

## Victim or Perpetrators? The Dilemma of Criminal Liability in Scam Center Cases as a Form of Modern Trafficking in Persons

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### ABSTRACT

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The development of digital technology has changed the pattern of trafficking in persons crimes from conventional forms to new forms of digital-based exploitation, one of which is through the phenomenon of scam centers. This phenomenon raises legal issues regarding the status of victims who are in a dual position as victims of trafficking in persons as well as perpetrators of criminal acts. This study aims to analyze the dilemma of criminal liability in the case of scam centers as a form of modern trafficking in persons as perpetrators or victims that occurs in Cambodia, Myanmar, and Laos. This research method is a normative research with a statute approach and a victimization approach. The results of the study showed that the practice of scam centers met the elements of trafficking in persons crimes based on Articles 4 and 12 of the Anti-Trafficking Law. From a victimology perspective, the victim is in a position of victim-offender overlap because in addition to being a victim of exploitation, the victim is also forced to commit the crime of online fraud so that based on the criminal responsibility theory and Article 36 paragraph (1) of the National Criminal Code, the theory of coercion (overmacht theory) and Article 42 of the National Criminal Code, the principle of non-punishment of victims/non-criminalization and Article 18 of the Anti-Trafficking Law, the theory of no culpability without freedom, and the Palermo Protocol, victims who commit criminal acts due to coercion and exploitation cannot be fully held criminally responsible because the crime is committed on the basis of coercion without full freedom of will, then the victim of the scam center It is more appropriate to position as victims of trafficking who are entitled to protection to prevent criminalization of victims.

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## 1. INTRODUCTION

The Development of the Crime of Trafficking in Persons (TPPO) or known as human trafficking or trafficking in persons has undergone significant changes along with the development of digital technology. Digital technology is an information technology that prioritizes the implementation of electronic or computer-based activities over the use of direct human labor (Zulvikri et al., 2024). These technological developments not only provide convenience in economic and communication activities, but also open up opportunities or are used by transnational criminal networks to expand the modus operandi of trafficking in persons more quickly, massively, and difficult to detect (Pantow, 2025). This has an impact on trafficking in persons that was previously carried out conventionally, but is now developing into a modern form of exploitation based on digital technology.

Globally, the development of trafficking in persons shows an ever-increasing and increasingly complex trend. Based on the report International Organization for Migration (IOM), there were 230,470 individual cases from 199 countries of exploitation and 192 victims' nationalities. The forms of exploitation experienced by victims include forced labor, sexual exploitation, physical exploitation, and various other forms of modern slavery (The Counter Trafficking Data Collaborative, 2024). However, recent developments show a shift in the modus operandi of trafficking in persons from conventional physical exploitation to digital technology-based exploitation. Digital technology is the main means used by criminal syndicates to recruit, control, supervise, and exploit victims through various online platforms such as social media, instant messaging applications, and job search sites (Nations, 2025). Wilton Park as quoted by Mengqi Jiang et al. also explained that traffickers are increasingly using digital technology to exploit victims, such as recruiting victims through social media and controlling them through webcam surveillance (Jiang et al., 2023). This condition shows that trafficking in persons is no longer just a local crime, but has evolved into an organized transnational crime that takes advantage of advances in digital technology.

These developments also affect the practice of trafficking in persons in Indonesia. Cases of trafficking in persons in Indonesia in 2024 were recorded as many as 2,425 victims (Children, 2023) and in 2025 as many as 538 victims, both for domestic and foreign purposes (Polri, 2025). Of these, the majority of victims were destined abroad with a total of 1,235 people throughout 2024-2025, especially to the Southeast Asian region such as Cambodia, Myanmar, and Laos (CNA, 2025). Based on data from the Indonesian Ministry of Migrant Worker Protection (P2MI), there were 473 victims repatriated from Cambodia during 2024-2025, 724 victims from Myanmar, and 38 victims from Laos (CNA, 2025). Most victims are recruited through online job offers with the lure of high salaries and formal work abroad, but are then illegally transferred and exploited in digital-based forced labor networks (Tirtayasa et al., 2025). This phenomenon shows that Indonesia is one of the countries of origin of significant victims of trafficking in persons in the Southeast Asian region.

