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

Reconstructing the State's Constitutional Responsibility for Guaranteeing the Constitutional Rights of Women and Children against Human Trafficking and Exploitation Based on the Value of Justice

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Abstract. *Human trafficking and the exploitation of women and children remain serious challenges, indicating that the implementation of the State's constitutional responsibility to protect the constitutional rights of its citizens has not yet been fully optimized. Although Indonesia has enacted various legal instruments to address these crimes, their implementation continues to face significant challenges, including weak inter-agency coordination, ineffective law enforcement, and the absence of an integrated protection policy that prioritizes the best interests of victims. This article aims to analyze the implementation of the State's constitutional responsibility in protecting the constitutional rights of women and children against human trafficking and exploitation, identify the weaknesses in the existing legal framework and its implementation, and formulate a reconstructed model of the State's constitutional responsibility based on the value of justice. This study employs normative legal research using statutory, conceptual, and case approaches. The research relies on primary, secondary, and tertiary legal materials, which are analyzed using a prescriptive method. The findings indicate that the existing legal protection for women and children has not fully reflected constitutional mandates, as it remains primarily focused on prosecuting offenders, while prevention, victim recovery, empowerment, and State accountability have not been optimally implemented. Therefore, reconstructing the State's constitutional responsibility is essential through strengthening integrated policies, harmonizing legal regulations, enhancing inter-agency coordination, and adopting a human rights-based and justice-oriented approach. Such reconstruction is expected to establish effective, comprehensive, and equitable legal protection for women and children as an integral part of upholding the rule of law and safeguarding the constitutional rights of citizens.*



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1. Introduction

Human trafficking and exploitation constitute serious violations of human dignity and fundamental rights, particularly when women and children become the primary targets of coercion, deception, sexual exploitation, forced labour, and other forms of abuse. The complexity of trafficking extends beyond conventional criminality because its consequences directly affect the constitutional rights to freedom, personal security, equality, dignity, and protection from violence.

Women and children occupy a particularly vulnerable position within trafficking practices due to structural inequality, economic dependency, unequal access to education and employment, and social conditions that may facilitate recruitment and exploitation. Consequently, the protection of women and children from trafficking should not be understood merely as a matter of criminal law enforcement but as an essential manifestation of the state's constitutional responsibility to guarantee fundamental rights.

Within the Indonesian constitutional framework, the state has an obligation to respect, protect, and fulfill human rights through legislation, institutional policies, law enforcement, prevention mechanisms, and effective victim-recovery measures. The 1945 Constitution of the Republic of Indonesia provides a normative foundation for protecting human dignity, equality, personal security, and children's rights. These constitutional guarantees are further reinforced through statutory regulations concerning human trafficking, child protection, and human rights. Nevertheless, the existence of a comprehensive normative framework does not necessarily ensure the effective realization of constitutional rights in practice. Women and children who become trafficking victims may continue to experience difficulties in accessing justice, legal assistance, health services, psychological recovery, restitution, compensation, and social reintegration.

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Constitutional and institutional challenges emerge from fragmented institutional coordination, victim identification problems, limited resources, inconsistent implementation of legal protections, and the continuing dominance of a perpetrator-oriented criminal justice paradigm. Victims may be treated primarily as witnesses required to support prosecution rather than as independent rights-holders entitled to comprehensive protection and restoration. Moreover, technological developments have created new forms of trafficking recruitment and exploitation through digital platforms, requiring the state to adapt its legal and institutional responses to increasingly complex forms of victimization. These conditions demonstrate a gap between constitutional guarantees and their practical implementation, particularly for groups experiencing multiple and intersecting vulnerabilities.

2. Research Methods

This study employs normative legal research using statutory, conceptual, and case approaches. The research relies on primary, secondary, and tertiary legal materials, which are analyzed using a prescriptive method.

3. Results and Discussion

3.1. The Constitutional Framework of State Responsibility for Protecting Women and Children from Human Trafficking and Exploitation

Human trafficking and exploitation constitute serious violations of human dignity and fundamental rights, particularly when women and children are targeted because of their structural vulnerability. Trafficking deprives victims of freedom, personal security, equality, and the ability to exercise their rights independently. Therefore, the state's responsibility to protect women and children must be understood as a constitutional obligation rather than merely a criminal law policy. In Indonesia, the 1945 Constitution provides the fundamental basis for state responsibility through guarantees of human rights, equality before the law, protection of personal dignity, freedom from violence, and special protection for children. These constitutional principles require the state to establish effective legal and institutional mechanisms capable of preventing trafficking, protecting victims, prosecuting perpetrators, and restoring victims' rights.

