

RETHINKING VICTIMHOOD IN THE CONTEXT OF HUMAN TRAFFICKING AND TERRORISM

*Haezreena Begum binti Abdul Hamid**

ABSTRACT

This article examines the intersection of human trafficking and terrorism through a forced criminality lens, focusing on how trafficking can compel individuals into terrorism-related conduct while simultaneously positioning them as both victims of exploitation and subjects of criminal liability. Through doctrinal analysis of international and domestic legal instruments, the study demonstrates how counter-terrorism frameworks grounded in assumptions of voluntariness, strict liability, and security-driven enforcement often obscure trafficking indicators such as coercion, deception, and abuse of vulnerability - dynamics that disproportionately affect women and children. Applying a continuum-of-harm framework, the article argues that the failure to recognise trafficking within terrorism contexts perpetuates layered victimisation, including criminalisation, preventive detention, and exclusion from protection mechanisms. It concludes that integrating trafficking-sensitive safeguards into counter-terrorism regimes is both a doctrinal and human rights imperative, necessary to prevent unjust criminalisation and to strengthen victim-centred protection in cases of terror-linked exploitation.

Keywords: human trafficking, terrorism, terror-trafficking, victimisation, protection

INTRODUCTION

This article examines the intersection between human trafficking and terrorism through the lens of forced criminality, recognising that individuals embedded within terrorist networks are not always voluntary perpetrators but may themselves be victims of coercion, exploitation, and structural vulnerability. Forced criminality refers to situations in which individuals are compelled, through coercion, deception, abuse of vulnerability, or control, to engage in unlawful activities for the benefit of others. (ASEAN, 2025; Council of Europe, 2005). It is increasingly recognised within trafficking discourse as a form of exploitation, where criminal acts are not the product of free will but arise from conditions of control and coercion (ibid). Within this framework, the individual occupies a legally complex position as both a victim of exploitation and a participant in criminal conduct, thereby challenging conventional distinctions between victimhood and culpability. When trafficking is used to compel participation in terrorist-related conduct, the traditional distinction between offender and victim becomes legally and morally complex. In such contexts, trafficking functions as a mechanism of coercive control through which individuals are deceived, pressured, or forced into acts that advance terrorist objectives, including recruitment, logistical support, financing, combat roles, suicide missions, and other forms of criminal participation. Rather than operating solely as an economic crime, trafficking becomes an instrument that binds individuals into organised systems of violence.

* Haezreena Begum binti Abdul Hamid (haezreena@um.edu.my) is a criminologist and Senior Lecturer at the Faculty of Law, Universiti Malaya.

Although trafficking for the purpose of terrorism predates contemporary counter-terrorism frameworks, its scale and sophistication have intensified in the post-9/11 security landscape, where terrorist organisations increasingly rely on exploitative recruitment and control mechanisms (Bouche et al., 2016). Groups such as Daesh, Abu Sayyaf, and Boko Haram have systematically exploited men, women, and children through abduction, deception, ideological manipulation, and the abuse of vulnerability. These practices frequently culminate in forced participation in criminal or violent acts that sustain terrorist infrastructures (Adisa, 2021). In certain cases, victims are commodified through cycles of sale and resale to generate funding streams, demonstrating how exploitation itself becomes embedded within terrorist financing structures (Farber & Yehezkel, 2025).

Understanding this phenomenon as trafficking for forced criminality aligns with broader international recognition that exploitation may include compelling victims to engage in unlawful acts. Directive 2011/36/EU explicitly recognises exploitation of criminal activities as a form of trafficking, reflecting the reality that coercion extends beyond labour or sexual exploitation to forced involvement in organised violence and crime (Atkinson-Sheppard et al., 2025). Despite this recognition, individuals coerced into terrorist conduct are frequently treated solely through a security lens, i.e., prosecuted, detained, or stigmatised with insufficient acknowledgement of their status as trafficked persons. This enforcement-driven response risks obscuring the coercive conditions underpinning participation and perpetuates a cycle of secondary victimisation.

The legal and conceptual fragmentation between trafficking and terrorism frameworks further compounds this problem. Counter-terrorism regimes are structured around culpability and public protection, whereas trafficking laws prioritise exploitation and victim safeguarding. The absence of an integrated framework places individuals subjected to terror-linked forced criminality in a legal grey zone where their exploitation remains invisible, and their criminal liability is foregrounded. Such binary categorisation fails to capture the continuum of coercion, agency, and survival that characterises many trafficking situations within terrorist contexts. A forced criminality perspective, therefore, calls for a more nuanced legal response, one that recognises coercive dynamics, incorporates safeguards against unjust criminalisation, and aligns counter-terrorism enforcement with victim-centred trafficking protections.

