significant challenges remain in the implementation of victim protection, particularly regarding victim identification, access to justice, rehabilitation, restitution, social reintegration, and inter-agency coordination. This study aims to analyze the implementation of human rights principles in protecting victims of human trafficking, evaluate the conformity of Indonesia's legal framework with international human rights standards, and formulate a more comprehensive victim protection model. This research employs normative legal research using statutory, conceptual, and comparative approaches based on primary, secondary, and tertiary legal materials. The findings reveal that victim protection should move beyond an offender-oriented criminal justice approach toward a comprehensive human rights-based framework that recognizes victims as rights holders and the State as the primary duty bearer. As the study's principal contribution, it proposes the Integrated Human Rights-Based Victim Protection Framework (IHR-VPF), consisting of six interconnected pillars: Prevention, Early Identification and Immediate Protection, Access to Justice, Recovery and Reintegration, Institutional Coordination, and International Cooperation. The proposed framework offers a comprehensive conceptual



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model for strengthening sustainable protection of women and children against human trafficking in accordance with international human rights principles.

Keywords: *Human trafficking; Human rights; Victim protection; Women and children; State responsibility; IHR-VPF.*

1. Introduction

The protection of human rights constitutes one of the fundamental obligations of every State in ensuring respect for human dignity, particularly for vulnerable groups such as women and children. Nevertheless, human trafficking continues to pose a serious threat to the realization of these rights by subjecting victims to various forms of exploitation that deprive them of their liberty, security, physical and psychological integrity, and the right to live with dignity. Consequently, human trafficking is no longer regarded merely as a criminal offence but as a grave human rights violation that requires a comprehensive victim protection framework grounded in international human rights principles.

Over the past two decades, the international community has increasingly recognized that human trafficking should not merely be addressed through criminal law enforcement but must also be understood as a serious human rights violation requiring comprehensive protection of victims. This paradigm shift is reflected in the adoption of the Protocol to Prevent, Suppress and Punish Trafficking in Persons, Especially Women and Children (Palermo Protocol), which emphasizes that States are responsible not only for prosecuting offenders but also for preventing trafficking, protecting victims, promoting international cooperation, and ensuring effective remedies and recovery. Consequently, victim protection has become an essential pillar of international anti-trafficking policies and a fundamental obligation under international human rights law.

Within the international human rights framework, the Human Rights-Based Approach (HRBA) has emerged as the dominant paradigm for combating human trafficking. Rather than treating trafficked people merely as witnesses in criminal proceedings, this approach recognizes victims as rights holders whose inherent dignity and fundamental rights must be respected, protected, and fulfilled. Correspondingly, States function as duty bearers, bearing positive obligations to prevent trafficking, identify victims, provide immediate protection, investigate violations, prosecute offenders, and ensure comprehensive rehabilitation and long-term recovery. Accordingly, the effectiveness of anti-trafficking measures should not be measured solely by the number of convictions but also by the



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extent to which States guarantee victims' access to justice, legal assistance, healthcare, psychosocial services, compensation, restitution, and sustainable reintegration into society.

International human rights law further imposes positive obligations upon States through the principle of due diligence, requiring governments to take all reasonable legislative, administrative, judicial, and institutional measures to prevent human rights violations and protect individuals from exploitation committed by both State and non-State actors. Consequently, the failure to provide effective protection for victims of trafficking may constitute a breach of States' international human rights obligations. This understanding has significantly expanded State responsibility beyond criminal prosecution toward a comprehensive victim-centered protection framework emphasizing prevention, protection, participation, empowerment, and recovery.