The constitutional responsibility of the state encompasses three fundamental dimensions: respect, protection, and fulfillment of human rights. The obligation to respect requires the state to ensure that its laws, policies, and institutional practices do not themselves undermine the rights of trafficking victims. The

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obligation to protect requires the state to prevent trafficking and exploitation by private actors through effective regulation, supervision, law enforcement, and victim protection. Meanwhile, the obligation to fulfill requires positive measures, including access to legal assistance, health services, psychological rehabilitation, restitution, compensation, and social reintegration. These obligations become particularly important for women and children because their vulnerabilities may be intensified by poverty, gender inequality, limited education, economic dependency, and social marginalization.

A constitutional approach also requires the principle of substantive equality. Equal protection cannot simply mean applying identical legal procedures to all victims because women and children experience trafficking in different forms and circumstances. Children require child-sensitive procedures that prioritize their best interests, privacy, safety, and psychological development, while women require gender-responsive protection addressing sexual exploitation, forced labour, discrimination, stigma, and economic vulnerability. Accordingly, the state must design differentiated protection mechanisms that provide meaningful equality in practice.

Ultimately, the constitutional framework for combating human trafficking should place victims at the centre of state responsibility. Criminal prosecution remains essential, but it must be accompanied by prevention, protection, recovery, restitution, and reintegration. The constitutional commitment to justice therefore requires the state to transform formal guarantees into substantive protection by ensuring that every woman and child victim can access effective remedies, recover their dignity, and rebuild their lives free from exploitation. This framework establishes the normative foundation for reconstructing state responsibility toward a more integrated, rights-based, gender-sensitive, and child-centred system of protection.

3.2. Constitutional and Institutional Challenges in Fulfilling the Rights of Women and Children Trafficking Victims

Despite the existence of constitutional guarantees and statutory instruments designed to combat human trafficking, the fulfillment of the rights of women and children who become trafficking victims continues to face significant constitutional and institutional challenges. The fundamental problem lies in the gap between normative recognition and practical implementation. Constitutional rights to dignity, personal security, equality, freedom, and protection from violence require the state to establish effective mechanisms for prevention, protection, prosecution, recovery, and reintegration. However, the existence of

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legal provisions alone does not guarantee that victims can effectively exercise these rights, particularly when institutional practices remain fragmented and insufficiently victim-oriented.

One of the most significant challenges is the lack of effective coordination among law enforcement agencies, social institutions, health services, local governments, and victim protection mechanisms. Institutional fragmentation may result in delays in victim identification, inconsistent assistance, duplication of procedures, and limited access to rehabilitation and legal remedies. Women and children may consequently face a complex bureaucratic process while attempting to obtain protection and justice. Such circumstances can produce secondary victimization, particularly when victims are repeatedly required to explain traumatic experiences without adequate psychological and legal support.

Another challenge concerns the dominance of a perpetrator-centred criminal justice paradigm. Trafficking cases are frequently approached primarily through the investigation and prosecution of offenders, while the independent rights and interests of victims receive less attention. Women and children may be treated mainly as witnesses rather than as rights-holders entitled to meaningful participation, privacy, safety, restitution, compensation, rehabilitation, and social reintegration. This approach creates a constitutional gap because justice cannot be achieved solely through the punishment of perpetrators without restoring the rights and dignity of victims.

The evolving nature of trafficking further complicates institutional responses. Digital technologies have expanded opportunities for recruitment, deception, exploitation, and cross-border trafficking, while traditional regulatory and enforcement mechanisms may not adequately address these developments. Consequently, institutional capacity, technological expertise, inter-agency cooperation, and legal adaptation must be strengthened.

From a constitutional perspective, these challenges demonstrate that formal equality is insufficient. Women and children require substantive and differentiated protection based on their particular vulnerabilities. A justice-oriented approach therefore requires stronger institutional accountability, integrated victim services, gender-responsive policies, child-sensitive procedures, accessible legal remedies, and effective recovery mechanisms. Only through such reforms can constitutional guarantees be transformed into substantive protection and meaningful justice for trafficking victims.

