



From Victim to Defendant: Psychological Mechanisms of Victim Blaming in the Context of Double Criminality

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Abstract

The phenomenon of victim–offender dual positioning (referred to in this paper as “double criminality”) in transnational human trafficking cases creates a complex legal and psychological context in which victims may be simultaneously constructed as offenders. This paper explores the psychological mechanisms underlying victim blaming in situations where trafficked persons are subjected to criminal liability for acts directly linked to their exploitation, such as irregular migration, document fraud, or unlawful labor. Drawing on perspectives from legal psychology, social cognition, and trauma psychology, the study examines how institutional practices, cognitive biases, and cultural narratives contribute to the reclassification of victims as defendants. (Felson & Palmore, 2018).

Particular attention is given to mechanisms such as attribution bias, moral disengagement, stereotyping related to migration and gender, and the misinterpretation of trauma-related behaviors (e.g., inconsistencies in testimony, emotional numbing) as indicators of guilt or deception. The abstract also addresses the role of procedural fragmentation across jurisdictions, where divergent legal standards and lack of effective cross-border coordination exacerbate uncertainty regarding victim status, thereby reinforcing blame-oriented interpretations.

From a psychological standpoint, victim blaming in the context of double criminality has profound consequences, including secondary victimization, erosion of trust in legal authorities, and reduced willingness to cooperate with judicial processes. These effects not only undermine victims’ psychological recovery but also compromise the effectiveness of criminal justice responses to human trafficking.

Research question: What psychological mechanisms contribute to the construction of trafficked persons as culpable actors in contexts of double criminality, and how do these mechanisms influence judicial decision-making and the mental health outcomes of victims?

The paper argues for the integration of trauma-informed and psychologically grounded frameworks into legal procedures in order to prevent the misclassification of victims and to promote rights-based, victim-centered justice in transnational trafficking cases.

Keywords: double criminality; human trafficking; psychological mechanisms; victim blaming; victimization

1. Introduction

Victims of trafficking and exploitation frequently encounter a paradoxical legal and social reality: rather than being recognized solely as victims, they may also be treated as offenders. This phenomenon is commonly referred to as double criminality, where individuals subjected to coercion, manipulation, or exploitation are held criminally responsible for actions committed under conditions of control (UNODC, 2020). For the purposes of this article, the expression “double criminality” is not used in its traditional extradition-law meaning referring to dual criminalization across jurisdictions. Instead, the term is employed in a broader socio-legal and psychological sense to describe situations in which trafficked persons are simultaneously positioned as victims of exploitation and as offenders for acts committed under coercion. To reduce conceptual ambiguity, the alternative expression “victim–offender dual positioning” is also used throughout the article. Examples include trafficked minors prosecuted for theft, drug distribution, prostitution-related offenses, or immigration violations that occurred during their exploitation. In order to avoid conceptual ambiguity, it is important to distinguish the use of “double criminality” in the present paper from its classical meaning in extradition law. Traditionally, double criminality refers to the requirement that the conduct underlying a legal request constitutes a criminal offense in both the requesting and the requested jurisdictions. In contrast, this article employs the concept in a broader and context-specific sense, referring to the dual legal and social positioning of trafficked persons who may be simultaneously constructed as victims of exploitation and as offenders for acts committed under coercion. This distinction is essential for clarifying that the focus of the analysis is not on jurisdictional compatibility, but on the interpretative and psychological processes through which victimhood and criminality are co-constructed within judicial contexts. In the present article, “double criminality” refers to the simultaneous construction of trafficked persons as both victims and offenders in relation to acts committed under coercion or exploitation. The term is not used in its traditional extradition-law meaning.

Although international legal frameworks increasingly emphasize the non-punishment principle, which discourages prosecution of victims for crimes committed as a direct consequence of trafficking, the implementation of this principle remains inconsistent across jurisdictions (Council of Europe, 2005; Gallagher & Holmes, 2008). In practice, victims may still be viewed through a lens of suspicion, deviance, or moral culpability.