The development of international legal instruments has strengthened this rights-based perspective. In addition to the Palermo Protocol, victim protection is supported by numerous international human rights treaties, including the Convention on the Elimination of All Forms of Discrimination against Women (CEDAW), the Convention on the Rights of the Child (CRC), the International Covenant on Civil and Political Rights (ICCPR), the International Covenant on Economic, Social and Cultural Rights (ICESCR), and the Recommended Principles and Guidelines on Human Rights and Human Trafficking issued by the Office of the United Nations High Commissioner for Human Rights (OHCHR). Collectively, these instruments establish that anti-trafficking policies must be grounded in respect for human dignity, gender equality, child protection, non-discrimination, access to justice, and effective remedies for victims.

In Indonesia, efforts to combat human trafficking have been institutionalized through the ratification of the Palermo Protocol and the enactment of Law Number 21 of 2007 concerning the Eradication of the Crime of Human Trafficking. Furthermore, constitutional protection is guaranteed under the 1945 Constitution of the Republic of Indonesia, particularly through provisions safeguarding equality before the law, the right to life, personal security, human dignity, and special protection for children against violence and discrimination. These constitutional and statutory provisions demonstrate Indonesia's commitment to protecting victims of trafficking and fulfilling its international human rights obligations.

Despite these legal developments, significant challenges remain in the practical implementation of victim protection. Various national and international reports indicate persistent weaknesses in victim identification procedures, legal



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assistance, psychosocial rehabilitation, restitution mechanisms, compensation schemes, institutional coordination, and long-term social reintegration. As a result, many victims continue to experience secondary victimization, limited access to justice, and recurring vulnerability to exploitation after rescue due to inadequate recovery and empowerment programs.

Existing scholarship on human trafficking has predominantly focused on criminal law, criminal justice policies, transnational organized crime, and international law enforcement cooperation. While these studies have contributed substantially to understanding trafficking as an organized criminal phenomenon, they have devoted comparatively limited attention to comprehensive victim protection from a human rights perspective. Obokata (2006) argues that effective anti-trafficking strategies should be evaluated according to four core State obligations: preventing trafficking, prosecuting offenders, protecting victims, and addressing the structural causes of trafficking.

Similarly, Gallagher (2010) emphasizes that victims should be recognized primarily as holders of enforceable human rights rather than merely as instruments of criminal prosecution. Waisman (2010) further develops the concept of State due diligence, arguing that governments bear responsibility throughout the entire continuum of victim protection from prevention and identification to rehabilitation, restitution, and reintegration. Likewise, Stoyanova (2017) demonstrates that effective victim protection requires integrating anti-trafficking measures within broader international human rights obligations rather than relying exclusively on criminal justice mechanisms.

Nevertheless, existing studies continue to address victim protection through fragmented perspectives, often examining legal protection, gender equality, children's rights, institutional coordination, or human rights obligations separately. Consequently, a significant research gap remains concerning the absence of an integrated conceptual framework capable of comprehensively combining human rights principles, victim-centered protection, gender-sensitive approaches, child-sensitive protection, and State positive obligations into a unified victim protection model applicable to developing countries such as Indonesia.

This study addresses that gap by proposing an Integrated Human Rights-Based Victim Protection Framework, which synthesizes the principles of human rights, victim-centered protection, gender equality, child-sensitive protection, State due diligence, institutional coordination, and sustainable victim recovery into a single conceptual model. Unlike previous studies emphasizing criminal prosecution, this framework positions victim protection as the primary objective of anti-trafficking



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policy through integrated prevention, early identification, legal protection, psychosocial rehabilitation, restitution, social reintegration, victim empowerment, and international cooperation.

The significance of this research lies in its contribution to strengthening Indonesia's victim protection paradigm by shifting the focus from offender-oriented criminal justice toward comprehensive human rights protection. Under this perspective, the State functions not merely as a law enforcer but as a duty bearer responsible for ensuring that every victim receives effective protection, meaningful recovery, and sustainable empowerment in accordance with international human rights standards.

