

VICTIM CONSENT IN HUMAN TRAFFICKING: A COMPARATIVE CRIMINAL-LAW ANALYSIS

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Abstract

The issue of victim consent remains one of the most challenging questions in the criminal-law regulation of human trafficking. Although the international legal framework establishes that a victim's consent is irrelevant where coercive or deceptive means have been employed, the practical interpretation and application of this principle continue to differ across national legal systems. This article examines the criminal-law significance of victim consent in human trafficking through a comparative analysis of international standards and selected foreign legislative approaches, with particular attention to the relationship between consent, exploitation, coercion, deception, abuse of power, and abuse of a position of vulnerability. The study employs comparative-legal, formal-legal, and analytical methods to identify inconsistencies in the treatment of apparent consent and to assess their implications for the effective prosecution of trafficking offences and protection of victims. The article argues that an overly broad reliance on the victim's apparent willingness may shift the focus from the conduct of the perpetrator to the behaviour of the victim and consequently weaken the effectiveness of anti-trafficking criminal law. At the same time, an excessively broad interpretation of vulnerability may create difficulties in distinguishing trafficking from other forms of exploitation. Based on the comparative findings, the article proposes directions for clarifying the legal treatment of consent and strengthening victim-centred criminal-law mechanisms within national legislation.

Keywords: Human trafficking, victim consent, criminal liability, exploitation, coercion, vulnerability, deception, comparative criminal law, victim protection, criminal legislation.

Introduction

**СОГЛАСИЕ ПОТЕРПЕВШЕГО В ПРЕСТУПЛЕНИИ ТОРГОВЛИ ЛЮДЬМИ:
СРАВНИТЕЛЬНО-ПРАВОВОЙ АНАЛИЗ В УГОЛОВНОМ ПРАВЕ**

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АННОТАЦИЯ

Проблема согласия потерпевшего остается одним из наиболее сложных вопросов уголовно-правового регулирования торговли людьми. Несмотря на то, что международно-правовые нормы устанавливают юридическую незначимость согласия потерпевшего в случаях применения принуждения, обмана или иных запрещенных способов воздействия, практика толкования и применения данного принципа продолжает различаться в национальных правовых системах. В настоящей статье исследуется уголовно-правовое значение согласия потерпевшего при торговле людьми посредством сравнительного анализа международных стандартов и законодательства отдельных зарубежных государств, с особым вниманием к взаимосвязи согласия с эксплуатацией, принуждением, обманом, злоупотреблением властью и уязвимым положением потерпевшего.

В исследовании применяются сравнительно-правовой, формально-юридический и аналитический методы. Обосновывается, что чрезмерное значение внешне выраженного согласия потерпевшего может привести к смещению акцента с противоправного поведения преступника на поведение самого потерпевшего и тем самым снизить эффективность уголовно-правовой борьбы с торговлей людьми. Одновременно чрезмерно широкое толкование уязвимого положения может затруднить разграничение торговли людьми и иных форм эксплуатации. На основе проведенного сравнительного анализа предлагаются направления совершенствования правового регулирования согласия потерпевшего и усиления механизмов уголовно-правовой защиты жертв торговли людьми.

Ключевые слова: торговля людьми, согласие потерпевшего, уголовная ответственность, эксплуатация, принуждение, уязвимое положение, обман, сравнительное уголовное право, защита потерпевших, уголовное законодательство.

INTRODUCTION

Human trafficking remains one of the most complex forms of serious criminal exploitation and continues to present significant challenges to national criminal justice systems and international law-enforcement cooperation. The complexity of trafficking offences is largely attributable to the diversity of their forms, methods of recruitment, categories of victims, and purposes of exploitation. Trafficking may involve sexual exploitation, forced labour or services, slavery or practices similar to slavery, servitude, or the removal of organs (United Nations, 2000; United Nations Office on Drugs and Crime [UNODC] 2024). The 2024 UNODC Global Report on Trafficking in Persons demonstrates the continuing global scale and changing patterns of this crime (UNODC, 2024).