Beyond legal doctrine, psychological processes play a crucial role in shaping these interpretations. Observers—including police officers, prosecutors, judges, and even the general public—often rely on intuitive cognitive frameworks when evaluating victim behavior. These frameworks can lead to victim blaming, a process through which responsibility for harm is partially or fully attributed to the victim rather than the perpetrator (Ryan, 1971; Lerner, 1980).

This article examines how psychological mechanisms transform exploited individuals from victims into defendants, focusing on the cognitive and social dynamics that sustain victim blaming in contexts of double criminality.

This study adopts a narrative, scoping-oriented review methodology aimed at identifying and synthesizing key psychological and legal dimensions of victim blaming in the context of double criminality in human trafficking cases. While not a fully systematic review, the approach follows the logic of scoping reviews by prioritizing transparency in source identification, selection, and analytical focus.

The literature search was conducted across multiple academic and legal databases, including Scopus, Web of Science, Google Scholar, and HeinOnline, complemented by institutional reports from organizations such as the United Nations Office on Drugs and Crime (UNODC) and the Council of Europe.

Search strategies combined keywords and Boolean operators, including: “*human trafficking*” AND “*victim blaming*”, “*non-punishment principle*” AND *trafficking*, “*trauma-informed justice*”, “*double criminality*” AND *trafficking*, and “*decision-making bias*” AND *legal*. These terms were selected to capture interdisciplinary contributions from legal studies, psychology, and victimology.

The temporal scope of the review covers the period 2005–2024, with particular emphasis on recent developments (2020–2024), in order to reflect contemporary debates on trauma-informed justice, intersectionality, and evolving legal standards regarding the non-punishment principle.

Inclusion criteria focused on peer-reviewed journal articles, academic books, and authoritative institutional reports addressing human trafficking, cognitive and attributional biases, trauma-related behavior, and judicial decision-making. Priority was given to interdisciplinary works situated at the intersection of legal psychology and criminal law.

Several limitations should be acknowledged. First, as a narrative and scoping-oriented review, the study does not employ a fully systematic protocol (e.g., PRISMA-ScR), which may introduce selection bias. Second, the analysis reflects a predominantly European and transnational legal perspective, which may limit generalizability across jurisdictions with different legal cultures. Nevertheless, the approach allows for a flexible and integrative examination of a complex phenomenon situated at the intersection of law and psychology. This study adopts a narrative, scoping-oriented review methodology aimed at identifying and synthesizing the main psychological and legal dimensions of victim blaming in the context of trafficking-related double criminality. Comparable implementation challenges have also been identified in non-European jurisdictions, including the United States and several Asian contexts, particularly regarding the identification of trafficked persons involved in irregular migration, prostitution-related offences, or coerced criminal activities. However, important differences exist in relation to legal standards, victim identification procedures, and institutional responses, which may limit the direct generalizability of the present analysis across jurisdictions.

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Search strategies combined keywords and Boolean operators such as: “*human trafficking*” AND “*victim blaming*”, “*non-punishment principle*” AND *trafficking*, “*double criminality*” AND *trafficking*, “*trauma-informed justice*”, and “*decision-making bias*” AND *legal*. These search terms were selected in order to capture interdisciplinary contributions from legal studies, psychology, victimology, and criminal justice research.

The review covered the period 2005–2024. The starting point (2005) was selected because it corresponds to the adoption of the Council of Europe Convention on Action against Trafficking in Human Beings, which represented a major development in the recognition of victim protection and the non-punishment principle within European legal frameworks. The endpoint (2024) was chosen in order to include the most recent scholarship and contemporary

debates regarding trauma-informed justice, intersectionality, judicial bias, and victim-centered approaches in trafficking cases.