Based on the foregoing discussion, this study addresses three research questions: (1) How is the human rights framework implemented in protecting women and children who become victims of human trafficking in Indonesia? (2) To what extent does Indonesia's legal framework comply with international human rights standards concerning victim protection? and (3) How can an Integrated Human Rights-Based Victim Protection Framework be developed to strengthen the protection of women and children against human trafficking in Indonesia? Accordingly, this study aims to analyze the implementation of human rights principles in victim protection, identify the gap between legal norms and practical implementation, and formulate a comprehensive victim protection framework that reinforces the fulfillment of human rights and the sustainable recovery of trafficking victims.

2. Research Methods

This study employs normative legal research to examine national and international legal frameworks governing the protection of women and children who become victims of human trafficking from a human rights perspective. The research focuses on analyzing legal norms, principles, and doctrines that define States' obligations to respect, protect, and fulfill the rights of trafficking victims in accordance with international human rights law.

The study adopts three complementary research approaches, namely the statutory approach, conceptual approach, and comparative approach. The statutory approach is employed to analyze Indonesian legislation governing the protection of trafficking victims, including the 1945 Constitution of the Republic of Indonesia, Law Number 21 of 2007 concerning the Eradication of the Crime of Human Trafficking, Law Number 39 of 1999 concerning Human Rights, together with relevant international legal instruments such as the Protocol to Prevent, Suppress and Punish Trafficking in Persons, Especially Women and Children (Palermo Protocol), the Convention on the Elimination of All Forms of



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Discrimination against Women (CEDAW), the Convention on the Rights of the Child (CRC), the International Covenant on Civil and Political Rights (ICCPR), and the International Covenant on Economic, Social and Cultural Rights (ICESCR).

The conceptual approach is utilized to examine the theoretical foundations of the human rights-based approach, victim-centered approach, positive obligations, due diligence, access to justice, and effective remedies, which collectively serve as the analytical framework for developing a comprehensive victim protection model. Meanwhile, the comparative approach is employed to compare Indonesia's legal framework with international standards established by the United Nations (UN), the Office of the United Nations High Commissioner for Human Rights (OHCHR), the United Nations Office on Drugs and Crime (UNODC), and selected jurisdictions that have adopted rights-based victim protection mechanisms.

The research relies on primary, secondary, and tertiary legal materials collected through library research. Primary legal materials consist of national legislation, international conventions, international protocols, and international human rights instruments concerning the protection of trafficking victims. Secondary legal materials include peer-reviewed international journal articles, academic books, previous research, official reports issued by international organizations, and policy documents addressing human trafficking, victim protection, human rights, and State obligations. Tertiary legal materials comprise legal dictionaries, encyclopedias, and other supporting references used to clarify legal concepts examined in this study.

Legal materials were collected through documentary research by systematically identifying, classifying, reviewing, and evaluating relevant legal sources. The collected materials were subsequently analyzed qualitatively using normative legal analysis through grammatical, systematic, historical, teleological, and comparative interpretation. The analysis aims to evaluate the consistency between Indonesia's legal framework and international human rights standards governing victim protection while identifying normative and institutional gaps in the implementation of anti-trafficking policies. Based on these findings, this study proposes an Integrated Human Rights-Based Victim Protection Framework, which integrates human rights principles, victim-centered protection, gender equality, child-sensitive protection, and States' positive obligations into a comprehensive conceptual framework for strengthening the protection of women and children against human trafficking.



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3. Results and Discussion

3.1. Human Rights Framework as the Foundation for Protecting Women and Children from Human Trafficking

The findings demonstrate that the protection of trafficking victims has shifted from a law enforcement-oriented paradigm toward a human rights-based approach. Within this perspective, women and children are recognized as rights holders entitled to protection, recovery, and access to justice, while States function as duty bearers responsible for respecting, protecting, and fulfilling victims' rights through effective and sustainable public policies. Consequently, the effectiveness of anti-trafficking measures should no longer be measured solely by criminal prosecution but also by the extent to which States ensure the comprehensive fulfillment of victims' rights.