Within this broader context, the legal significance of a victim's consent constitutes one of the most controversial issues in the criminal-law regulation of human trafficking. The problem arises because trafficking situations do not always begin with apparent physical force or explicit threats. A person may agree to travel to another country, accept an employment offer, provide services, or enter into a particular arrangement without initially perceiving themselves

as a victim. Subsequently, however, that apparent agreement may prove to have been obtained or maintained through deception, coercion, abuse of power, or exploitation of the person's vulnerable position. Consequently, the mere existence of an outwardly expressed willingness cannot, by itself, determine whether trafficking has occurred (UNODC, 2024).

The scholarly literature reflects different approaches to this problem. (Jones, 2012) argues that the role of consent in identifying trafficking victims requires a careful balance between respect for individual autonomy and recognition of the realities of exploitation and victimization. His analysis demonstrates that treating consent as either entirely decisive or entirely irrelevant may oversimplify the complex circumstances in which trafficking occurs.

A similar concern is evident in the work of Schloenhardt and Bowcock (2015), who examined the conceptual and practical significance of victim consent in trafficking prosecutions in Australia. The authors note that although consent does not constitute a substantive defence to trafficking where the elements of the offence are established, courts may nevertheless engage with the issue of consent in borderline cases. Their analysis draws attention to the risk of stereotypes concerning victims and emphasizes the need for a more nuanced understanding of consent in trafficking prosecutions.

Albanese et al. (2022) approach the issue from an empirical perspective and argue that the traditional binary representation of trafficking as a simple relationship between victims and offenders may fail to reflect the realities of particular trafficking situations. Based on extensive interview evidence from victims and offenders across multiple countries, the authors identify consent, coercion, and fraud as interconnected concepts and highlight situations involving self-initiation and complex forms of exploitation. Their findings suggest that the legal assessment of consent should take account of the broader social and economic circumstances in which decisions are made.

The issue of vulnerability adds another important dimension to this debate. Głogowska-Balcerzak (2026) observes that the concept of "abuse of a position of vulnerability" was incorporated into the international definition of trafficking without a sufficiently detailed explanation of its content. According to the author, vulnerability should be assessed on a case-by-case basis by considering personal, situational, and contextual factors. The lack of clear criteria may result in inconsistent outcomes in similar cases and may particularly affect the protection of vulnerable victims.

Recent scholarship further demonstrates that vulnerability should not necessarily be understood as a fixed personal characteristic. Kösl et al. (2026), examining labour exploitation, argue for a multidimensional understanding of vulnerability that takes into account the circumstances affecting an individual's capacity to give genuinely free consent. This perspective is particularly relevant to trafficking cases in which victims appear to have consented to employment or migration but subsequently become subject to exploitation.

These scholarly approaches reveal an important research tension. On the one hand, giving excessive legal weight to a victim's apparent consent may weaken the protective function of anti-trafficking law and shift attention from the perpetrator's conduct to the victim's behaviour. On the other hand, treating every expression of consent as legally irrelevant, without examining the circumstances in which it was given, may create difficulties in

distinguishing trafficking from other forms of exploitation and may raise concerns regarding legal certainty. The central problem is therefore not simply whether consent matters, but under what circumstances consent should lose its legal significance.

The international legal framework provides an important starting point for resolving this issue. Article 3(a) of the Protocol to Prevent, Suppress and Punish Trafficking in Persons, Especially Women and Children, supplementing the United Nations Convention against Transnational Organized Crime, defines trafficking through three interconnected elements: an act, specified means, and an intended purpose of exploitation (United Nations, 2000). Importantly, Article 3(b) establishes that the consent of a victim to the intended exploitation is irrelevant where any of the specified means have been used (United Nations, 2000).

This principle is particularly important because consent in trafficking cases cannot always be assessed in the same manner as consent in ordinary criminal or contractual relationships. The existence of deception, coercion, abuse of power, or abuse of a position of vulnerability may substantially affect a person's ability to make a genuinely free and informed decision. Thus, the central legal question should not simply be whether a person expressed agreement at a particular stage of the trafficking process, but under what circumstances that agreement was obtained and whether the perpetrator used prohibited means for the purpose of exploitation (United Nations, 2000; UNODC, 2024).