Inclusion criteria focused on peer-reviewed journal articles, academic books, and authoritative institutional reports addressing trafficking, victim blaming, trauma-related behavior, coercion, attribution processes, and judicial decision-making. Exclusion criteria included non-academic sources, duplicate publications, opinion-based materials lacking scientific grounding, and studies unrelated to trafficking or legal psychology.

Although the present study follows the logic of a scoping review by emphasizing transparency in source identification and analytical selection, it does not employ a fully systematic PRISMA-based protocol. Consequently, some limitations regarding source selection and comprehensiveness should be acknowledged.

Recent scholarship (2022–2024) has significantly advanced the understanding of victim treatment in trafficking cases, particularly through the lenses of the non-punishment principle, trauma-informed justice, and intersectionality. Contemporary legal analyses emphasize that, although the non-punishment principle is firmly embedded in international and European legal frameworks, its practical implementation remains inconsistent, often leaving room for discretionary interpretations that may disadvantage victims (Mitsilegas, 2020; Klimek, 2017). More recent studies highlight that gaps between normative standards and judicial practice are frequently mediated by cognitive and institutional factors, including implicit biases and evidentiary expectations placed on victims.

A growing body of research in trauma-informed justice underscores the importance of understanding how trauma affects memory, behavior, and testimony. Empirical findings demonstrate that trauma-related responses—such as fragmented recall, inconsistencies in statements, emotional numbing, or delayed disclosure—are often misinterpreted within adversarial legal systems as indicators of unreliability or deception. This misinterpretation can reinforce victim blaming and contribute to the wrongful attribution of criminal intent in cases involving coerced illegal activities.

Recent empirical studies and institutional reports further indicate that the implementation of the non-punishment principle remains uneven across jurisdictions. In practice, trafficked persons continue to be prosecuted for offences directly linked to their exploitation, including drug-related activities, theft, immigration violations, and prostitution-related offences. Research suggests that judicial actors may prioritize observable criminal conduct while insufficiently considering coercive circumstances, trauma-related responses, or psychological dependency.

For example, several trafficking cases involving minors coerced into drug distribution demonstrated that initial judicial interpretations framed participation in criminal activities as evidence of voluntary offending. Subsequent psychological evaluations, however, revealed patterns of coercive control, threats, and trauma bonding that significantly limited the victims' autonomy.

Similarly, empirical analyses of trafficking cases involving migrant women exploited in prostitution-related activities have shown that victims were frequently detained or prosecuted before being formally identified as trafficked persons. Such cases illustrate the gap between the formal recognition of the non-punishment principle and its inconsistent implementation within judicial practice.

At the same time, intersectional approaches have brought increased attention to how factors such as gender, migration status, ethnicity, and socio-economic vulnerability shape both victimization and its legal recognition. Studies show that individuals who do not conform to

dominant narratives of the “ideal victim”—particularly migrant women, persons involved in informal or illicit economies, or individuals with prior contact with the criminal justice system—are more likely to be perceived as complicit in their exploitation (van Zyl Smit, 2024). These findings suggest that victim blaming is not only a cognitive bias but also a socially and structurally conditioned process.

In parallel, recent empirical research in legal psychology has examined decision-making biases among judicial actors in trafficking-related cases. These studies indicate that judges and prosecutors may rely on heuristic reasoning when evaluating cases involving ambiguous victim–offender boundaries, especially under conditions of uncertainty or limited contextual information. Such biases may lead to an overemphasis on observable behavior (e.g., participation in illegal acts) and an underestimation of coercive circumstances, thereby reinforcing the phenomenon of double criminality.

Together, these recent contributions highlight the need for integrating trauma-informed and bias-aware approaches into judicial practice, in order to ensure that trafficked persons are not misclassified as offenders due to misinterpretations of their behavior or social identity.

