



The Offender's Intent and the Victim's Apparent Consent in the Crime of Human Trafficking: An Analysis from the Perspective of Legal Psychology

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Abstract

Human trafficking is a complex criminal phenomenon that cannot be fully understood through legal analysis alone, as it involves profound psychological dynamics affecting both offenders and victims. This article explores the subjective dimension of the offence of human trafficking by examining the offender's intent and the victim's apparent consent from the perspective of legal psychology. While criminal law frameworks, including international and European instruments, formally establish the irrelevance of victim consent when coercive or abusive means are employed, judicial practice continues to reveal uncertainty in interpreting situations in which victims appear to cooperate or initially consent to recruitment or exploitation. The central research question guiding this analysis concerns how the offender's intent and the victim's apparent consent should be understood through psychological mechanisms in order to support accurate legal qualification and effective victim protection. From a legal psychology standpoint, the offender's intent is conceptualized as a deliberate cognitive-volitional process that involves anticipating, exploiting, and maintaining control over the victim by leveraging vulnerability, dependency, and psychological manipulation. Apparent consent, in turn, is examined as a behavioral outcome shaped by constrained choice rather than genuine autonomy, often resulting from processes such as trauma bonding, learned helplessness, emotional dependence, or survival-oriented compliance. By integrating psychological theories of coercion, decision-making under constraint, and victim behavior with legal reasoning, the article highlights the risk of misinterpretation when apparent consent is assessed without considering the underlying psychological context. The analysis emphasizes the importance of recognizing psychological coercion as a key factor in evaluating criminal intent and victim behavior. The article concludes that a legal psychology approach is essential for preventing secondary victimization, improving evidentiary assessment, and ensuring that the application of anti-trafficking laws aligns with both psychological reality and human-rights-based standards.

Keywords: legal psychology; criminal intent; apparent victim consent; psychological coercion; victim vulnerability

1. Introduction

Human trafficking represents a complex and multi-dimensional criminal phenomenon, characterized by the interaction between objective elements of the offence and the subjective mental state of the perpetrator. Beyond its structural components, trafficking raises significant interpretative challenges, particularly in situations where the victim's behavior appears voluntary while the offender acts with a clear intention to exploit. This apparent contradiction creates a doctrinal and evidentiary tension between the perpetrator's *mens rea* and the victim's seemingly consensual participation.

Understanding this tension requires an analytical framework that goes beyond strictly legal interpretation. Integrating criminal law doctrine with insights from legal psychology allows for a more nuanced understanding of how exploitative dynamics operate and how victims' behavior may be shaped by psychological and situational constraints rather than by genuine autonomy.

Within this context, the central research question guiding the present study is: How can legal psychology clarify the relationship between the offender's intent to exploit and the victim's apparent consent within the normative framework of human trafficking?

Methodologically, the research adopts an interdisciplinary approach that combines doctrinal analysis of criminal law provisions with relevant psychological theories and illustrative references to case law. This approach allows for a more comprehensive evaluation of how legal standards interact with the psychological realities of trafficking situations.

The study aims to examine the relationship between the offender's exploitative intent and the victim's apparent consent in the context of human trafficking. In particular, it seeks to clarify how the perpetrator's exploitative purpose (*mens rea*) operates in situations where the victim appears to participate voluntarily, and to assess whether such apparent consent has genuine legal or psychological relevance in determining criminal liability.

Furthermore, the research explores several cognitive and emotional mechanisms that may lead victims to comply with exploitative circumstances, including coercive control, abuse of vulnerability, trauma bonding, and dynamics of dependency. By juxtaposing normative legal standards with psychological evidence, the analysis argues that apparent consent frequently reflects adaptive survival strategies rather than a truly autonomous and informed decision.

Ultimately, the paper aims to contribute to greater doctrinal clarity and evidentiary precision in the interpretation of trafficking offences. By incorporating psycholegal insights into the analysis of criminal liability, the study seeks to promote a more context-sensitive and psychologically informed understanding of trafficking, while maintaining coherence with the principle of legality and strengthening the protection of victims.

2. Methodological Framework

This study adopts a qualitative interdisciplinary methodology combining doctrinal legal analysis, case-law examination, and insights from legal psychology. The doctrinal component focuses on the interpretation of international and European legal instruments governing human trafficking, including the Protocol to Prevent, Suppress and Punish Trafficking in Persons and Directive 2011/36/EU.

The selection of case-law follows purposive criteria aimed at identifying judicial decisions that illustrate interpretative tensions regarding victim consent and exploitative intent. The analysis focuses primarily on judgments of the European Court of Human Rights (2020) and selected domestic cases frequently cited in trafficking scholarship. Cases were selected based on three

criteria: (1) relevance to the interpretation of Article 4 ECHR or anti-trafficking legislation; (2) explicit judicial discussion of victim consent, vulnerability, or exploitation; and (3) evidentiary reasoning involving contextual or psychological indicators of coercion.