The distinction is especially significant in cases involving abuse of vulnerability. The international framework expressly recognizes abuse of a position of vulnerability as one of the means capable of constituting trafficking (United Nations, 2000). However, the precise interpretation of vulnerability remains contested. Głogowska-Balcerzak (2026) emphasizes that the absence of sufficiently clear criteria for assessing vulnerability may lead to different legal outcomes in comparable cases. This observation demonstrates the need to establish clearer criminal-law criteria for determining when a person's vulnerability affects the validity or legal significance of apparent consent.

The jurisprudence of the European Court of Human Rights further demonstrates the importance of examining trafficking through the constituent elements of the offence and the State's positive obligations. In *S.M. v. Croatia* [GC], the Grand Chamber examined allegations concerning trafficking and forced prostitution under Article 4 of the European Convention on Human Rights. The Court considered the relevance of the international definition of trafficking and emphasized the necessity of assessing the circumstances of the alleged exploitation (European Court of Human Rights [ECtHR], 2020).

The relevance of victim consent can also be observed in the broader European human-rights framework. The European Court of Human Rights has developed its Article 4 jurisprudence in a manner requiring States to provide effective protection against serious forms of exploitation and to conduct effective investigations where credible allegations of trafficking arise (ECtHR, 2020).

Despite the existence of international standards and an expanding body of scholarship, significant differences remain in national approaches to the criminal-law treatment of consent. Legal systems vary in the formulation of trafficking offences, the definition and interpretation of vulnerability, the treatment of coercion and deception, and the evidentiary assessment of

victims' conduct. These differences are particularly important in cases where the victim initially agrees to travel, work, or provide services but is subsequently subjected to exploitation.

Accordingly, the existing literature demonstrates that the relationship between consent, vulnerability, coercion, and exploitation has not yet been resolved through a universally consistent criminal-law approach. While some scholars emphasize the need to protect victim autonomy and avoid victim-blaming (Jones, 2012; Schloenhardt & Bowcock, 2015), others highlight the complexity of trafficking relationships and the need to consider the social and economic circumstances surrounding apparent consent (Albanese et al., 2022). Recent research additionally calls for a more contextual and multidimensional understanding of vulnerability.

This scholarly divergence identifies an important research gap. Existing studies have examined consent predominantly from the perspectives of victim identification, vulnerability, exploitation, or particular national legal systems. However, further comparative criminal-law analysis is needed to establish how different legal systems reconcile the principle of the irrelevance of consent with the requirements of legal certainty, proof, and differentiation between trafficking and other forms of exploitation. In particular, there is a need to clarify the relationship between initial consent and subsequently established coercion, deception, abuse of power, or vulnerability.

Against this background, the present study focuses on the criminal-law significance of victim consent in human trafficking. The article aims to identify the principal legal problems associated with the assessment of consent, examine relevant international standards and selected foreign approaches, and determine the circumstances in which apparent consent should have no legal significance for the qualification of trafficking conduct. Particular attention is given to the interaction between consent and coercion, deception, abuse of power, and abuse of a position of vulnerability.

The research employs comparative-legal, formal-legal, and analytical methods. International legal instruments, relevant European human-rights jurisprudence, scholarly literature, and selected national criminal-law provisions are examined to identify common principles and divergent approaches.

The scientific contribution of the article lies in developing a more precise criminal-law understanding of the relationship between victim consent and the objective circumstances of trafficking. The article argues that the decisive factor should not be the mere existence of an initial expression of consent, but the circumstances under which that consent was formed, the means employed by the perpetrator, and the intended purpose of exploitation. On this basis, the study proposes directions for improving national criminal legislation and judicial practice in order to ensure a consistent, victim-centred, and legally certain approach to the assessment of consent in human trafficking cases.

MAIN PART

The legal assessment of victim consent in human trafficking requires moving beyond the traditional binary distinction between consent and non-consent. The principal difficulty is that trafficking relationships may develop through several stages, and the victim's decision at one

stage cannot necessarily be equated with agreement to the conduct that occurs at a later stage. This problem has been particularly emphasized in the scholarly literature. Jones (2012) argues that the consent question in trafficking cannot be resolved simply by classifying an individual as either a willing participant or a victim. His analysis places the issue within the broader relationship between individual autonomy, migration, voluntariness, coercion, and exploitation and proposes a more structured approach to determining the legal significance of consent.

