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

Mihaela Rus

*Faculty of Law and Administrative Sciences, Ovidius University, Constanța, Romania The Institute of Philosophy and
Psychology of the Romanian Academy, Romania*

Abstract

The phenomenon of 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.

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