This complexity is reinforced by structural legal fragmentation (Gallagher, 2010). International and domestic trafficking frameworks seldom incorporate terrorism explicitly, while counter-terrorism laws rarely account for trafficking dynamics. The result is a conceptual disconnect that narrows victim identification and entrenches siloed institutional responses. Victims of trafficking are typically associated with sexual, labour, or organ exploitation, whereas victims of terrorism are defined by harm arising from attacks (UNODC, n.d.). The lived experiences of individuals trapped within terror-trafficking networks expose the inadequacy of this binary framing and demonstrate the need for an integrated legal and criminological understanding (Unongu, 2026).

Article 2 of the Victims' Rights Directive defines a victim of terrorism as a natural person who has suffered physical, mental, emotional, or economic harm directly caused by a terrorist offence, including family members affected by the resulting death (European Commission, 2021). Yet the climate of fear surrounding terrorism often obscures the status of individuals trafficked by terrorist organisations. As Schmid (2011) observes, the word "terror" invokes a state of intense or overwhelming fear (A. P. Schmid, 2011). As Schmid wrote in the *Handbook of Terrorism Research* (2011, p. 3):

‘Terror’ is, first of all, a state of mind, characterised by intensive fear of a threatening danger on an individual level and by a climate of fear on the collective level.’ ‘Terrorism’, on the other hand, is an activity, method, or tactic which, as a psychological outcome, aims to produce ‘terror’.

Therefore, terror is fundamentally a psychological condition, a state of intense fear experienced at both individual and collective levels while terrorism is a method designed to produce that fear. This climate shapes public and institutional responses, frequently collapsing distinctions between coerced participation and voluntary involvement.

Reports indicate that states frequently fail to identify and protect individuals trafficked within terrorist networks due to their perceived association with extremist groups, compounded by stigma, discrimination, and racialised suspicion (A. Schmid, 2011). As a result, trafficked person’s risk prosecution, prolonged detention, or social exclusion rather than protection. Such misidentification perpetuates cycles of vulnerability, including re-trafficking, particularly among women and children. At the same time, impunity for trafficking-related conduct within terrorist structures persists, enabling continued exploitation without meaningful accountability.

Building on this analysis, the article examines the circumstances surrounding coerced participation in terrorism, with particular attention to the misidentification of trafficked individuals within counter-terrorism responses. It further argues for the integration of victims of terror-linked forced criminality into trafficking and victim protection frameworks to ensure that legal systems properly recognise coercion, avoid unjust criminalisation, and provide meaningful avenues for protection and rehabilitation.

This article makes three key contributions to the existing literature on trafficking and terrorism. First, it advances the concept of forced criminality as a central analytical lens for understanding how individuals may be simultaneously positioned as victims of exploitation and subjects of criminal liability within terrorist contexts, thereby challenging dominant binary classifications of victim and offender. Second, it introduces a continuum-of-harm framework to demonstrate how misidentification, criminalisation, and exclusion from protection mechanisms constitute layered forms of victimisation extending beyond the initial act of trafficking. Third, it provides a doctrinal and empirically informed critique of the fragmentation between trafficking and counter-terrorism frameworks, showing how the absence of integration produces structural blind spots in victim identification and protection. In doing so, the article contributes to a more nuanced and coherent understanding of victimhood in terror-linked exploitation and advances the case for integrating trafficking-sensitive safeguards into counter-terrorism responses.

Adopting a comparative doctrinal approach, the article uses Malaysia as a central reference point to illustrate how trafficking and counter-terrorism laws operate in practice, particularly through the Anti-Trafficking in Persons and Anti-Smuggling of Migrants Act 2007 (ATIPSOM) and the Penal Code. This focus enables a grounded analysis of how forced criminality is treated within a domestic legal system.

METHODOLOGY

Given the definitional ambiguities surrounding terrorism and the absence of a universally settled legal meaning, particularly when viewed through the lens of forced criminality, this research adopts a doctrinal methodology to critically examine how terrorism and trafficking-related exploitation are conceptualised, classified, and operationalised within legal frameworks. A forced criminality perspective highlights the legal tension between culpability and victimisation, requiring careful doctrinal scrutiny of statutes, judicial interpretations, and authoritative legal principles that govern terrorism and trafficking. In this context, doctrinal

legal research provides a structured framework for analysing how legal systems respond to individuals whose involvement in terrorist conduct may arise from coercion, exploitation, or structural vulnerability. As Bhat and Bhat (2020) observe, doctrinal research involves the rigorous synthesis of legislative provisions, case law, and interpretive doctrines, making it particularly suited to examining contested and overlapping legal categories such as terrorism and forced criminal participation.