In parallel, the study incorporates concepts from legal psychology to interpret behavioral patterns observed in trafficking situations. Psychological constructs such as coercive control, trauma bonding, learned helplessness, and dependency dynamics are operationalized through observable indicators commonly used in forensic psychological assessment. These indicators include patterns of victim compliance under threat, emotional attachment to the offender, delayed disclosure, restricted autonomy, economic dependency, and fear-based decision-making.

Rather than conducting empirical psychological testing, the present study uses these constructs as interpretative frameworks that assist in contextualizing victim behavior and clarifying the evidentiary significance of apparent consent. By integrating doctrinal reasoning with psychologically informed analysis, the methodology aims to enhance the interpretative accuracy of criminal intent and victim autonomy in trafficking cases.

3. Theoretical Background

Human trafficking is doctrinally conceptualized as a composite offence that integrates objective conduct elements with a heightened subjective requirement, namely the specific intent to exploit. Unlike result-based crimes, trafficking is purpose-oriented: criminal liability depends not only on the performance of acts such as recruitment, transportation, transfer, harbouring, or receipt of persons, but also on the demonstration that these acts were carried out with the purpose of exploitation. This structural particularity reflects the teleological character of the offence and distinguishes trafficking from neighbouring offences such as facilitation of prostitution, illegal migration assistance, or unlawful deprivation of liberty (Allain, 2014; Gallagher, 2010).

The international legal framework governing trafficking is primarily established by the Protocol to Prevent, Suppress and Punish Trafficking in Persons, supplementing the United Nations Convention against Transnational Organized Crime. The Protocol defines trafficking through the well-known tripartite structure of act, means, and purpose. Article 3 explicitly states that the consent of a victim to the intended exploitation is irrelevant whenever any improper means—such as coercion, deception, abuse of power, or abuse of vulnerability—have been employed. This provision reflects a normative recognition that apparent consent may be vitiated by structural coercion, dependency, or deception (Gallagher, 2010).

At the European level, Directive 2011/36/EU on preventing and combating trafficking in human beings harmonizes the definition of the offence and reinforces the principle that victim consent cannot negate criminal liability when exploitative means are present. Subsequent EU policy instruments, including the EU Strategy on Combatting Trafficking in Human Beings 2021–2025, further emphasize a victim-centered and human-rights-based approach to trafficking prosecution and prevention (European Commission, 2021).

Recent jurisprudence of the European Court of Human Rights has also clarified the scope of state obligations in trafficking cases under Article 4 of the European Convention on Human Rights. In landmark decisions such as *Rantsev v. Cyprus and Russia* (2010) and more recent cases including *Chowdury and Others v. Greece* (2017), the Court emphasized that trafficking must be interpreted broadly and that states have positive obligations to identify victims, investigate exploitative practices, and protect individuals even in situations where the victims' participation might superficially appear voluntary. The Court's reasoning highlights that

vulnerability, economic dependency, and social marginalization can undermine the meaningfulness of consent and create conditions conducive to exploitation. (Benton, 2014)

From a criminal law perspective, the subjective element (*mens rea*) in trafficking requires proof of intent encompassing the purpose of exploitation. Scholars emphasize that this specific intent (*dolus specialis*) constitutes the core element of the offence, linking preparatory or facilitating acts to the ultimate exploitative objective (Allain, 2014; Farrell, Pfeffer, & Bright, 2019). In practice, proving such intent poses significant evidentiary challenges. Courts often rely on circumstantial evidence, behavioral patterns, and contextual indicators—such as control over victims' movements, confiscation of identity documents, financial dependency, or threats—to infer the perpetrator's exploitative purpose.

Judicial practice demonstrates that courts sometimes encounter difficulties in interpreting the notion of apparent consent in trafficking cases, particularly when victims initially appear to cooperate with the perpetrator or enter exploitative situations voluntarily. Several judicial decisions illustrate how a formal or superficial interpretation of consent may obscure the underlying dynamics of coercion, vulnerability, and psychological control.

A frequently cited example is the case of *Rantsev v. Cyprus and Russia* (European Court of Human Rights, 2010), in which the victim had travelled voluntarily to Cyprus under an employment arrangement linked to the “artiste visa” system. Domestic authorities initially treated the situation as a matter of migration regulation rather than potential trafficking. The European Court of Human Rights (2021) criticized this narrow interpretation and emphasized that apparent consent to travel or employment cannot exclude the possibility of trafficking when elements of vulnerability, deception, or exploitation are present. The Court clarified that state authorities must examine the broader factual context rather than relying solely on the victim's initial willingness to participate in the situation.

Another illustrative decision is *Chowdury and Others v. Greece* (ECtHR, 2017), concerning migrant workers subjected to severe labour exploitation in agricultural plantations. Although the workers had initially agreed to work in Greece, the Court held that their apparent consent was legally irrelevant once conditions of coercion, threats, and dependency were established. The judgment highlighted that vulnerability resulting from irregular migration status, economic deprivation, and social isolation significantly limits genuine autonomy. The Court concluded that the failure of national authorities to adequately recognize these coercive dynamics constituted a violation of Article 4 of the European Convention on Human Rights.