This approach is important because the initial decision of a person to migrate, accept employment, or enter a particular relationship does not necessarily demonstrate agreement to the conditions subsequently imposed by the perpetrator. For example, an individual may voluntarily agree to work abroad while being deceived about the nature of the work, remuneration, working conditions, or restrictions that will later be imposed. In such circumstances, the relevant criminal-law question is not simply whether the individual initially agreed to travel or work, but whether that agreement extended to the exploitative conduct and whether the perpetrator used legally prohibited means to obtain or maintain the person's submission. The distinction between consent to participation and consent to exploitation therefore provides a more accurate framework for analysing trafficking cases.

This interpretation is supported by Schloenhardt and Bowcock (2015), who examined the treatment of victim consent in Australian trafficking cases. Their research demonstrates that, under international law and Australian criminal law, consent is neither an element of trafficking nor a substantive defence once the material elements of the offence have been established. Nevertheless, Australian courts have sometimes discussed consent during criminal proceedings, particularly in borderline cases. The authors warn that such discussions can undermine victims' credibility and reinforce stereotypes concerning how a "genuine" trafficking victim should behave.

The significance of this observation extends beyond the Australian context. If a victim's decision to travel with the perpetrator, accept employment, remain in a particular relationship, or delay reporting is treated as conclusive evidence of consent, judicial assessment may unintentionally shift from the conduct of the alleged perpetrator to the behaviour of the alleged victim. Such an approach is problematic because the legal object of the trafficking offence is the exploitation and control exercised by the perpetrator, not the victim's conformity to an assumed model of behaviour. Consequently, evidence concerning the victim's conduct should be assessed together with the circumstances in which the decision was made and the methods subsequently employed by the perpetrator.

At the same time, rejecting any relevance of the victim's conduct would also be problematic from the standpoint of criminal-law certainty. The principle that consent is irrelevant cannot mean that the existence of a difficult economic situation, a desire to migrate, or dissatisfaction with employment automatically establishes trafficking. The prosecution must still prove the legally required elements of the offence. The correct approach is therefore not to disregard consent as a factual circumstance, but to deny it exculpatory significance where the legally specified means of trafficking have been established.

The empirical research of Albanese, Broad, and Gadd (2022) is particularly relevant to this distinction. Their study demonstrates that the relationship between consent, coercion, and fraud in trafficking cases can be considerably more complex than a simple victim–offender model suggests. The authors identify cases involving self-initiation as well as situations in which consent, coercion, and fraud operate in combination. This finding has an important implication for criminal-law analysis: the presence of an initial voluntary decision and the subsequent existence of exploitation are not necessarily mutually exclusive.

Consequently, consent should be examined in its temporal and factual context. An investigator or court should determine what information was available to the person at the time of the initial decision, whether that information was truthful, what conditions were subsequently imposed, whether the person's ability to leave or refuse changed, and whether the perpetrator introduced mechanisms of control. This approach makes it possible to distinguish an individual's autonomous decision from a situation in which an initially voluntary relationship is transformed into an exploitative one.

The same reasoning applies to deception. Where a person agrees to employment or migration on the basis of materially false representations, the content of the person's consent must be assessed against the information that induced that decision. Consent obtained through deception cannot simply be treated as equivalent to informed and unrestricted agreement. However, deception should also be connected to the legally relevant trafficking conduct; not every inaccurate statement or breach of an employment promise automatically constitutes human trafficking. The criminal-law assessment must establish the nature and significance of the deception, its relationship to the victim's decision, and its connection with the purpose of exploitation.

Coercion presents a different but related problem. It may affect the victim after the initial agreement has already been made. A person may voluntarily enter a particular arrangement but later face threats, restrictions, or other forms of pressure that make withdrawal practically impossible. In such circumstances, the legal analysis should distinguish the original decision from the conditions under which the person subsequently remained in the exploitative situation. Treating the original decision as permanently determinative would fail to account for changes in the relationship between the perpetrator and the victim.

The concept of vulnerability provides another important basis for this contextual analysis. Article 2 of Directive expressly includes abuse of a position of vulnerability among the means of trafficking and defines such a position as a situation in which the person has “no real or acceptable alternative” but to submit to the abuse. This formulation is significant because it does not equate vulnerability with a particular personal characteristic. Instead, it directs attention to the person's actual circumstances and available alternatives.