This doctrinal approach is complemented by secondary data analysis, which allows the research to situate legal interpretation within broader empirical and criminological realities. Secondary research draws upon existing fieldwork, studies, and institutional reports to illuminate how trafficking and terrorism intersect in practice (Tripathy, 2013). Secondary analysis enables multiple layers of interpretation, facilitating a deeper understanding of how coercion, agency, and exploitation operate within terror-linked environments. Advances in digital archiving and data accessibility have made such analysis increasingly viable, allowing researchers to interrogate extensive bodies of material relevant to trafficking and terrorism (Johnston, 2014). When applied through a forced criminality lens, secondary analysis provides critical insight into lived experiences and institutional responses that doctrinal analysis alone cannot capture.

Creswell (2009) describes secondary analysis as a structured methodological process for gathering, evaluating, and reinterpreting existing data to address new research questions. In this study, secondary analysis involves examining previously collected data relating to trafficking and terrorism to explore how individuals coerced into criminal conduct are identified, treated, and regulated within legal systems (Hinds et al., 1997; Tripathy, 2013). This approach allows for the development of new analytical perspectives while conserving resources and enabling longitudinal comparison of patterns of exploitation and enforcement.

For the purposes of this research, secondary analysis begins with established scholarship and documented practices relating to trafficking and terrorism, before extending into the specific complexities of trafficking for forced criminality within terrorist contexts. Here, secondary data processing serves as a systematic analytical exercise that incorporates methodological and evaluative measures comparable to those used in primary data collection (Doolan & Froelicher, 2009). This enables the research to interrogate how coercion is framed legally and operationally, and how victim-offender distinctions are constructed in practice.

The secondary data analysed in this study are drawn from a wide range of primary and secondary materials, including legislation, judicial decisions, academic literature, policy reports, governmental publications, NGO documentation, and media sources covering the period from 1993 to 2021. Statistical and institutional data are obtained from state agencies, international organisations, prior research, and publicly available records. Keyword searches are guided by the forced criminality framework and include terms such as “trafficking,” “terrorism,” “forced criminality,” “terror-linked trafficking,” “Daesh,” “Islamic State,” “counter-terrorism law,” and “Malaysia and terrorism,” among related concepts. This integrated methodological design ensures that doctrinal analysis remains grounded in empirical realities while critically engaging with the legal treatment of coercion, exploitation, and criminal responsibility.

For the purposes of this study, an integrated methodological design refers to the structured combination of doctrinal legal analysis and secondary data analysis, allowing the research to bridge the gap between normative legal frameworks and the lived realities of coerced participation. Doctrinal analysis is employed to examine legislation, case law, and international legal instruments, with particular attention to how concepts such as trafficking, terrorism, and criminal responsibility are defined, interpreted, and operationalised within legal systems (Hutchinson, 2018; Mohamed, 2016). This is complemented by secondary analysis of empirical and institutional sources, including academic studies, policy reports, and documented

case examples, which provide insight into how these legal constructs function in practice and how individuals subjected to coercion are treated within enforcement processes. By integrating these approaches, the study moves beyond a purely formal analysis of law to critically assess how legal frameworks interact with conditions of exploitation, vulnerability, and constrained agency, particularly in cases involving forced criminality within terrorism contexts.

Notwithstanding these strengths, several limitations should be acknowledged. The reliance on secondary data means the analysis depends on existing scholarship, institutional reports, and documented cases, which may not fully capture the complexity or variability of individual experiences in terror-linked trafficking contexts. In addition, the study does not incorporate primary empirical research, such as interviews or case-file analysis, which could provide deeper insights into lived experiences, decision-making processes, and the operation of coercion in specific cases. Furthermore, the classification of individuals involved in terrorism as trafficked persons remains legally and conceptually contested, particularly within security-driven frameworks that prioritise culpability and national protection. These limitations do not undermine the analytical value of the study; rather, they reflect the broader structural and evidentiary challenges inherent in examining forced criminality at the intersection of trafficking and terrorism, where access to data, definitional clarity, and evidentiary thresholds remain constrained.

THE LEGAL DEFINITION OF TRAFFICKING AND TERRORISM THROUGH A FORCED CRIMINALITY LENS

Understanding trafficking and terrorism through a forced criminality lens requires examining how legal frameworks conceptualise coercion, exploitation, and criminal participation. Article 3(a) of the United Nations Protocol to Prevent, Suppress and Punish Trafficking in Persons, Especially Women and Children (Palermo Protocol) establishes three elements for trafficking: the “act” (recruitment, transportation, transfer, harbouring, or receipt of persons); the “means” (threat, coercion, abduction, fraud, deception, abuse of power or vulnerability, or payments to a controlling person), and the “purpose” (exploitation) (United Nations, 2003). Exploitation includes, at a minimum, sexual exploitation, forced labour or services, slavery or practices similar to slavery, servitude, and organ removal (Saad & Salman, 2014). Where coercive means are employed, victim consent is legally irrelevant (United Nations, 2003, art. 3[b]). For children, the “means” element is unnecessary; exploitation alone satisfies the trafficking threshold (United Nations, 2003, art. 3[c]–[d]).