Research question and analytical framework

The phenomenon of double criminality in trafficking cases raises complex questions at the intersection of criminal law, legal psychology, and victimology. Individuals subjected to trafficking or exploitation are frequently compelled to engage in activities that constitute criminal offenses, such as theft, drug distribution, illegal migration facilitation, or prostitution-related acts. Despite international legal frameworks emphasizing the non-punishment principle, which discourages the prosecution of victims for crimes committed as a direct consequence of their exploitation, trafficked persons may still be treated as offenders within judicial processes (Gallagher & Holmes, 2008; UNODC, 2020). This study adopts a conceptual and theoretical approach, grounded in an interdisciplinary analysis of legal psychology, victimology, and trafficking-related literature. The paper is based on a narrative, scoping-oriented review of relevant academic and institutional sources, aimed at identifying key psychological mechanisms that contribute to victim blaming in contexts of double criminality. The selection of sources was guided by their relevance to the research question, focusing on works addressing human trafficking, cognitive biases, attribution processes, and trauma-related behaviors. Priority was given to peer-reviewed articles, international reports (e.g., UNODC, Council of Europe), and foundational theoretical contributions in social and legal psychology. While the review is not systematic, it seeks to provide a comprehensive and integrative perspective on the phenomenon under investigation.

Within this context, the central research question guiding this study is:

What psychological mechanisms contribute to the construction of trafficked persons as culpable actors in contexts of double criminality, and how do these mechanisms influence judicial decision-making and the mental health outcomes of victims?

This question reflects the need to understand not only the legal structures governing trafficking cases but also the cognitive and social psychological processes that shape how victims are perceived and categorized within the justice system.

From a psychological perspective, the transformation of victims into defendants often emerges from a series of cognitive biases and attribution processes that influence the interpretation of victim behavior. Observers—including police officers, prosecutors, judges, and jurors—tend to rely on intuitive frameworks when evaluating responsibility. One of the most influential mechanisms is the belief in a just world, a cognitive bias through which individuals maintain the assumption that the world is fundamentally fair and that people

generally receive outcomes they deserve (Lerner, 1980). When confronted with cases in which individuals appear to have engaged in criminal activity while simultaneously claiming victimization, observers may resolve this cognitive tension by attributing responsibility to the individual rather than acknowledging the structural conditions of exploitation (Hafer & Bègue, 2005).

Closely related to this process is the fundamental attribution error, whereby observers overemphasize dispositional explanations for behavior while underestimating situational constraints (Ross, 1977). In trafficking cases, this bias can lead legal actors to interpret actions committed under coercion—such as drug transportation or participation in illicit markets—as evidence of personal criminal intent rather than as consequences of manipulation, threats, or dependency. Such attributional distortions may contribute to the construction of trafficked individuals as autonomous offenders rather than as victims acting under constrained agency.

Another psychological mechanism shaping these perceptions involves moral evaluation and stereotype activation. Research in victimology demonstrates that observers rely on culturally embedded narratives of the “ideal victim,” a concept introduced by Christie (1986) to describe individuals who conform to socially accepted images of innocence and vulnerability. Victims who deviate from this prototype—such as adolescents involved in illegal economies or individuals with prior criminal records—are more likely to be perceived as partially responsible for their victimization (Eigenberg & Garland, 2008). In trafficking cases, these stereotypes may lead judicial actors to interpret victim conduct through a lens of deviance rather than coercion.

Psychological mechanisms also intersect with the nature of control exercised by traffickers. Unlike traditional depictions of coercion based solely on physical violence, trafficking often involves subtle forms of psychological domination, including grooming, emotional manipulation, debt bondage, and isolation (Stark, 2007; Reid, 2016). These strategies produce complex behavioral responses in victims, such as compliance, loyalty toward the trafficker, or reluctance to cooperate with authorities. Without an understanding of these dynamics, such behaviors may be misinterpreted as indicators of voluntary participation in criminal activities.

The consequences of these psychological processes extend beyond legal classification. When trafficked individuals are treated as offenders, they may experience secondary victimization, a phenomenon in which institutional responses exacerbate the harm originally inflicted by the perpetrator (Orth, 2002). Arrest, prosecution, and stigmatization can reinforce feelings of shame, fear, and self-blame, undermining recovery and contributing to adverse mental health outcomes.