The digital-based transformation of trafficking in persons has given birth to a new phenomenon known as scam center. A scam center is a network or digital forced labor complex that employs victims of trafficking in persons to commit various forms of online fraud against other victims in various countries (Wiguno & Rizkianti, 2025). Victims are generally recruited through social media or illegal labor agencies with promises of jobs and high salaries abroad (Wiguno & Rizkianti, 2025). However, after arriving in the destination country, the victim was forcibly transferred, detained, subjected to physical and psychological violence, and forced to carry out online fraudulent activities (Elenta, Rara Safira Haliza, 2026) such as fraudulent investments, Phishing, online gambling, Love Scam, to cryptocurrency-based scams (Mishra, 2026).

The phenomenon of scam centers is increasingly receiving public attention after various international media investigations, including BBC, which reveals the conditions of exploitation of the victims. One of the cases that went viral was the case experienced by Novi Indah Susanti who was forced to work as an online fraud perpetrator in Myanmar (Sept. 2024). During work, the victim was tortured in the form of beatings using iron pipes, electric shocks, and days of detention. In addition,

there were also victims with the initials HP, RM, and AS from Aceh who were forced to work as scammers and experienced physical violence while working (Fatmawati, 2025). Another case was also experienced by 110 Indonesian citizens who were detained, beaten, and electrocuted at a company scam center in Cambodia (Irfani, 2025). The victims who managed to be repatriated around 120 people and admitted that they were forced to meet the daily fraud target, were moved from one location to another, and were threatened with resale if they did not meet the target (Irfani, 2025). These various cases show that scam centers are a real form of Modern slavery digital-based.

The phenomenon of scam centers raises complex legal issues, especially related to the legal status of individuals in the network. On the one hand, they are victims of trafficking in persons because they experience illegal recruitment, fraud, threats, detention, and exploitation as stipulated in Article 1 paragraph (1) of Law Number 21 of 2007 concerning the Eradication of Trafficking in Persons (TPPO Law). But on the other hand, they are also forced to commit actions that can be formally qualified as criminal acts of fraud or cybercrime against other parties. This condition raises a fundamental dilemma in criminal law, namely whether the individual should be positioned as a victim in need of protection or as a perpetrator who must be held criminally responsible. The issue also received attention from member of the House of Representatives Mafirion who asked the government to be able to sort between victims and perpetrators in online scam companies operating in Cambodia (Akbar, 2026).

This dilemma becomes increasingly complex because criminal law basically requires the existence of a mistake as a basis for punishment. This is reflected in the principle No punishment without guilt that means there is no fault with no faults. (Santoso, 2023). This principle emphasizes that a person can only be convicted if there is an element of error in the form of intentionality (Dolus) or forgetfulness (Guilt) which is done based on the free will of the perpetrator (Aldin, Jumanudin, 2026). This concept is also affirmed in Article 36 paragraph (1) of the Criminal Code which states that everyone can only be held accountable for criminal acts committed intentionally or due to negligence. Thus, criminal liability is basically built on the freedom of will and responsible ability of the perpetrator.

However, in the practice of scam centers, this element of freedom of will is often lost due to threats, violence, intimidation, torture, and full control from the human trafficker network. The victim is in a condition of systematic coercion so that the actions taken are not entirely born from free will. This condition shows the existence of a phenomenon on victim-offender overlap, which is a situation when a person is in a dual position as a victim as well as a perpetrator in a series of crimes (Help & Meliala, 2025). In the context of scam centers, victims are not only exploited as labor, but also forced to become instruments to commit cybercrimes. The situation poses new challenges for the national legal system in identifying victims, determining legal status, and providing legal protection. As a result, law enforcement officials often face difficulties in distinguishing between victims of trafficking and perpetrators, which ultimately has the potential to criminalize victims.