This approach offers an important safeguard against two opposite errors. On the one hand, it prevents courts from ignoring vulnerability merely because the victim initially appeared willing to participate. On the other hand, it prevents vulnerability from being interpreted so broadly that every economically disadvantaged or socially dependent person is automatically presumed incapable of making an autonomous decision. Vulnerability becomes criminally relevant when it is abused by the perpetrator in connection with the exploitative conduct.

Jones's analysis is particularly useful because it recognizes that the desire to migrate may coexist with substantial risks of exploitation and therefore cannot by itself resolve whether a person should be regarded as a trafficking victim.

These comparative findings suggest that three propositions should be distinguished in criminal-law analysis. First, a person's initial consent to migration, employment, or another activity does not necessarily constitute consent to exploitation. Second, where legally specified means such as coercion, deception, abuse of power, or abuse of vulnerability are established in connection with exploitation, the victim's consent to that exploitation should not operate as a defence. Third, the victim's conduct remains a factual circumstance that may be examined, but it should not become the primary criterion for determining criminal liability. These propositions are particularly relevant to Uzbekistan. Since Uzbekistan is a party to the Palermo Protocol, the international principle concerning the irrelevance of victim consent provides an important benchmark for evaluating the domestic criminal-law framework. The comparative analysis suggests that the national approach would be strengthened if the legal consequences of victim consent were expressed with greater precision and linked explicitly to the prohibited means and exploitative purpose of trafficking.

The principal issue is therefore not whether Uzbek criminal law should simply declare that "victim consent is irrelevant." Such a formulation, standing alone, could be overly broad. A more precise rule should explain when consent loses its exculpatory significance. The relevant condition should be the establishment of the perpetrator's use of legally prohibited means for the purpose of exploitation.

On this basis, the author proposes a contextual criminal-law model consisting of three sequential questions. First, what exactly did the victim consent to? Second, what means did the perpetrator use to obtain or maintain the victim's participation? Third, was the use of those means connected with the intended or actual exploitation? This model allows the court to distinguish genuine voluntary participation from apparent consent produced or maintained through criminally relevant conduct.

The first question prevents the scope of consent from being artificially expanded. Consent to travel, for example, should not automatically be treated as consent to forced labour, sexual exploitation, servitude, or other exploitative conditions. The second question focuses judicial attention on the perpetrator's behaviour rather than on stereotypes about victim behaviour. The third question ensures that vulnerability, deception, or another adverse circumstance is not treated as trafficking in isolation, but is assessed in connection with the exploitative purpose required by the offence.

Such a model also provides a better balance between victim protection and the principle of legality. An excessively victim-centred approach that automatically invalidates every decision made by a vulnerable person could expand criminal liability beyond the intended boundaries of trafficking. Conversely, an approach that gives decisive importance to initial consent could allow perpetrators to avoid responsibility despite subsequently employing coercion, deception, or abuse of vulnerability. The contextual model avoids both extremes by maintaining the requirement that the prosecution establish the legally relevant conduct and its connection with exploitation.

Accordingly, the author considers that the most appropriate legislative solution is to clarify in the relevant provision on human trafficking that the consent of an adult person to intended exploitation shall not exclude criminal liability where the perpetrator has used force, threat of force, coercion, deception, abuse of power, abuse of a position of vulnerability, dependency, or another legally recognized means for the purpose of exploitation.

Such a provision would not eliminate the obligation to prove the constituent elements of trafficking. Its purpose would instead be to prevent the victim's initial or apparent consent from being incorrectly transformed into a defence once the relevant means and exploitative purpose have been established.

The comparative evidence supports this approach. The EU framework expressly establishes the irrelevance of consent where the specified means are used; Australian scholarship demonstrates the danger of allowing discussions of consent to undermine victim credibility; Jones's analysis emphasizes the need for a more sophisticated framework for evaluating voluntariness; and empirical research by Albanese et al. demonstrates that consent, coercion, and fraud may coexist within actual trafficking relationships.