Trauma research indicates that victims of trafficking frequently experience post-traumatic stress disorder (PTSD), depression, anxiety, and complex trauma symptoms resulting from prolonged exposure to coercion and abuse (Herman, 1992; Zimmerman et al., 2011). When victims are criminalized rather than protected, these psychological harms may intensify. The internalization of blame and stigmatizing labels can further impair identity reconstruction and social reintegration.

Therefore, the present research question aims to explore two interconnected dimensions. First, it seeks to identify the psychological mechanisms that shape perceptions of culpability in trafficking cases, particularly within legal contexts where victim behavior may resemble criminal conduct. Second, it examines the consequences of these perceptions, focusing on how judicial interpretations influence both legal outcomes and the psychological well-being of victims.

Addressing this question is essential for developing trauma-informed judicial practices capable of recognizing the complex realities of trafficking and exploitation. By integrating insights from social psychology, legal psychology, and victimology, this research contributes to a deeper understanding of how cognitive biases and institutional dynamics can transform victims into defendants, thereby reinforcing the phenomenon of double criminality. (Ștefănoaia, M., Spînu-Dumneanu, L., 2025).

2. Victim Blaming: Conceptual and Psychological Foundations

Victim blaming refers to the tendency to attribute responsibility for harm to the victim rather than the perpetrator (Ryan, 1971). Within social psychology, victim blaming has been widely studied in relation to violence, sexual assault, poverty, and structural inequality. It reflects a broader cognitive effort to maintain a sense of order and moral predictability in the social world.

One of the most influential explanations is Just World Theory, proposed by Lerner (1980). According to this theory, individuals possess a fundamental psychological need to believe that the world is fair and that people generally get what they deserve. When confronted with evidence of innocent suffering, observers may experience cognitive dissonance. To reduce this discomfort, they may reinterpret the situation in ways that restore perceived justice, often by attributing responsibility to the victim.

Empirical studies demonstrate that observers are more likely to blame victims when the harm appears difficult to explain or threatens beliefs about social order (Hafer & Bègue, 2005). In legal contexts, this cognitive tendency can influence how victims are evaluated, particularly when their behavior deviates from expectations of innocence or passivity.

In cases of trafficking, victims may appear to have engaged in criminal conduct, such as selling drugs or participating in prostitution, without observers fully recognizing the coercive circumstances underlying these actions. The visible behavior becomes the focal point of judgment, while the hidden structures of exploitation remain underappreciated.

3. Attribution Processes and the Construction of Responsibility

Attribution theory provides another important framework for understanding victim blaming. According to Heider (1958) and later developments by Wiener et al. (2021), individuals attempt to explain behavior by attributing it either to internal factors (such as character, motivation, or personality) or external factors (such as situational pressures).

However, people tend to commit the fundamental attribution error, overestimating the role of internal dispositions while underestimating situational constraints (Ross, 1977). This bias becomes particularly problematic in trafficking contexts where victims act under conditions of coercion, dependency, or psychological manipulation.

For example, a trafficked minor involved in drug distribution may be interpreted as a willing participant in criminal networks rather than as a coerced individual operating under threats or psychological control. Legal actors may focus on the observable act-drug dealing, while failing to fully account for the structural and psychological constraints shaping the victim's behavior. (Persson et al. 2018).

Research in legal psychology suggests that such attribution biases can significantly influence judicial decision-making, especially when victims display behaviors that appear inconsistent with stereotypical expectations of victimhood (Ask & Landström, 2010).

4. Moral Judgments and the Role of Stereotypes

Victim blaming is also shaped by moral stereotypes and culturally embedded narratives about deviance and responsibility. Certain victims, particularly those involved in activities associated with moral stigma, such as prostitution or delinquency, are more likely to be perceived as complicit in their exploitation (Eigenberg & Garland, 2008).