Domestic case law in several European jurisdictions similarly demonstrates how psychological indicators can play a crucial evidentiary role in trafficking prosecutions. Courts have increasingly relied on expert psychological assessments to explain victim behaviour that might otherwise be interpreted as voluntary participation. Indicators such as trauma bonding, emotional dependency, learned helplessness, and fear-based compliance have been used to contextualize victims' reluctance to escape or report exploitation. These expert evaluations help clarify that continued interaction with the trafficker or delayed reporting does not necessarily reflect genuine consent but may instead be consistent with patterns of coercive control and psychological domination.

For instance, in several trafficking prosecutions involving sexual exploitation, psychological expert testimony has been admitted to explain why victims maintained contact with traffickers, returned to exploitative environments, or defended the perpetrators during initial investigations. Courts increasingly recognize that such behaviours may represent adaptive coping strategies rather than free and autonomous choices.

Taken together, these cases illustrate the importance of integrating psychological evidence into judicial assessment of trafficking offences. A contextual analysis that considers vulnerability, coercive control, and trauma-related responses allows courts to avoid misinterpreting apparent consent and to more accurately evaluate the offender's exploitative intent. Consequently, the incorporation of psychological indicators into evidentiary reasoning contributes to a more accurate application of anti-trafficking norms and reinforces the victim-protection objectives of international and European legal frameworks.

Legal psychology offers a complementary analytical perspective by examining the cognitive and emotional processes that influence both offender strategies and victim responses. Research on coercive control demonstrates how sustained manipulation, intimidation, surveillance, and economic dependency can progressively erode victims' autonomy and capacity for resistance (Stark, 2007; Barlow & Walklate, 2024, Bergelson, 2007). Similarly, the concept of learned helplessness suggests that individuals exposed to prolonged situations of uncontrollable harm may develop patterns of passive compliance and diminished expectations of escape (Peterson, Maier, & Seligman, 1975).

Other psychological mechanisms further complicate the interpretation of voluntariness in trafficking situations. Trauma bonding, for instance, describes emotional attachments that may develop between victims and perpetrators in contexts characterized by alternating abuse and intermittent reinforcement, producing strong psychological dependency (Dutton & Painter, 1993). Contemporary research also highlights the role of structural vulnerability, including poverty, migration precarity, gender inequality, and social marginalization, in shaping victims' decision-making and increasing susceptibility to exploitative arrangements (Farrell et al., 2019; UNODC, 2022).

Consequently, behaviors that appear to reflect consent in trafficking cases may instead represent adaptive survival strategies adopted in response to coercive or highly constrained environments. Psychological research underscores that autonomy cannot be evaluated in abstraction from social and situational conditions. Rather, apparent compliance may reflect attempts to minimize harm, maintain access to basic resources, or avoid retaliation (Barlow & Walklate, 2024).

These insights are consistent with the normative principle embedded in international anti-trafficking law: consent cannot legitimize exploitation when it emerges within a context of coercion, deception, or abuse of vulnerability. The legal irrelevance of consent therefore reflects not only a doctrinal choice but also an empirically grounded understanding of human behavior under conditions of domination and dependency.

An integrated analytical framework thus requires reconciling doctrinal precision regarding *mens rea* with empirical knowledge about human behavior under coercive circumstances. While criminal law remains anchored in the perpetrator's exploitative intent, legal psychology elucidates the mechanisms through which apparent consent may arise in situations of structural vulnerability and psychological domination. Such an interdisciplinary perspective enhances doctrinal clarity, improves evidentiary assessment, and strengthens the victim-protection rationale underlying contemporary anti-trafficking legislation.

Recent jurisprudence of the European Court of Human Rights has further clarified the role of vulnerability and coercion in trafficking-related cases. In **S.M. v. Croatia** (2020), the Court emphasized that situations of sexual exploitation involving abuse of vulnerability may fall within the scope of Article 4 of the European Convention on Human Rights, even when the victim initially appeared to cooperate with the perpetrator. The judgment highlighted that

psychological coercion, dependency, and manipulation may undermine the validity of apparent consent.

Similarly, in **V.C.L. and A.N. v. United Kingdom** (2021), the Court stressed that victims of trafficking must be recognized as such before criminal responsibility is assessed. The failure of domestic authorities to properly evaluate indicators of exploitation and vulnerability was considered incompatible with the positive obligations of states under Article 4. The Court emphasized that behavioral compliance or involvement in unlawful activities may occur as a direct consequence of trafficking and should not automatically be interpreted as voluntary participation.

These decisions reinforce the principle that victim behavior must be interpreted within its broader coercive and socio-economic context.

3. The Offender's Intent (Mens Rea) in Human Trafficking

The subjective element of human trafficking constitutes the doctrinal nucleus of the offence. Unlike crimes that are complete upon the occurrence of a prohibited act, trafficking requires proof that the perpetrator acted with a defined exploitative purpose. The offence is therefore structured around a purposive mens rea, which connects preparatory or facilitating conduct to the ultimate objective of exploitation. This teleological configuration is explicitly embedded in the definition provided by the Protocol to Prevent, Suppress and Punish Trafficking in Persons and reiterated within European Union law by Directive 2011/36/EU. (Ștefănoaia, 2025)

3.1 Structure of Intent

From a doctrinal standpoint, the offender's intent in trafficking may manifest in different modalities recognized in criminal theory.