Although many studies on trafficking in persons have been conducted, studies that specifically discuss the position of scam center victims as victim-offender overlap in the perspective of criminal liability is still very limited, especially in Indonesian criminal law. Previous research has generally focused more on the use of technology and social media as a means of recruiting human traffickers (Marpaung et al., 2026), eradication of trafficking in persons through social media (Hamana & Suka, 2023), as well as legal protection for victims of trafficking in persons employed on online gambling sites abroad (Benyamin & Jamaludin, 2025). These studies are still limited to the aspect of victim protection and the use of technology as a tool of exploitation, without examining in depth how criminal liability is applied to victims who are forced to commit crimes in scam centers. In fact, this phenomenon shows that there is a new problem regarding the legal status of victims who are forced to become criminals in a digital exploitation situation. The void of this study raises the need to re-analyze the concept of guilt and criminal liability for victims of scam centers in Indonesian criminal law. Based on this description, the formulation of the problem in this study is: how is criminal liability for victims of scam centers who are forced to commit other criminal acts as a form of trafficking in persons.

## 2. METHODS

This research is a normative legal research or doctrinal research conducted by examining legal norms, principles, and concepts related to criminal liability for victims of scam centers as a form of modern digital-based trafficking in persons. The approach used includes a statute approach by examining the TPPO Law, the National Criminal Code and international legal instruments such as the Palermo Protocol. In addition, this study also uses the victim-offender overlap approach, the theory of criminal responsibility and the theory of overmacht, no culpability without freedom, the principle of non-punishment of victims/non-criminalization to analyze the position of victims who are in situations as victims as well as perpetrators of criminal acts. The legal materials used consist of primary, secondary, and tertiary legal materials that are analyzed qualitatively by descriptive-analytical methods to gain an understanding of criminal liability for victims of scam centers from the perspective of Indonesian, international, and victimization criminal law.

## 3. FINDINGS AND DISCUSSION

Scam centers are a new phenomenon of trafficking in persons that shows that there is a major change in transnational crime patterns in the digital era. Trafficking in persons was previously synonymous with physical exploitation in the form of prostitution, forced labor, slavery, organ harvesting, and sexual and economic exploitation (The Counter Trafficking Data Collaborative, 2024), is currently evolving into a form of exploitation based on digital technology or digital forced labor. Bama Athreya states that digital forced labor as a form of forced labor carried out through the use of digital technology, where victims are recruited, supervised, controlled, and exploited through digital systems or platforms in situations of threats, coercion, and loss of freedom (Athreya, 2020). In other words, the development of digital technology is used by criminal networks to recruit, supervise, control, and exploit victims more easily and in an organized manner through social media, messaging applications, and online job search platforms by threatening and losing their willpower.

In practice, victims are recruited in the mode of offering high-paying jobs abroad. However, after the victim arrives in the destination country such as Kamboja, Myanmar, and Laos is like the phenomenon described earlier, they are detained, detained, subjected to violence, and forced to commit various forms of online fraud such as scam centers. Victims are also under threat and strict surveillance so they lose the freedom to refuse or flee. These conditions show that scam center It is basically a form of modern slavery. Modern slaver is portrayed as a perpetrator who forces victims to work, controls them through threats, violence, and financial exploitation, restricts their movements, and treats them as commodities (Jiang et al., 2023). In the current era of digitalization, technology is used to control the victims of modern slavery (Jiang et al., 2023) or as a tool to do cybercrime for the economic benefit of the perpetrator's network (Sahara, 2025). This phenomenon also shows that modern trafficking in persons is closely related to cybercrime and transnational organized crime. The victim was not only exploited as a laborer, but also forced to commit criminal acts for the benefit of the syndicate. Therefore, scam center it cannot be viewed only as an ordinary criminal act of fraud, but rather as part of an organized and cross-border criminal act such as trafficking in persons.