The resulting position is therefore not that consent has no factual existence or that every apparently voluntary relationship constitutes trafficking. Rather, the argument is that consent should not be permitted to determine the criminal-law outcome independently of the circumstances in which it was expressed and the means used by the perpetrator. Once the legally relevant means and exploitative purpose have been established, the victim's consent to exploitation should have no exculpatory effect. This approach provides a coherent connection between international standards, comparative criminal law, scholarly analysis, and the need for greater precision in national legislation.

CONCLUSION

The comparative criminal-law analysis conducted in this study demonstrates that the legal significance of victim consent in human trafficking cannot be adequately determined through a simple distinction between “consenting” and “non-consenting” victims. Such a binary approach fails to reflect the complex circumstances in which trafficking relationships arise and develop. The principal conclusion of this study is that consent should be assessed contextually, with particular attention to the precise scope of the victim’s agreement, the circumstances under which it was expressed, the conduct and means employed by the perpetrator, and the relationship between those means and the intended or actual exploitation. The analysis of international and comparative legal standards confirms that the decisive criminal-law issue is not whether a victim initially demonstrated willingness to participate in migration, employment, transportation, or another activity. Rather, the decisive issue is whether the perpetrator subsequently obtained or maintained the person’s participation through coercion, deception, abuse of power, abuse of vulnerability, or another legally recognized means for the purpose of exploitation. Accordingly, initial consent to one aspect of a relationship cannot logically be transformed into consent to every subsequent condition imposed by the perpetrator.

The study further establishes an important distinction between the factual existence of consent and its legal effect. Consent may exist as a factual circumstance and may be relevant to understanding how the trafficking relationship developed; however, it should not operate as an exculpatory circumstance once the legally relevant means of trafficking and the purpose of exploitation have been established. This distinction provides a more precise interpretation of the international principle reflected in Article 3(b) of the Palermo Protocol and prevents the rule on the irrelevance of consent from being interpreted either too narrowly or too broadly. The findings of foreign scholars reinforce this conclusion. Jones (2012) demonstrates the inadequacy of reducing trafficking victim identification to a simple question of consent, while Schloenhardt and Bowcock (2015), through their analysis of Australian case law, reveal the practical danger of allowing assumptions about victim consent to influence assessments of credibility. Albanese, Broad, and Gadd (2022) further demonstrate that consent, coercion, and fraud may coexist within individual trafficking relationships. Taken together, these findings support the proposition that the criminal-law assessment should focus primarily on the perpetrator's conduct and the circumstances of exploitation rather than on whether the victim conforms to an assumed model of a "typical" trafficking victim.

This conclusion is also compatible with the development of Uzbek criminal-law scholarship. M.H. Rustambayev, Q.R. Abdurasulova, S.S. Niyozova, and N.B. Qurbonov, in their monograph *Odam savdosiga qarshi kurash muammolari* (2011), examined human trafficking as a complex criminal-law and criminological phenomenon and contributed to the development of the national scientific approach to combating this crime. The significance of their work for the present research lies in establishing a national doctrinal foundation for analysing trafficking, its criminal-law characteristics, victim-related issues, and mechanisms of prevention.

The contribution of S.S. Niyozova is particularly relevant from a victimological perspective. Her research addresses victimisation associated with violent crimes, including human trafficking, and emphasizes the importance of preventing victimisation and improving legal mechanisms for protecting persons affected by such offences.

This victimological perspective complements the present study's criminal-law analysis: if the purpose of criminal law is not merely to punish the offender but also to provide effective protection against exploitation, the victim's behaviour cannot be allowed to become an unjustified basis for reducing the perpetrator's responsibility.

M.H. Rustambayev's specialised work on human trafficking likewise represents an important part of the national criminal-law scholarship concerning the nature and legal characteristics of trafficking. I.Y. Fozilov's research on trafficking as a global problem and the importance of international cooperation further demonstrates the relevance of international standards to the development of Uzbekistan's anti-trafficking framework. The present research develops these national scholarly approaches in a narrower and comparatively less examined direction by focusing specifically on the criminal-law consequences of victim consent.

The comparative analysis therefore identifies a particular doctrinal gap. Existing approaches have devoted substantial attention to the definition of trafficking, its objective and subjective elements, liability, prevention, victimisation, and international cooperation. However, the

question of precisely how the victim's apparent consent should be evaluated when the perpetrator has employed legally relevant means of trafficking requires further conceptual clarification. The present study addresses this issue by proposing a contextual model that connects consent with the perpetrator's conduct rather than treating consent as an isolated characteristic of the victim.