Furthermore, the principles of positive obligations and State due diligence require governments to take proactive measures to prevent trafficking, identify victims, provide immediate protection, and ensure effective rehabilitation and social reintegration. These principles are complemented by victim-centered, gender-sensitive, and child-sensitive approaches that prioritize victims' dignity and long-term recovery. Therefore, this study argues that a human rights framework should serve as the primary foundation for protecting women and children against trafficking because it integrates prevention, protection, recovery, and empowerment into a comprehensive victim protection system.

3.2. Evaluation of Indonesia's Legal and Victim Protection Framework

The findings indicate that Indonesia has established a relatively comprehensive legal framework through Law Number 21 of 2007 concerning the Eradication of the Crime of Human Trafficking, the ratification of major international human rights instruments, and the establishment of institutions responsible for victim protection. Nevertheless, significant challenges remain in the implementation of victim protection, particularly concerning inter-agency coordination, victim identification, rehabilitation services, restitution mechanisms, and social reintegration. These challenges demonstrate a persistent implementation gap between legal commitments and practical protection measures.

The study also reveals that Indonesia's anti-trafficking policies continue to be dominated by a criminal justice approach, where policy success is primarily assessed through criminal investigations and convictions rather than victims' long-term recovery. Moreover, structural factors such as poverty, gender inequality, limited educational opportunities, unsafe migration, and the growing misuse of digital technology continue to increase the vulnerability of women and



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children to trafficking. Therefore, effective victim protection requires integrating legal enforcement with social development, economic empowerment, and international cooperation within a comprehensive human rights framework.

3.3. Development of the Integrated Human Rights-Based Victim Protection Framework

The findings suggest that a law enforcement-oriented approach alone is insufficient to guarantee comprehensive protection for trafficking victims. Accordingly, this study proposes the Integrated Human Rights-Based Victim Protection Framework (IHR-VPF) as a conceptual model consisting of six interconnected pillars: Prevention, Early Identification and Immediate Protection, Access to Justice, Recovery and Reintegration, Institutional Coordination, and International Cooperation. These pillars establish an integrated victim protection system extending from prevention to sustainable recovery and empowerment.

The principal contribution of this study is the development of the Integrated Human Rights-Based Victim Protection Framework (IHR-VPF), which integrates the principles of the human rights-based approach, victim-centered approach, gender-sensitive approach, child-sensitive approach, positive obligations, and State due diligence into a unified victim protection model. Unlike conventional anti-trafficking policies that emphasize criminal prosecution, the proposed framework highlights the importance of ensuring the sustainable fulfillment of victims' rights through preventive, protective, restorative, and collaborative strategies. Consequently, the effectiveness of anti-trafficking policies should be assessed not only by the number of successful prosecutions but also by the State's ability to protect, recover, and empower women and children as victims of human trafficking.

4. Conclusion

This study concludes that the protection of women and children as victims of human trafficking should be implemented through a human rights-based approach that recognizes victims as the central focus of protection and the State as the primary duty bearer responsible for respecting, protecting, and fulfilling their rights. Although Indonesia has established a comprehensive legal framework, significant challenges remain in the effective implementation of victim protection and recovery. As its main contribution, this study proposes the Integrated Human Rights-Based Victim Protection Framework (IHR-VPF), which integrates six key pillars: Prevention, Early Identification and Immediate Protection, Access to Justice, Recovery and Reintegration, Institutional Coordination, and International Cooperation. The framework offers a new perspective by emphasizing that the effectiveness of anti-trafficking policies



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should be assessed not only through criminal prosecution but also through the State's ability to ensure sustainable protection, recovery, and empowerment of trafficking victims in accordance with international human rights principles. The Government should strengthen the implementation of victim protection through a human rights-based approach by enhancing inter-agency coordination, expanding access to comprehensive protection and recovery services, reinforcing international cooperation, and integrating the Integrated Human Rights-Based Victim Protection Framework (IHR-VPF) into national policies and programs to ensure sustainable and comprehensive protection for women and children who become victims of human trafficking.

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