Stereotype-based reasoning can create a hierarchy of victimhood, in which some victims are considered more legitimate than others. Christie (1986) famously described the concept of the “ideal victim,” characterized as weak, innocent, and unrelated to the offender. Individuals who deviate from this image, such as adolescents involved in illegal markets, are less likely to receive sympathy or legal protection.

In trafficking contexts, this dynamic is particularly evident among sexually exploited minors. Despite legal recognition that minors cannot consent to sexual exploitation, observers may still interpret their actions through moralized narratives about promiscuity or delinquency (Reid, 2016). These narratives contribute to a shift in perception from victimization to culpability, reinforcing the phenomenon of double criminality. (Wiener et al., 2021)

4.1. Moral Disengagement and the Justification of Victim Blaming

Moral disengagement represents a key psychological mechanism that facilitates the attribution of blame to victims in contexts of double criminality. Originally conceptualized by Bandura (1999), moral disengagement refers to the cognitive processes through which individuals deactivate or neutralize their internal moral standards in order to justify harmful or ethically questionable behavior.

In trafficking cases, moral disengagement may operate at both individual and institutional levels. Legal actors, as well as broader societal observers, may implicitly rely on mechanisms such as moral justification, displacement of responsibility, or dehumanization when interpreting the actions of trafficked persons. For example, victims who engage in illegal activities under coercion may be perceived as “deserving” legal consequences, particularly when their behavior is framed as voluntary or aligned with socially stigmatized activities.

One relevant mechanism is the minimization or distortion of harm, whereby the coercive conditions of trafficking are downplayed, and the focus is shifted toward the observable criminal act. Another mechanism involves victim blaming through attribution of choice, where individuals are perceived as having had the capacity to avoid exploitation, despite evidence of manipulation, dependency, or threat. These processes allow observers to maintain a sense of moral order while simultaneously legitimizing punitive responses toward victims.

The presence of moral disengagement is particularly problematic in judicial contexts, where decisions must be grounded in objective assessment of evidence and legal principles. When moral disengagement operates implicitly, it can reinforce cognitive biases such as the belief in a just world and the fundamental attribution error, ultimately contributing to the misclassification of trafficked persons as offenders. Addressing this mechanism requires not only legal safeguards but also increased awareness among practitioners regarding the psychological processes that shape moral judgment.

5. Psychological Control and Perceived Agency

A key factor complicating victim recognition is the subtle nature of coercion in many exploitation cases. Unlike traditional images of violent captivity, trafficking often involves psychological control mechanisms, including grooming, emotional dependency, and manipulation (Stark, 2007).

Traffickers frequently cultivate relationships that blur the boundaries between coercion and perceived choice. Victims may appear cooperative or even loyal to their exploiters, a phenomenon sometimes referred to as trauma bonding (Dutton & Painter, 1993). For external observers, such behavior may appear inconsistent with victimhood.

When victims exhibit behaviors such as defending the trafficker, refusing to testify, or returning to exploitative environments, observers may interpret these actions as evidence of voluntary participation. However, psychological research indicates that such behaviors are often the result of coercive control, emotional manipulation, and survival strategies rather than genuine autonomy (Stark, 2007).

Failure to recognize these dynamics can lead legal systems to misinterpret coerced behavior as intentional criminal conduct.

6. Stigma and Secondary Victimization

Victim blaming contributes to a broader process known as secondary victimization, where victims experience additional harm through institutional responses (Orth, 2002). When victims are treated as offenders, they may face arrest, prosecution, or detention, reinforcing feelings of shame, fear, and mistrust toward authorities.

Stigma plays a significant role in this process. According to Goffman (1963), stigma functions as a social mechanism that discredits individuals associated with deviant identities. Victims of trafficking, especially those involved in illegal activities during exploitation, may be labeled as criminals, prostitutes, or delinquents, identities that overshadow their victimization.