When interpreted through a forced criminality framework, these provisions extend beyond conventional labour or sexual exploitation to include situations in which individuals are compelled to engage in unlawful conduct. Trafficking becomes not merely an economic crime but a mechanism of coercive control that can channel victims into criminal participation, including activities linked to terrorist networks (APG, 2018). Malaysia’s Anti-Trafficking in Persons and Anti-Smuggling of Migrants Act 2007 (ATIPSOM) reflects a similar structure, defining trafficking as acts of recruitment or movement conducted through deceptive or coercive means for exploitative purposes, explicitly including illegal activity (s.2 ATIPSOM). This statutory recognition is significant: exploitation may encompass compelled criminal conduct, situating forced participation in violence or organised crime within trafficking protections.

The complexity intensifies when trafficking intersects with terrorism. Victims recruited or controlled for terrorist objectives may perform logistical, financial, or violent functions under coercion, deception, or abuse of vulnerability. Yet such individuals often occupy a legal blind spot or are treated primarily as perpetrators rather than trafficked persons. This reflects broader definitional tensions surrounding terrorism itself. Ruby (2003) observes that terrorism

is interpreted through legal, moral, and behavioural lenses, each producing competing thresholds of culpability. Consequently, whether coercion-linked conduct is framed as trafficking, terrorism, or ordinary criminality depends heavily on the interpretive framework applied.

Comparative terrorism definitions illustrate this divergence. The United Kingdom's Terrorism Act 2000 defines terrorism as the use or threat of serious violence, disruption, or intimidation intended to influence government or advance ideological causes. The United States Patriot Act of 2001 similarly frames terrorism as acts dangerous to human life, intended to intimidate populations or influence policy. Regional and international formulations, including those of national security councils and NATO, emphasise unlawful violence designed to instil fear and coerce societal or governmental action (Hamidi, 2016; North Atlantic Treaty, 2016). Scholars likewise illustrate terrorism's psychological dimension, such as politically motivated violence intended to generate fear beyond immediate victims (Hoffman & McCormack, 2021; Pemberton, 2010).

This definitional emphasis on fear and culpability often eclipses coercion embedded within terror-linked trafficking. A forced criminality lens reveals that individuals compelled into terrorist roles may simultaneously be victims of exploitation. However, prevailing legal frameworks tend to operate in silos: counter-terrorism regimes prioritise security and punishment, while trafficking law centres on victim protection. The absence of integration risks misidentifying trafficked individuals as voluntary offenders.

Victim definitions further expose this gap. International instruments such as the Declaration of Basic Principles of Justice for Victims of Crime and Abuse of Power broadly define victims as persons suffering harm through criminal acts. ASEAN's ACTIP recognises victims of trafficking as any person subjected to trafficking (Association Of Southeast Asian, 2015). Yet these frameworks do not explicitly address situations where exploitation manifests as compelled terrorist participation. As a result, individuals trafficked into terror-related conduct may be prosecuted under terrorism statutes without adequate recognition of coercion, despite satisfying trafficking elements.

Malaysia's Penal Code provisions on terrorism (ss. 130B - 130C) criminalise participation in terrorist acts with severe penalties, reflecting the gravity of such offences. While necessary for public protection, this framework offers limited doctrinal space to assess coercion where trafficked persons are involved. The legal system thus risks reinforcing a binary classification, i.e., offender versus victim, that obscures the continuum of exploitation central to forced criminality.

Viewed holistically, the intersection of trafficking and terrorism exposes structural blind spots in victim identification. Legal definitions capture exploitation and violence independently, but rarely accommodate situations where individuals are coerced into committing criminal acts that advance terrorist objectives. A forced criminality framework bridges this gap by recognising that victimhood and criminal liability may coexist. Without such recognition, trafficked persons remain vulnerable to prosecution, re-trafficking, and continued exploitation - outcomes antithetical to the protective aims of trafficking law.

Accordingly, integrating trafficking protections into counter-terrorism enforcement is not a concession to impunity but a doctrinal necessity. Legal systems must be capable of identifying coercion, distinguishing exploitation from voluntary agency, and ensuring that trafficked individuals receive safeguards consistent with international victim protection principles. This need becomes especially apparent when examining the legal treatment of individuals compelled into terrorism-related conduct.