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3.3. Reconstruction of a Justice-Based Constitutional Responsibility Model for Women and Children Trafficking Victims

The reconstruction of the state's constitutional responsibility for women and children who become victims of human trafficking requires a fundamental transformation from a predominantly punitive approach toward a comprehensive, victim-centred, and justice-based protection model. Human trafficking is not merely a criminal offence but also a serious violation of constitutional and fundamental rights, including the rights to human dignity, liberty, personal security, equality, and protection from violence and exploitation. Accordingly, the state must ensure that constitutional guarantees are translated into effective mechanisms that prevent victimization, protect victims, provide remedies, and restore their social and economic rights.

A justice-based constitutional responsibility model should place women and children as active rights-holders rather than merely as witnesses in criminal proceedings. This reconstruction requires an integrated approach encompassing prevention, victim identification, immediate protection, legal assistance, healthcare, psychological recovery, restitution, compensation, and social reintegration. The state must establish institutional mechanisms that enable law enforcement agencies, social services, healthcare providers, local governments, and victim protection institutions to operate through coordinated and victim-sensitive procedures. Such integration is necessary to eliminate bureaucratic fragmentation and reduce the risk of secondary victimization.

The principle of substantive equality should also become a central foundation of the reconstructed model. Women and children experience trafficking through different forms and degrees of vulnerability; therefore, identical treatment may not necessarily produce justice. Child victims require procedures guided by the best interests of the child, including protection of identity, specialized assistance, and safeguards against intimidation and repeated exposure to traumatic experiences. Women victims require gender-responsive measures that address sexual exploitation, forced labour, economic dependency, discrimination, stigma, and other structural vulnerabilities.

Furthermore, the reconstructed model should recognize effective remedies as an essential component of constitutional justice. Restitution and compensation should be accessible, enforceable, and integrated into the broader victim-recovery system rather than treated as secondary outcomes of criminal proceedings. Preventive measures should simultaneously address structural causes such as

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poverty, inequality, unsafe migration, limited educational opportunities, and digitally facilitated recruitment and exploitation.

Ultimately, reconstructing constitutional responsibility means transforming the state's role from merely prosecuting perpetrators into actively guaranteeing the restoration and empowerment of victims. A justice-based model should ensure that women and children receive meaningful protection, effective remedies, long-term recovery, and equal opportunities to rebuild their lives. Through this paradigm, constitutional values become substantive realities rather than merely formal legal guarantees.

4. Conclusion

Human trafficking and exploitation against women and children represent profound violations of constitutional rights that require the state to assume responsibility beyond conventional criminal law enforcement. This study concludes that the constitutional responsibility of the state is fundamentally rooted in the obligation to respect, protect, and fulfill human rights, particularly the rights to human dignity, personal security, freedom, equality, and protection from violence. The constitutional framework provides a strong normative foundation for protecting women and children from trafficking and exploitation. However, constitutional guarantees will remain formal and ineffective if they are not translated into comprehensive legal, institutional, and policy mechanisms capable of addressing the particular vulnerabilities of trafficking victims. The analysis demonstrates that significant constitutional and institutional challenges continue to obstruct the effective fulfillment of victims' rights. Although Indonesia has established legal instruments addressing human trafficking, human rights, and child protection, implementation remains affected by fragmented institutional coordination, inconsistent law enforcement, inadequate victim identification, limited access to legal assistance, and insufficient mechanisms for rehabilitation, restitution, compensation, and reintegration. The dominance of a perpetrator-centred criminal justice paradigm further contributes to the marginalization of victims, particularly when women and children are primarily positioned as witnesses rather than as independent rights-holders. Furthermore, the development of technology has created new patterns of recruitment and exploitation, demonstrating the need for legal and institutional responses that are adaptive to digital forms of trafficking. Based on these findings, the state's constitutional responsibility should be reconstructed through a justice-based, victim-centred, gender-responsive, and child-sensitive model. Such reconstruction requires a shift from a predominantly punitive approach toward an integrated framework that combines prevention, protection, prosecution, recovery,

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restitution, compensation, and social reintegration. Women and children must be recognized as active rights-holders whose specific vulnerabilities require differentiated forms of constitutional protection. For children, the best interests of the child should guide every stage of prevention, investigation, prosecution, adjudication, and recovery. For women, state policies should incorporate gender-sensitive mechanisms that address sexual exploitation, forced labour, economic dependency, discrimination, stigma, and other forms of structural vulnerability. Ultimately, justice in the context of human trafficking cannot be achieved solely through the punishment of perpetrators.

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