Such labeling can have long term psychological consequences, including self-blame, internalized stigma, and reluctance to seek help (Herman, 1992). In turn, these effects may hinder recovery and reduce the likelihood that victims cooperate with legal proceedings against traffickers.

7. Double Criminality as a Cognitive and Institutional Phenomenon

Double criminality emerges at the intersection of psychological biases and institutional practices. Legal systems traditionally rely on clear distinctions between victim and offender, yet trafficking cases often blur these categories. Victims may simultaneously occupy both roles, engaging in illegal acts while being subjected to coercion.

Psychological mechanisms such as just-world reasoning, attribution bias, and stereotype activation can influence how legal actors interpret such cases. When these cognitive tendencies intersect with institutional pressures, such as the need to enforce criminal laws or maintain prosecutorial efficiency, victims may be processed through the criminal justice system rather than recognized as victims of exploitation.

Consequently, the transformation of victims into defendants is not merely a legal misclassification but a psychologically mediated process that shapes institutional responses.

Recent empirical findings in legal psychology further suggest that judicial decision-making in trafficking-related cases is frequently influenced by heuristic reasoning under conditions of uncertainty. When victims present fragmented testimony, delayed disclosure, or inconsistent narratives due to trauma, such behaviors may be interpreted as indicators of deception or criminal intent rather than trauma-related responses. This dynamic contributes to the persistence of victim blaming and increases the risk of misclassifying trafficked persons as offenders.

8. Practical Implications and Operational Recommendations

The findings of this study highlight the need for concrete, operational measures aimed at reducing victim misclassification and improving judicial responses in trafficking cases involving double criminality. Translating psychological insights into practice requires the development of structured tools and procedures that support legal actors in making informed, context-sensitive decisions.

First, specialized training modules should be developed for police officers, prosecutors, and judges, focusing on trauma-informed approaches, cognitive biases in decision-making, and the psychological dynamics of coercion and control. Such training should include case-based learning and interdisciplinary perspectives integrating legal and psychological expertise.

Second, decision-support tools may assist practitioners in systematically evaluating indicators of victimization. These may include checklists or structured assessment frameworks designed to identify signs of coercion, dependency, psychological control, and restricted autonomy. Incorporating such tools into early stages of investigation can improve the identification of trafficking victims and reduce reliance on intuitive judgments.

Third, the use of standardized indicators of coercion is essential. These may encompass evidence of threats, debt bondage, manipulation, isolation, confiscation of documents, or inconsistent statements linked to trauma rather than deception. Recognizing these indicators can help differentiate between voluntary criminal behavior and actions performed under constraint.

Fourth, the implementation of screening protocols at key procedural stages (e.g., initial police contact, detention, prosecution) can ensure that potential victims are systematically assessed before being formally charged. These protocols should be aligned with the non-punishment principle and supported by multidisciplinary collaboration, including social workers and psychologists.

To illustrate the practical relevance of these measures, consider the case of a trafficked minor apprehended for drug distribution. A trauma-informed assessment may reveal that the individual acted under threats and psychological control, despite appearing cooperative with the criminal network. Without such assessment, the minor risks being processed as an offender. With appropriate screening and decision-support tools, however, the same individual can be correctly identified as a victim and referred to protection services.

In another example, an adult victim involved in prostitution-related offenses may initially deny exploitation due to fear or emotional dependency on the trafficker. A structured evaluation of coercion indicators and trauma-related behaviors can help legal actors interpret such responses not as evidence of consent, but as manifestations of control and survival strategies.

Overall, the integration of operational tools and trauma-informed practices is essential for bridging the gap between legal norms and judicial practice, ensuring that victims of trafficking are recognized and treated as such within criminal justice systems.