Direct intent (dolus directus) exists where the perpetrator acts with the conscious objective of exploiting the victim. In such cases, recruitment, transportation, or harbouring are not neutral acts but deliberate steps undertaken to secure control over a person for purposes such as sexual exploitation, forced labor, or servitude. The exploitative outcome is not merely foreseen—it is actively pursued. Scholars emphasize that trafficking, as defined in international law, presupposes this purposive orientation toward exploitation (Allain, 2014).

Oblique intent (dolus eventualis) arises where the offender does not explicitly desire the exploitative outcome but foresees it as a virtually certain consequence of their conduct and accepts it. For example, an intermediary who knowingly facilitates the transfer of vulnerable individuals into circumstances strongly indicative of exploitation may be considered to act with conditional intent if they reconcile themselves with that outcome. While doctrinal debates persist regarding the compatibility of dolus eventualis with the specific-intent structure of trafficking, many legal systems accept that acceptance of the exploitative consequence may suffice when the purposive element can be inferred from contextual factors (Gallagher, 2010).

Most critically, trafficking requires **specific intent (dolus specialis)**—that is, the purpose of exploitation. This element distinguishes trafficking from related offences and anchors criminal liability in the offender's teleological orientation. The exploitation need not materialize; it is sufficient that the acts were carried out with that objective in mind. Thus, the offence is consummated at the stage where exploitative intent accompanies the prohibited conduct (Allain, 2014).

3.2 Proving Exploitative Purpose

Given that intent is a subjective mental state, it cannot be directly observed. Courts therefore rely on inferential reasoning grounded in evidentiary indicators and contextual analysis.

Evidentiary indicators may include deceptive recruitment practices, confiscation of identity documents, restriction of movement, debt imposition, control over earnings, or threats directed at the victim or their family. These objective manifestations often function as external signs of an underlying exploitative purpose (Gallagher, 2010).

Circumstantial proof plays a decisive role in trafficking cases. Patterns of conduct, communications between network members, financial transactions, and prior involvement in similar activities may cumulatively demonstrate the existence of a coordinated exploitative scheme. The evidentiary threshold is satisfied not by isolated acts, but by the coherence of the factual matrix indicating purposeful exploitation.

Moreover, **behavioral patterns within trafficking networks** frequently reveal structured hierarchies, role specialization, and systematic victim control. The organized nature of such networks supports the inference that participants act with awareness of, and alignment toward, exploitative objectives. Repetition of recruitment methods, standardized deception narratives, and coordinated transportation routes provide contextual evidence of intentional exploitation rather than incidental wrongdoing.

3.3 Psychological Dimensions of Criminal Intent

Legal psychology enriches doctrinal analysis by examining how exploitative intent is formed, maintained, and behaviorally expressed.

A central mechanism is **instrumental manipulation**, whereby offenders strategically deploy deception, emotional inducement, or promises of opportunity to secure victim compliance. Such manipulation reflects goal-oriented cognition: the victim is perceived instrumentally, as a means to economic or sexual gain.

Cognitive distortions further sustain exploitative conduct. Offenders may minimize harm, externalize blame, or rationalize exploitation as consensual or economically beneficial. These distortions reduce internal moral conflict and facilitate persistence in criminal activity (Bandura, 1999).

Closely related are **moral disengagement mechanisms**, through which perpetrators neutralize normative constraints. By dehumanizing victims, diffusing responsibility within a network, or invoking social justifications, traffickers construct psychological frameworks that legitimize exploitation (Bandura, 1999).

Finally, **power–control dynamics** are central to trafficking relationships. Offenders frequently seek not only material gain but domination and psychological control. Research on coercive control demonstrates how sustained surveillance, intimidation, isolation, and intermittent reinforcement consolidate asymmetrical power structures (Stark, 2007).

From the standpoint of legal psychology, intent manifests behaviorally through patterned strategies such as **grooming and coercive persuasion**. Grooming involves the gradual cultivation of trust and dependency prior to exploitation, often through emotional bonding or fabricated romantic relationships. Coercive persuasion techniques—threats, alternating reward and punishment, economic dependency—operate to entrench control while preserving an outward appearance of voluntariness. These behavioral expressions provide courts with observable indicators from which exploitative intent may be inferred.

In sum, the offender's intent in human trafficking is not merely an abstract doctrinal construct but a dynamic psychological and behavioral phenomenon. Its legal assessment requires a synthesis of normative criminal law principles and empirically grounded insights into manipulation, cognitive distortion, and power asymmetry. Such integration enhances evidentiary rigor and ensures that the specific-intent requirement remains both doctrinally coherent and practically ascertainable.

While the preceding analysis has focused on the perpetrator's exploitative intent, trafficking prosecutions frequently involve a second interpretative difficulty: situations in which victims appear to participate voluntarily in the exploitative arrangement. Understanding this apparent voluntariness requires shifting the analytical focus from the offender's mental state to the complex legal and psychological dimensions of victim behavior.