THE COMPLEXITIES OF UNDERSTANDING VICTIMS OF TERROR-TRAFFICKING

Legal definitions and gaps

From a forced criminality perspective, current legal definitions struggle to adequately recognise individuals trafficked into terrorist networks. These persons often fall between legal categories, neither consistently acknowledged as victims of trafficking nor recognised as victims within terrorism frameworks. The result is a structural blind spot in which coercion is overshadowed by security-driven classifications.

In Malaysia, while there is no singular statutory definition of “terrorism” across preventive and substantive regimes, terrorist conduct is extensively criminalised. Section 130B(2) of the Penal Code defines a terrorist act broadly to include conduct intended to cause death, serious injury, destruction of property, disruption of essential services, or the creation of public fear and emergency conditions (s.130B Penal Code [Act 574]). A “terrorist” is defined as any individual who commits, attempts, participates in, or facilitates such acts, including associations with designated entities under anti-money laundering and counter-terrorism financing legislation (s.130B Penal Code [Act 574]). Section 130C of the Penal Code prescribes severe penalties, including long-term imprisonment or capital punishment, reflecting the gravity with which terrorism is treated within Malaysian law.

From a security standpoint, such provisions are essential. However, when interpreted through a forced-criminality lens, they reveal a doctrinal limitation: the framework assumes voluntary participation. Individuals coerced, deceived, or exploited into performing terrorist functions, whether logistical, financial, or violent, may satisfy the statutory definition of terrorist participation despite acting under conditions that mirror trafficking exploitation. International trafficking law recognises that coercion, abuse of vulnerability, and deception negate meaningful consent (United Nations, 2003). Yet terrorism statutes rarely incorporate comparable safeguards, creating a legal asymmetry where exploitation becomes invisible once conduct is categorised as terrorism.

This doctrinal gap is compounded by the way trafficking victimhood is defined. Malaysia’s Anti-Trafficking in Persons and Anti-Smuggling of Migrants Act 2007 (ATIPSOM) recognises a “trafficked person” as an individual subjected to acts of trafficking but does not explicitly define the broader concept of a trafficking victim (s.2 ATIPSOM). Regionally, the ASEAN Convention Against Trafficking in Persons defines a victim as any person subjected to trafficking (Association Of Southeast Asian Nations, 2015). Internationally, victims of crime are described as persons who suffer physical, psychological, emotional, or economic harm resulting from criminal conduct (*Declaration of Basic Principles of Justice for Victims of Crime and Abuse of Power*). These definitions are sufficiently broad to encompass trafficking-related harm, yet they do not explicitly address scenarios where exploitation manifests through compelled participation in terrorism.

Victim-Offender Overlap

A framework of forced criminality exposes the consequences of this omission. Individuals trafficked into terrorist networks may experience classic trafficking indicators such as coercion, manipulation, abuse of dependency yet remain classified exclusively as offenders once their actions fall within terrorism statutes. Scholars have long observed that terrorism law prioritises culpability and deterrence, often leaving little doctrinal space for recognising victimisation embedded in participation (Hoffman, 2006; Pemberton, 2010). The result is a binary legal narrative, i.e., perpetrator versus victim, that fails to capture the continuum of coercion and survival strategies characteristic of trafficking contexts.

This misalignment produces tangible harms. Victims of terror-trafficking risk prosecution, prolonged detention, social stigma, and exclusion from protective frameworks despite satisfying trafficking criteria under international law. Such outcomes undermine the protective purpose of trafficking regimes and perpetuate secondary victimisation, a phenomenon widely recognised in victimology as the re-infliction of harm through institutional processes (Yılmaz, 2021).

From a doctrinal standpoint, the absence of explicit recognition for terror-linked forced criminality does not reflect incompatibility between trafficking and counter-terrorism law, but rather a failure of integration. Trafficking law already acknowledges exploitation through compelled criminal conduct, and international victim protection principles emphasise recognition of coercion. Extending these protections into terrorism contexts aligns with both legal coherence and criminological insight: exploitation and criminal liability are not mutually exclusive categories.

A forced criminality lens therefore reframes the question from whether trafficked individuals should escape accountability to how legal systems can meaningfully assess agency, coercion, and exploitation without collapsing them into a singular category of culpability. Integrating trafficking safeguards into counter-terrorism enforcement ensures that victim identification mechanisms operate alongside security objectives, preventing unjust criminalisation while preserving public protection. Such an approach recognises that individuals trafficked into terrorism occupy a legally complex position: simultaneously harmed and implicated, requiring doctrinal nuance rather than categorical exclusion.