9. Conclusion

The analysis presented in this article demonstrates that the transformation of trafficked persons from victims into defendants cannot be fully understood through legal doctrine alone. While criminal law frameworks define the elements of offenses and the principles governing criminal responsibility, the interpretation of victim behavior within judicial processes is also deeply influenced by psychological mechanisms that shape perception, evaluation, and

judgment. In trafficking cases where victims are often compelled to engage in illegal activities under conditions of coercion, manipulation, or dependency, these mechanisms play a decisive role in determining whether individuals are recognized as victims or constructed as culpable actors.

It is important to reiterate that the concept of “double criminality” as employed in this article differs from its classical meaning in extradition law. Rather than referring to dual criminalization across jurisdictions, the term is used here to describe the dual positioning of trafficked persons as both victims of exploitation and subjects of criminal liability for acts committed under coercion.

The discussion has highlighted how several psychological processes contribute to this transformation. Cognitive biases, particularly the fundamental attribution error, encourage observers to interpret behavior primarily in terms of personal agency while underestimating situational constraints such as coercion or psychological domination. At the same time, the belief in a just world fosters a tendency to rationalize harmful outcomes by attributing responsibility to those who experience them, thereby preserving perceptions of moral order and fairness. These cognitive tendencies interact with moral stereotypes and cultural narratives of victimhood, which privilege the image of the “ideal victim” as passive, innocent, and socially respectable. Individuals who deviate from this prototype, such as trafficked persons involved in illegal markets or individuals with prior contact with the criminal justice system, are therefore more likely to be perceived as complicit in their own exploitation.

Furthermore, stigma and social labeling processes reinforce this interpretative shift from victimhood to culpability. Once trafficked individuals are associated with criminal identities, such as “offender,” “delinquent,” or “prostitute,” these labels can overshadow the structural realities of exploitation and shape the responses of legal institutions. In this context, victim blaming becomes not merely an individual cognitive reaction but a systemic interpretative pattern embedded within institutional practices and societal attitudes.

The consequences of these psychological dynamics are significant. When victims are interpreted as offenders, they may be subjected to arrest, prosecution, or detention, thereby experiencing secondary victimization within the justice system. Such responses can intensify the psychological harms already associated with trafficking, including trauma, anxiety, and feelings of shame or self-blame. Moreover, the criminalization of victims undermines efforts to dismantle trafficking networks by discouraging victims from seeking assistance or cooperating with authorities.

Recognizing the psychological foundations of victim blaming is therefore essential for improving both legal responses and victim protection frameworks. Judicial actors must be equipped to understand how coercion, psychological control, and trauma shape victim behavior. Training programs that integrate insights from legal psychology, trauma research, and victimology can help reduce reliance on intuitive judgments and promote more context-sensitive evaluations of responsibility. In addition, the consistent application of the non-punishment principle, which discourages the prosecution of victims for crimes directly resulting from their exploitation, represents a critical safeguard against the misclassification of trafficked persons as offenders.

Ultimately, addressing the phenomenon of double criminality requires an interdisciplinary approach that integrates legal analysis with psychological insight. By acknowledging how cognitive biases, attribution patterns, and social stereotypes influence judicial perceptions, legal systems can move toward more trauma-informed and victim-centered practices. Such an

approach not only enhances fairness within criminal justice processes but also reinforces the fundamental principle that individuals subjected to trafficking and exploitation should be treated as persons in need of protection rather than as offenders deserving punishment.

Future research may benefit from broader comparative analyses including non-European legal systems in order to explore how cultural, institutional, and legal differences influence the implementation of the non-punishment principle and the perception of trafficked persons within criminal justice systems.

It is important to reiterate that the concept of “double criminality” as used in this article departs from its classical meaning in extradition law. Rather than referring to the requirement of dual criminalization across jurisdictions, the term is employed here in a broader socio-legal and psychological sense, describing the dual positioning of trafficked persons as both victims of exploitation and subjects of criminal liability for acts committed under coercion. This distinction is essential for avoiding conceptual ambiguity and for properly situating the analysis within the framework of victim-centered and trauma-informed justice.

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