4. The Victim's Apparent Consent: Legal and Psychological Tensions

One of the most debated aspects of human trafficking concerns situations in which the victim appears to have agreed to travel, to work, or even to participate in activities that later become exploitative. The tension between apparent consent and criminal liability requires careful doctrinal and psychological clarification. While trafficking law explicitly neutralizes consent obtained through improper means, courtroom dynamics often reintroduce implicit assumptions about voluntariness. An interdisciplinary analysis demonstrates that apparent consent frequently masks coercive structures and adaptive survival strategies rather than authentic autonomy.

4.1 The Legal Irrelevance of Consent

At the normative level, the irrelevance of consent is firmly embedded in international and European anti-trafficking instruments. Article 3(b) of the Protocol to Prevent, Suppress and Punish Trafficking in Persons provides that a victim's consent "shall be irrelevant" where any of the improper means—coercion, deception, abuse of power, or abuse of a position of vulnerability—have been used. This doctrinal position is reaffirmed in Directive 2011/36/EU, which emphasizes that exploitation cannot be legitimized by the victim's apparent agreement when such means are present.

From a criminal law perspective, consent is vitiated when it is obtained through coercion, fraud, or abuse of vulnerability. Coercion may be physical or psychological; fraud may involve false promises of employment or migration opportunities; abuse of vulnerability refers to situations in which a person has no real or acceptable alternative but to submit (Gallagher, 2010). In such contexts, the voluntariness necessary for legally valid consent is structurally compromised.

The doctrinal foundation of nullified consent is rooted in the broader principle that consent cannot legitimize serious violations of personal autonomy and dignity when it is not the product of free and informed choice. Criminal law traditionally requires consent to be genuine, specific, and given without undue pressure. Where asymmetrical power relations or manipulative strategies distort decision-making capacity, consent loses its normative force. Thus, in trafficking cases, the focus shifts from the victim's apparent acquiescence to the offender's exploitative conduct and intent (Allain, 2014).

4.2 Psychological Mechanisms Behind Apparent Consent

Legal doctrine alone cannot fully explain why victims may appear to cooperate with traffickers. Legal psychology offers crucial insight into the cognitive and emotional processes that generate compliance under coercive conditions.

Trauma bonding describes the development of emotional attachments between victims and perpetrators in contexts characterized by intermittent reward and punishment. Cycles of abuse interspersed with gestures of affection or protection can create powerful emotional dependency, leading victims to defend or remain loyal to their exploiters (Dutton & Painter, 1993). Such attachment may be misinterpreted as voluntary affiliation, when in fact it reflects psychological conditioning under duress.

Learned helplessness, as conceptualized by Seligman (1975), further explains passive compliance in situations of sustained control. When individuals repeatedly experience uncontrollable adverse events, they may cease attempting resistance, even when escape becomes theoretically possible. In trafficking contexts, prolonged exposure to threats, isolation, and economic deprivation can produce cognitive resignation rather than autonomous decision-making.

Economic dependency also plays a decisive role. Victims who migrate under precarious financial conditions or who support dependent family members may perceive continued compliance as the only viable survival strategy. The fear of destitution, deportation, or retaliation against relatives transforms apparent agreement into constrained necessity (Gallagher, 2010).

Central to these dynamics is **coercive control**, a pattern of domination that extends beyond isolated acts of violence. Coercive control operates through surveillance, isolation, intimidation, and micro-regulation of daily life, gradually eroding independent agency (Stark, 2007). Within such environments, outward compliance may represent a calculated effort to minimize harm.

Ultimately, many victims engage in **survival-based compliance**—a pragmatic adaptation to circumstances in which resistance could provoke more severe harm. Behavioral acquiescence in such contexts is not evidence of free will but of strategic self-preservation. The psychological literature thus cautions against equating behavioral cooperation with genuine consent.

4.3 Vulnerability as a Psychological and Legal Construct

The concept of vulnerability occupies a central position at the intersection of law and psychology. Legally, the abuse of a position of vulnerability constitutes one of the improper means recognized in international trafficking law. Vulnerability may arise from external conditions that significantly constrain alternatives (Gallagher, 2010).

Structural vulnerability encompasses socio-economic deprivation, irregular migration status, gender inequality, and limited access to education or employment. Individuals situated within such systemic disadvantages may lack realistic alternatives, rendering their apparent choices deeply constrained. Migrant status, in particular, may intensify dependency on intermediaries or recruiters, amplifying susceptibility to exploitation.

Situational vulnerability refers to context-specific factors, such as sudden financial crisis, family violence, or displacement. Even individuals not chronically disadvantaged may become temporarily vulnerable when confronted with acute instability.

Emotional dependency represents a psychological dimension of vulnerability. Romantic manipulation, promises of partnership, or familial-like bonds may foster trust that traffickers subsequently exploit. The intersection of affective attachment and economic reliance significantly narrows perceived alternatives.