THE TENSION BETWEEN TRAFFICKING AND TERRORISM FROM A FORCED CRIMINALITY PERSPECTIVE

Doctrinal Conflict Between Security and Protection

Terrorism is frequently designed to produce fear as a psychological outcome across a wider audience. That same climate of fear can also be weaponised internally, which is used to control, discipline, and compel those trapped within terrorist networks. As a result, participation may be outwardly visible, yet internally coerced. This is the definitional and operational dilemma that forced criminality brings into focus. Approaching the trafficking-terrorism nexus through a forced criminality lens exposes a deep structural tension within contemporary criminal justice. Trafficking law is designed to recognise coercion, deception, and abuse of vulnerability as markers of victimisation, whereas counter-terrorism frameworks are typically constructed around assumptions of agency, intent, and culpability (Hoffman & McCormack, 2021; United Nations, 2003). However, within the Malaysian context, this distinction has evolved. Coercion is no longer treated as a necessary element in establishing trafficking under the Anti-Trafficking in Persons and Anti-Smuggling of Migrants Act 2007 (ATIPSOM), following amendments in 2022 which removed the explicit requirement to prove coercion. This legislative shift reflects the practical difficulties in evidencing coercion and aligns with a broader victim-centred approach that recognises the complexities of exploitation beyond overt force or threats.

When exploitation occurs inside terrorist ecosystems, these frameworks collide and undermine the principle of Non-Punishment Protection of Victims of Trafficking in Persons (ASEAN, 2025). Individuals, particularly women and children, may satisfy legal thresholds of trafficking, yet be treated exclusively as perpetrators or security threats because their compelled conduct is embedded within terrorism-related activity (Reprieve, 2021). The absence of explicit recognition of terror-linked forced criminality within many legal regimes enables misclassification, criminalisation, and what victimological literature conceptualises as secondary victimisation, a continuation of harm through state processes that deny protection

and reinforce stigma (International Women’s Human Rights et al., 2015). The central question is not whether terrorism should be “excused,” but whether legal systems can meaningfully differentiate “agency” from “exploitation” in settings where coercion is operationalised as a method of terrorist governance.

The non-punishment principle in terror contexts

A forced criminality framework, therefore, requires that counter-terrorism enforcement be accompanied by structured victim identification, non-punishment safeguards, and referral mechanisms comparable to trafficking systems (ASEAN, 2025; United Nations, 2020). The principle of non-punishment, rooted in international trafficking law, recognises that victims should not be penalised for unlawful acts committed as a direct consequence of their exploitation. This principle reflects a fundamental understanding that coercion, deception, and abuse of vulnerability undermine meaningful consent and agency (United Nations, 2020). In trafficking contexts, criminal conduct may be an extension of the exploitative process itself, and punishing victims for acts they were compelled to perform risks reinforcing the very harm trafficking protections are designed to prevent.

However, the application of this principle becomes deeply contested when trafficking intersects with terrorism. Counter-terrorism regimes are structurally oriented toward incapacitation, deterrence, and public protection, often privileging strict liability, preventive detention, and expansive definitions of participation (Hoffman & McCormack, 2021). Within this framework, visible acts linked to terrorism, such as logistical support, association, or material possession, are frequently interpreted as evidence of voluntary alignment rather than potential indicators of coercion. The presumption of agency embedded in counter-terrorism enforcement narrows the doctrinal space for recognising exploitation, rendering the non-punishment principle difficult to operationalise in practice.

Secondary victimisation risks

This tension produces a systemic risk of secondary victimisation. Individuals trafficked into terrorist networks may face prosecution, prolonged detention, citizenship deprivation, or social exclusion despite satisfying trafficking indicators recognised under international law (Caneppele & Mancuso, 2013; United Nations, 2003). Such outcomes convert protection frameworks into instruments of harm, perpetuating a continuum of victimisation that extends beyond the initial exploitation. The fear-driven logic of counter-terrorism designed to neutralise perceived threats can therefore obscure the coercive conditions under which participation occurred, effectively collapsing victimhood into culpability.

The practical consequences are significant. Punitive responses deter victims from self-identifying or cooperating with authorities, increase vulnerability to re-trafficking, and reinforce stigma that impedes reintegration. For women and children in particular, the denial of non-punishment safeguards may expose them to prolonged detention or statelessness, outcomes that international victim protection regimes were explicitly designed to prevent (OHCHR, 2023). In this sense, failure to apply the non-punishment principle does not merely represent doctrinal inconsistency; it undermines trafficking prevention by signalling that coercion will not be recognised once conduct is labelled as terrorism.