The proposed model consists of three logically interconnected stages. First, the court should determine the precise scope of the victim's consent: what activity did the person actually agree to? Second, it should establish the means employed by the perpetrator to obtain, influence, or maintain the victim's participation. Third, it should determine whether those means were connected with the intended or actual exploitation. Only after these questions have been answered can the legal effect of the victim's consent be properly determined.

This model has an important advantage. It avoids both excessive restriction and excessive expansion of criminal liability. On the one hand, it prevents perpetrators from relying on an initial voluntary decision to escape liability for subsequent exploitation. On the other hand, it prevents every case involving economic hardship, migration, difficult employment conditions, or personal vulnerability from automatically being classified as human trafficking. The criminal offence must remain based on the legally established conduct of the perpetrator and its connection with exploitation.

The proposed approach also has direct implications for Article 135 of the Criminal Code of the Republic of Uzbekistan. The national legislation contains provisions addressing coercion, violence, dependency, vulnerability, and other circumstances relevant to trafficking. Nevertheless, the comparative analysis indicates that greater clarity concerning the legal effect of adult victim consent would strengthen the consistency of national criminal-law interpretation with the Palermo Protocol and other international standards.

Therefore, the author proposes that the relevant provision of Uzbek criminal legislation should expressly establish that the consent of an adult person to intended exploitation does not exclude criminal liability where the perpetrator has used force, threat of force, coercion, deception, abuse of power, abuse of a position of vulnerability, dependency, or another legally recognized trafficking means for the purpose of exploitation.

Importantly, such an amendment should not be formulated as an absolute statement that consent is always irrelevant. A more legally precise formulation is required. The proposed rule should operate only where the prosecution has established the legally relevant means and the exploitative purpose.

In this way, the amendment would not weaken the principle of legality or the presumption of innocence; rather, it would clarify the circumstances in which the victim's apparent consent cannot have exculpatory significance.

The practical implications of this approach are equally important. Investigators, prosecutors, and courts should not regard a victim's initial agreement to travel, employment, continued presence in the relationship, or delayed reporting as independently determinative evidence against the existence of trafficking. Such circumstances should be evaluated in conjunction with the information provided by the perpetrator, the victim's actual alternatives, the existence

of deception or coercion, the exploitation of vulnerability, and the subsequent conditions imposed on the victim.

The principal scientific contribution of this study therefore lies not merely in reaffirming the international principle that victim consent is irrelevant in specified circumstances. Its contribution is the development of a contextual criminal-law model for determining the legal effect of consent. Under this model, consent is neither treated as an absolute defence nor completely removed from factual analysis. Instead, its legal significance is determined by the relationship between the victim's decision, the perpetrator's means, and the purpose of exploitation.

This approach also provides a theoretical bridge between international criminal-law standards and Uzbek criminal-law doctrine. The works of Rustambayev, Abdurasulova, Niyozova, Qurbonov, and Fozilov have contributed to the national understanding of human trafficking, victimisation, prevention, liability, and international cooperation. The present study extends this body of scholarship by proposing a more specific solution to the question of victim consent and by connecting that solution with comparative legislative experience and international standards.

Ultimately, the appropriate criminal-law position is that a victim's initial willingness should not determine the legal qualification of subsequent exploitation. What matters is whether the perpetrator deliberately used legally prohibited means to obtain or maintain the person's participation for the purpose of exploitation. Where such circumstances are established, the victim's consent to the intended exploitation should have no exculpatory effect.

Accordingly, the study concludes that the further development of Uzbek criminal legislation should move from a predominantly victim-consent-centred assessment toward a perpetrator-conduct-centred and context-sensitive assessment. Such an approach would strengthen victim protection, reduce the risk of victim-blaming, provide greater predictability in judicial practice, and bring the interpretation of Article 135 of the Criminal Code into closer conceptual alignment with international anti-trafficking standards. At the same time, by requiring proof of the perpetrator's conduct, the relevant means, and the exploitative purpose, the proposed model preserves the fundamental principles of criminal law and provides a balanced basis for effective and legally certain prosecution of human trafficking.

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