From an interdisciplinary standpoint, apparent consent in trafficking cases often reflects **adaptive survival cognition** rather than autonomous choice. Individuals subjected to structural

inequality, coercive control, and psychological manipulation recalibrate their decision-making within severely restricted option sets. What appears externally as agreement may internally represent harm minimization, fear management, or hope for eventual improvement.

Therefore, a coherent adjudicative approach must avoid simplistic dichotomies between “consenting” and “non-consenting” victims. Legal doctrine, supported by psychological evidence, recognizes that autonomy is context-dependent and may be profoundly distorted by coercive environments. By integrating these insights, courts can more accurately assess the normative irrelevance of apparent consent while maintaining fidelity to both the principle of legality and the protective rationale underlying anti-trafficking law.

Consequently, apparent consent in trafficking cases must be interpreted contextually rather than behaviorally. Compliance, continued interaction with the offender, or delayed reporting may represent adaptive responses to coercive environments rather than voluntary participation. These dynamics reveal that victim behavior cannot be assessed in isolation from the structures of manipulation and control that shape it.

This observation leads to a deeper analytical question: how do the offender’s exploitative intent and the victim’s apparent consent interact within the same relational framework? Addressing this question requires examining the strategic processes through which offenders anticipate and instrumentalize victim compliance.

5. The Interaction between Offender Intent and Victim Apparent Consent

The relationship between the offender’s intent and the victim’s apparent consent represents one of the most conceptually delicate intersections in the law of human trafficking. As the previous sections have shown, exploitative intent forms the doctrinal core of the offence, while apparent consent often emerges from constrained psychological and structural conditions. The analytical challenge therefore lies in understanding how these two elements operate simultaneously within trafficking relationships.

Rather than treating coercion and consent as mutually exclusive categories, a more accurate framework examines how offenders deliberately structure situations in which compliance becomes the most predictable outcome. Within such environments, apparent voluntariness may itself be the product of manipulation, dependency, and informational asymmetry.

5.1 Manipulation as a Convergence Point

Manipulation constitutes the central convergence point between offender intent and victim apparent consent. Traffickers do not merely respond opportunistically to vulnerability; they frequently anticipate, cultivate, and engineer conditions in which the victim’s compliance will appear voluntary. This strategic orientation reveals the purposive character of mens rea in trafficking: exploitation is not incidental but structurally prepared.

From a psychological perspective, offenders often engage in **instrumental grooming**, gradually building trust, emotional reliance, or economic expectation before initiating overt exploitation. Romantic manipulation (“lover-boy” strategies), promises of employment, or offers of migration assistance are designed to create a cognitive framework in which the victim perceives participation as self-chosen. Such techniques reflect deliberate psychological exploitation of trust and dependency.

Research on coercive control demonstrates that domination is frequently established through incremental tactics rather than overt violence (Stark, 2007). Isolation from support networks, regulation of communication, financial control, and subtle intimidation progressively narrow

the victim's perceived options. Within this environment, "consent" is not a spontaneous act of free will but the foreseeable outcome of engineered dependency.

The offender's intent thus encompasses not only the end goal of exploitation but also the calculated production of apparent voluntariness. By designing circumstances in which resistance appears irrational or dangerous, traffickers transform manipulation into a mechanism of legal camouflage. Apparent consent becomes part of the exploitative strategy itself.

5.2 Cognitive Asymmetry between Offender and Victim

A defining characteristic of trafficking dynamics is **cognitive asymmetry** between offender and victim. The perpetrator typically operates with strategic foresight, access to information, and awareness of the exploitative scheme's ultimate objective. In contrast, the victim's decision-making is constrained by incomplete information, misrepresentation, and structural vulnerability.

From a criminological standpoint, trafficking networks often involve coordinated planning, role specialization, and logistical preparation. Recruitment, transportation, and exploitation are integrated components of a premeditated system. This strategic planning reflects deliberate, goal-oriented cognition consistent with specific intent (Allain, 2014).

Conversely, victims frequently make decisions under conditions of uncertainty and limited alternatives. Informational imbalance plays a decisive role: false promises regarding wages, working conditions, or migration status distort risk assessment. Even when certain risks are suspected, structural pressures—poverty, family obligations, irregular migration status—constrain perceived alternatives (Gallagher, 2010).

This asymmetry produces a critical interpretative challenge. The offender's planning is expansive and future-oriented, while the victim's choices are reactive and survival-driven. What appears externally as agreement may internally represent a constrained calculation within a severely limited option set. The offender exploits precisely this asymmetry, relying on the victim's restricted informational horizon to secure compliance.

Thus, apparent consent cannot be evaluated abstractly; it must be contextualized within the imbalance of knowledge, power, and opportunity that defines trafficking relationships.

5.3 Forensic Implications

The interaction between exploitative intent and apparent consent has significant forensic consequences. One primary risk is the **misinterpretation of compliance as voluntariness**. Behavioral cooperation—traveling without physical restraint, communicating normally, or failing to escape—may be erroneously construed as evidence of genuine consent. However, psychological research on trauma bonding and coercive control demonstrates that compliance can coexist with fear, dependency, and perceived lack of alternatives (Dutton & Painter, 1993; Stark, 2007).