A forced criminality framework does not negate the legitimacy of counter-terrorism objectives. Rather, it demands doctrinal mechanisms capable of distinguishing exploitation from voluntary criminal agency. Integrating trafficking-sensitive screening procedures, evidentiary safeguards, and referral pathways into terrorism enforcement enables legal systems to uphold public security while respecting their victim-protection obligations. Without such

integration, the non-punishment principle remains aspirational, acknowledged in trafficking law yet structurally sidelined in terrorism contexts, leaving trafficked persons exposed to compounded harm. Recognising and operationalising non-punishment in terror-linked cases is therefore not an exception to accountability, but a necessary condition for coherent and humane justice.

Recruitment and trafficking of women and girls: coercion disguised as “choice”

The recruitment of women and girls into terrorist networks often mirrors trafficking processes. Women and girls may be recruited through fraud, grooming, ideological manipulation, and the abuse of vulnerability, mechanisms repeatedly documented in analyses of trafficking and terrorism (Dettmeijer-Vermeulen, 2016; Reprieve, 2021). Recruiters may frame travel and affiliation as “honour,” “belonging,” or “utopia,” while concealing the realities of coercive control, sexual exploitation, and violence (Turkington & Christien, 2018). The forced criminality problem emerges when these individuals are later assessed through a security paradigm that interprets their presence or conduct as proof of voluntary alignment, rather than a possible outcome of exploitation.

The widely discussed case of Shamima Begum, a British national who travelled to Syria at the age of 15 to join the Islamic State and was subsequently stripped of her citizenship by the UK government. Such act demonstrates how legal classification can collapse coercion into culpability. Despite her age at the time of travel and claims of grooming and exploitation, legal and political responses have largely framed her through the lens of national security and individual responsibility, thereby obscuring the complexities of victimisation within extremist networks. While her circumstances have generated significant dispute and contested interpretations, international actors and civil society have raised concerns about whether a trafficking lens, including grooming and child vulnerability, was meaningfully examined alongside national security assessments (Reprieve, 2021). At the same time, UK domestic law has expanded its powers to deprive individuals of citizenship under certain conditions, intensifying debates about protection obligations when trafficking indicators are present (BBC News, 2024; Reprieve, 2021). From a forced criminality perspective, the point is not to deny security concerns, but to underscore the doctrinal risk of treating all involvement as autonomous participation without structured mechanisms to test coercion.

Empirical claims about trafficking among detainees in North-East Syria have been advanced by NGOs and policy submissions. For example, Reprieve (2021) reports that a substantial proportion of British women detained in the region may meet trafficking indicators, including coercion by partners or relatives and exploitation within Syria or Iraq. While such findings require careful legal verification on a case-by-case basis, they reinforce a key forced criminality insight: outward “association” can coexist with coercion, dependency, and exploitation.

Sexual exploitation and gendered forced criminality: Yazidi survivors

The forced criminality lens is particularly illuminating in contexts of sexual slavery and forced marriage, where exploitation is embedded in ideological narratives of entitlement and domination. UNODC materials further document how terrorist groups have used abduction, rape, sexual slavery, forced marriage, and enslavement as tactics to subjugate populations and advance ideological goals (El-Masri, 2018; McKay, 2022; UNODC, 2018). Yazidi women and girls are among the most documented survivor populations affected by Daesh’s systematic enslavement practices, including repeated sexual violence and forced domestic servitude (European Parliament, 2016). These harms are not incidental; they are part of a governance architecture in which coercion operates both as violence and as social control.

State responses can also reproduce harm when survivors are denied effective remedies. Human rights reporting has highlighted persistent gaps in assistance, redress, and durable support for survivors in post-conflict contexts, including barriers to compensation and reintegration (Human Rights Watch, 2023)). From a forced criminality perspective, these failures deepen the continuum of harm: first through exploitation by terrorist entities, and then through institutional exclusion that impedes recovery and protection.

The continuum of harm: from exploitation to criminalisation

Forced criminality reframes “participation” as a continuum, not a binary. Individuals may appear to be “willing” at an early stage, yet become trapped through psychological coercion, threats, violence, confiscation of documents, sexual abuse, forced marriage, or fear of retaliation (Reprieve, 2021). Coercive control can produce compliance that resembles consent, particularly in closed environments shaped by terror, dependency, and trauma. Over time, victims may be compelled into criminal acts that sustain terrorist infrastructures, such as domestic labour, policing women, logistics, intelligence gathering, moving supplies, or facilitating financing. In other words, trafficking becomes the pathway through which criminal participation is manufactured.

