

Cognitive biases in judicial decision-making: Their impact on the assessment of responsibility in human trafficking cases

Mihaela Rus

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

Abstract

Human trafficking cases frequently raise complex questions regarding the attribution of responsibility, particularly when victims' behavior is interpreted through the lens of apparent consent or perceived agency. In judicial contexts, the evaluation of responsibility is not solely determined by legal norms and evidentiary standards but may also be influenced by cognitive processes that shape how decision-makers interpret facts and assess credibility. This paper examines the role of cognitive biases in judicial decision-making and their potential impact on the assessment of responsibility in human trafficking cases.

Drawing on insights from judicial psychology, social cognition, and international human rights law, the study explores how specific cognitive biases—such as the fundamental attribution error, confirmation bias, and belief in a just world—may influence the interpretation of victims' actions and the evaluation of coercion, vulnerability, and consent. These psychological mechanisms can lead to the misinterpretation of victims' adaptive or survival behaviors as indicators of voluntary participation, thereby increasing the risk of victim blaming and undermining the recognition of exploitation.

The paper adopts an interdisciplinary approach, integrating psychological theory with legal analysis of trafficking frameworks and judicial practices. Particular attention is given to the implications of cognitive biases for the protection of victims' rights and for the consistency and legitimacy of judicial outcomes. The analysis highlights the need for trauma-informed and psychologically informed judicial practices capable of recognizing the complex dynamics of coercion and control that characterize trafficking situations.

The study concludes that addressing cognitive biases through judicial training, clearer evidentiary guidelines, and interdisciplinary collaboration can contribute to more accurate assessments of responsibility and to a more victim-centered and legitimate

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