Courtroom credibility assessments are particularly sensitive. Victims may provide inconsistent testimony, minimize abuse, or display emotional ambivalence toward the offender. Such reactions, often rooted in trauma or attachment dynamics, may be misjudged as unreliability rather than understood as psychologically coherent responses to coercive environments. Learned helplessness theory further explains why victims might not attempt escape even when opportunities appear available (Seligman, 1975).

These challenges underscore the need for **trauma-informed judicial reasoning**. Judges and prosecutors must distinguish between surface-level behavior and underlying coercive context.

Evaluating voluntariness requires attention to patterns of control, economic dependency, informational deception, and psychological manipulation rather than reliance on simplistic indicators such as physical restraint or overt violence.

Integrating legal psychology into evidentiary assessment enhances doctrinal accuracy. The offender's intent should be inferred not only from explicit threats but from structured patterns of manipulation and control that predictably generate apparent consent. Simultaneously, victim behavior must be interpreted within the broader framework of constrained autonomy.

In conclusion, the interaction between offender intent and victim apparent consent reveals that compliance is often a foreseeable and deliberately engineered outcome of exploitative strategy. A nuanced forensic approach—grounded in both criminal law doctrine and psychological science—is essential to prevent conceptual error, protect victims from secondary victimization, and preserve the normative integrity of trafficking law.

6. Integrating Legal Psychology into Criminal Adjudication

Integrating legal psychology into criminal adjudication in human trafficking cases is not a purely auxiliary exercise; it is a corrective necessary for accurate fact-finding and for the coherent application of the normative premise that exploitation is often maintained through non-physical forms of control. Because trafficking frequently operates through manipulation, dependency, and psychological domination, adjudication that relies on “common-sense” assumptions about consent, resistance, or credibility risks systematic error and secondary victimization. A psychologically informed approach strengthens evidentiary assessment, aligns practice with the protective logic of anti-trafficking law, and improves the quality of judicial reasoning (Gallagher, 2010).

6.1 Trauma-informed prosecutorial strategy

A trauma-informed prosecutorial strategy begins with the recognition that trauma affects memory, affect regulation, and narrative coherence. Victims may disclose in fragmented sequences, provide partial accounts, delay reporting, or even retract statements due to fear, shame, attachment to the offender, or ongoing coercion. Such patterns are consistent with trauma responses and coercive control dynamics, not necessarily with deception or unreliability (Stark, 2007). Accordingly, prosecutorial preparation should prioritize early identification of coercive dynamics and structured corroboration rather than expecting linear narratives.

Practically, prosecutors should (a) map the trafficking process chronologically—recruitment, transportation, control, exploitation—(b) identify “control indicators” (document confiscation, isolation, debt, surveillance, threats, wage withholding), and (c) build cases through convergent evidence: digital communications, financial flows, travel records, third-party observations, workplace inspections, medical records, and expert psychological testimony where appropriate (Gallagher, 2010). This reduces overreliance on victim testimony and mitigates the procedural burden placed on traumatized witnesses.

Trauma-informed interviewing is equally critical. Questioning should avoid accusatory framing (“Why didn't you leave?”) and instead explore constraints (“What would have happened if you tried to leave?”). This shift is psychologically grounded: it reframes the inquiry from moral judgment to contextual assessment of perceived options, consistent with learned helplessness and survival-based compliance under coercion (Seligman, 1975). Where trauma bonding is plausible, prosecutors should anticipate ambivalence and address it explicitly, rather than treating it as a credibility defect (Dutton & Painter, 1993).

6.2 Judicial Training on Coercive Control and Manipulation

Judicial training is a structural prerequisite for consistent adjudication. Judges routinely evaluate consent, credibility, and voluntariness; in trafficking cases, these evaluations require specialized knowledge about coercive control, manipulation, and vulnerability. Coercive control theory demonstrates that domination often operates through cumulative patterns—monitoring, isolation, micro-regulation, intimidation—rather than overt violence, and that victims may appear compliant while experiencing severe constraint (Stark, 2007). Without this understanding, courts may inadvertently apply inappropriate heuristics (e.g., equating lack of physical restraint with freedom).

Training should therefore cover:

- **Behavioral indicators of coercive control** (restricted communication, dependency, threats to family, debt bondage, sexual coercion, fear of deportation).
- **Trauma-consistent testimony patterns** (fragmentation, inconsistency in peripheral details, delayed disclosure, affective flattening or dissociation).
- **Manipulative recruitment tactics** (grooming, romantic deception, false job offers, “sponsorship” narratives), which clarify how apparent consent can be engineered as part of the offender’s intent.

In doctrinal terms, training supports accurate application of the principle that consent is irrelevant where improper means are used (Allain, 2014; Gallagher, 2010). In practical terms, it reduces the risk of secondary victimization and improves the court’s capacity to interpret evidence in a psychologically coherent manner.

6.3 Guidelines for Assessing Voluntariness in Exploitative Contexts

To operationalize psychological insights, adjudication benefits from structured guidelines that evaluate voluntariness contextually rather than behaviorally. The core premise is that voluntariness cannot be inferred solely from outward compliance, initial agreement, or failure to escape. Instead, courts should assess whether the victim had a **real and acceptable alternative**—a concept that aligns with the legal “abuse of vulnerability” framework and psychological models of constrained choice (Gallagher, 2010).