Victimology and criminology warn that when institutions fail to recognise coercion, the state itself may become a source of secondary victimisation (Geeraets & Veraart, 2021). This risk is particularly acute under counter-terrorism regimes that prioritise incapacitation. UN experts have repeatedly expressed concern about the detention and treatment of children and families in North-East Syria, calling for urgent repatriation and protection, and highlighting the dangers of indefinite or arbitrary detention (OHCHR, 2023). These realities intensify vulnerabilities, including the risk of re-trafficking, especially where legal status, documentation, and durable solutions are absent.

Preventive laws, incapacitation, and the forced criminality gap

Preventive counter-terrorism measures represent one of the strongest expressions of the security paradigm: pre-emption, detention, and incapacitation. Such frameworks can be effective in disrupting attacks, but they also risk flattening coercion into culpability where trafficking dynamics are present. From a forced criminality perspective, counter-terrorism law frequently lacks built-in trafficking sensitivity, including procedural safeguards and identification mechanisms necessary to distinguish coerced or exploited persons from voluntary actors.

This gap becomes clearer in jurisdictions that broaden terrorism offences through expansive association, possession, or support provisions. Where liability is triggered by material possession, online expression, proximity, or indirect facilitation, trafficked persons, especially those controlled by others, may be exposed to prosecution despite acting under coercion. The risk is not hypothetical: enforcement architectures that interpret indicia of association as proof of ideological commitment may inadvertently criminalise those whose conduct is shaped by fear, dependency, and coercive control. A forced criminality framework, therefore, requires that counter-terrorism enforcement be accompanied by structured victim identification, non-punishment safeguards, and referral mechanisms comparable to trafficking systems (ASEAN, 2025).

Recognising exploitation within terrorism does not weaken counter-terrorism; it strengthens legal accuracy and legitimacy. The doctrinal task is to incorporate mechanisms that can (a) detect coercion, (b) evaluate degrees of agency, and (c) prevent unjust criminalisation while maintaining public protection. Without such integration, terror-linked trafficking victims remain in a legal and moral grey zone i.e simultaneously exploited and punished contrary to

the protective aims of trafficking law and the principles underpinning victim protection frameworks (United Nations, 2003).

CONCLUSION

The reluctance of states to recognise individuals trafficked within terrorist contexts reveals a structural gap between security enforcement and victim protection. When persons coerced into terrorism-related conduct are treated exclusively as offenders, legal systems risk obscuring exploitation and reinforcing a binary classification that fails to capture the continuum between victimisation and criminal liability. Such misidentification does not merely represent an administrative oversight; it reflects a protection failure that may perpetuate discrimination, stigma, and secondary victimisation, particularly affecting women and children who are disproportionately targeted through coercion and abuse of vulnerability (Hales, 2017; International Women’s Human Rights et al., 2015)

Human trafficking thrives in environments marked by instability, insecurity, and economic marginalisation: conditions frequently exploited by terrorist and violent extremist groups to recruit, control, and deploy vulnerable individuals. A forced criminality perspective shows that exploitation may culminate in compelled participation in criminal or violent acts, yet the protective obligations of trafficking law remain engaged regardless of the context in which exploitation occurs. Under the Palermo Protocol, states are required to identify trafficking victims at the earliest opportunity and to provide access to medical, psychological, and legal assistance tailored to their circumstances (United Nations, 2003).

The obligation of non-discrimination is central to these protections. International human rights norms require that trafficking safeguards apply equally to all victims, including those exploited within terrorist networks. As emphasised by the UN Special Rapporteur on trafficking in persons, states must recognise and respond to trafficking occurring in conflict and terrorism settings without exception, ensuring that protection frameworks are sensitive to coercion and vulnerability (United Nations, 2021). From a forced criminality standpoint, this obligation extends beyond formal recognition: it requires active institutional capacity to distinguish exploitation from voluntary agency through informed screening, inter-agency cooperation, and victim-centred assessment mechanisms.

Failure to incorporate trafficking-sensitive safeguards into counter-terrorism responses risks exposing trafficked persons, particularly children, to further harm through detention, prosecution, or exclusion from protection frameworks. Such outcomes undermine both trafficking law and broader human rights principles, converting systems designed for protection into sites of continued vulnerability. A coherent legal response must therefore integrate trafficking protections into counter-terrorism practice, ensuring that coercion is recognised, victim identification is prioritised, and non-punishment principles are meaningfully applied.

Ultimately, a framework of forced criminality does not weaken counter-terrorism enforcement; it strengthens legal integrity by aligning security objectives with victim protection. Recognising that individuals trafficked into terrorism occupy a legally complex position, simultaneously harmed and implicated, allows states to uphold accountability while preventing unjust criminalisation. In doing so, legal systems move closer to fulfilling their dual mandate: protecting public safety while safeguarding the rights and dignity of those subjected to exploitation.

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