7. Discussion

The preceding analysis demonstrates that the conceptual tension between offender intent and victim apparent consent cannot be resolved through a purely formal reading of criminal law. Instead, it requires a reframing of consent as a contextual and graduated phenomenon operating within coercive environments.

7.1 Reframing consent as a spectrum under coercive environments

Traditional criminal law often conceptualizes consent dichotomously: either present or absent. Human trafficking, however, exposes the inadequacy of this binary model. In exploitative contexts, consent frequently exists along a **spectrum of constrained autonomy**, shaped by deception, abuse of vulnerability, economic dependency, and coercive control. The normative architecture of the Protocol to Prevent, Suppress and Punish Trafficking in Persons explicitly acknowledges this complexity by declaring consent irrelevant where improper means are used. This provision reflects an implicit recognition that apparent agreement may coexist with structural coercion. (Bergelson, 2007).

Psychological research reinforces this doctrinal stance. Trauma bonding, learned helplessness, and survival-based compliance illustrate that individuals may outwardly cooperate while internally perceiving limited or no viable alternatives (Seligman, 1975; Dutton & Painter, 1993). Consequently, apparent consent in trafficking cases often represents adaptive cognition under constraint rather than autonomous and informed decision-making. Reframing consent as a spectrum allows courts to move beyond superficial behavioral indicators and to assess the broader ecology of power, dependency, and vulnerability (Stark, 2007).

7.2 Clarifying Doctrinal Coherence between Mens Rea and Exploitative Purpose

A second central issue concerns the relationship between mens rea and exploitative purpose. Trafficking is structurally anchored in specific intent (*dolus specialis*): the offender must act with the purpose of exploitation. This purposive element distinguishes trafficking from related offences and ensures compliance with the principle of legality. As emphasized in doctrinal scholarship, the exploitative objective functions as the teleological core of the offence (Allain, 2014).

Doctrinal coherence is preserved when apparent consent is not treated as a negating factor of intent but rather as a phenomenon potentially engineered by that very intent. The offender's mens rea frequently encompasses strategic manipulation designed to produce outward compliance. In such circumstances, consent is not an exculpatory element but an evidentiary manifestation of exploitative planning. The purposive orientation toward domination and exploitation remains the structural anchor of criminal liability, consistent with both international and European standards (Gallagher, 2010; Directive 2011/36/EU).

Thus, doctrinal clarity emerges when courts shift analytical focus from the victim's behavior to the offender's teleological orientation. The relevant question is not whether the victim appeared to agree, but whether the offender acted with exploitative purpose using improper means. This interpretative approach safeguards legality while maintaining the protective rationale underlying trafficking law.

7.3 Bridging Normative Theory and Psychological Reality

Bridging normative theory and psychological reality requires integrating empirical insights into adjudicative reasoning without compromising doctrinal precision. Criminal law operates within a framework of individual responsibility and proof beyond reasonable doubt. Legal psychology does not displace these standards; rather, it refines the interpretative tools used to evaluate evidence. (Chuang, 2014).

Understanding coercive control, trauma responses, and cognitive asymmetry between offender and victim enhances evidentiary accuracy. It prevents misinterpretation of compliance as voluntariness and reduces the risk of secondary victimization. At the same time, grounding psychological insights within established legal categories—intent, means, exploitation, vulnerability—preserves doctrinal coherence.

The interdisciplinary synthesis proposed here demonstrates that normative theory and psychological science are not competing paradigms but complementary analytical frameworks. Together, they allow a more precise articulation of autonomy, coercion, and intent within trafficking prosecutions.

8. Conclusions

The analysis confirms that the offender's intent constitutes the structural anchor of the crime of human trafficking. The offence is defined not merely by conduct but by purposive orientation toward exploitation. This specific intent distinguishes trafficking from adjacent offences and ensures compliance with the principle of legality.

Apparent consent, when examined in context, does not negate exploitative purpose. Where coercion, deception, or abuse of vulnerability are present, consent lacks normative validity under international and European legal standards. Psychological research further demonstrates that compliance may reflect adaptive survival strategies rather than genuine autonomy. Consequently, reliance on outward behavior as evidence of voluntariness risks conceptual and evidentiary error.

Integrating legal psychology into criminal adjudication enhances doctrinal precision and evidentiary fairness. It provides courts with empirically grounded tools to interpret victim behavior, assess coercive environments, and infer exploitative intent without resorting to stereotypes or moral judgments. Trauma-informed reasoning and contextual evaluation of vulnerability strengthen both victim protection and procedural integrity.

This study therefore proposes a more psychologically informed interpretation of trafficking offences one that preserves the centrality of mens rea, situates consent within its coercive context, and bridges the gap between normative doctrine and lived psychological reality. Such an approach not only advances theoretical coherence but also promotes more consistent, equitable, and empirically sound adjudication in cases of human trafficking.

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