Normatively, the practice of *scam centers* meets the elements of the crime of trafficking in persons as stipulated in Article 1 paragraph (1) of the Trafficking in Persons Act, which reads:

*"Trafficking in persons is the act of recruiting, transporting, sheltering, sending, transferring, or receiving a person with threats of violence, use of force, kidnapping, detention, forgery, fraud, abuse of power or vulnerable position, entrapment of debt or giving payment or benefits, so as to obtain the consent of the person in control of such another person, whether committed within a country or between countries, for the purpose of exploitation or resulting in exploited people."*

Based on Article 1 paragraph (1) of the Trafficking in Trafficking Law, in the case of scam centers, it was previously described that this element is seen from the process of recruiting victims through social media or illegally/non-procedurally, fraud with the lure of being given a job, which is then sent

abroad such as Cambodia, Myanmar, and Laos to work in a scam center company. This is in line with what was stated by the (Tirtayasa et al., 2025) that initially offered online jobs that lured high salaries and formal jobs abroad. Meanwhile, the elements of threats of violence, the use of violence, kidnapping, detention, and abuse of power or vulnerable positions are part of the methods used in trafficking in persons. The method mentioned in the case of a scam center is the most frequently used mode as an example of the case of the phenomenon described earlier where the victim is lured into a high-paying job abroad. However, after the victim arrived in the destination country, the victim was detained, threatened with resale, subjected to physical and psychological violence, and forced to carry out online fraudulent work. This was experienced by one of the victims named Novia Indah Susanti who was forced to work as a scam center perpetrator in Myanmar who experienced physical violence, namely being beaten with an iron pipe, detained for days. (Sept. 2024). Therefore, even if there is consent from the victim, it cannot remove the crime of trafficking in persons if the consent is obtained through fraud, threats, or violence and so on.

Meanwhile, trafficking in persons with foreign purposes is regulated in Article 4 of the Anti-Trafficking Law, which reads:

*"Any person who brings an Indonesian citizen outside the territory of the Republic of Indonesia with the intention of being exploited outside the territory of the Republic of Indonesia shall be sentenced to imprisonment for a minimum of 3 (three) years and a maximum of 15 (fifteen) years and a fine of at least Rp120,000,000.00 (one hundred and twenty million rupiah) and a maximum of Rp 600,000,000.00 (six hundred million rupiah)"*

Based on Article 4 of the Anti-Trafficking Law, scam center cases against Indonesian citizens in Cambodia, Myanmar, and Laos have met the elements because there is an act of bringing Indonesian citizens outside Indonesian territory with the intention of exploitation. This provision specifically regulates the act of bringing Indonesian citizens abroad for exploitation and to tackle trafficking in persons that is a *transnational crime*. In addition, the element of "with the intent to be exploited" shows that Article 4 is a formal offense whose criminal offense is considered completed when the alleged perpetrator begins to recruit, send or take the victim abroad for the purpose of exploitation, without having to wait for the consequences, namely the occurrence of exploitation. This means that the elements in Article 4 of the Anti-Trafficking Law have been included in the case of a scam center with victims in the name of Novia Indah Susanti in Myanmar, victims with the initials HP, RM, and AS in Laos, and 110 victims in Cambodia because the elements of bringing Indonesian citizens outside Indonesian territory have been fulfilled.

The penalty is imprisonment for a minimum of 3 (three) years and a maximum of 15 (fifteen) years, along with a fine of at least Rp120,000,000.00 and at most Rp600,000, 000.00 indicates that the legislature classifies human trafficking as a serious crime that threatens human dignity and human rights. The *application* of a specific minimum sentence reflects a criminal law policy aimed at ensuring strict sentencing standards for human traffickers and preventing excessively lenient judgments. In the context of scam centers, these criminal penalties indicate that digital exploitation specifically the use of victims to commit online frauds viewed as equally serious as other conventional forms of exploitation. Thus, the criminal provisions in the TPPO Law serve not only as a means of retribution against perpetrators but also as an instrument for prevention and protection of human trafficking victims in the digital age.

In addition to the provisions in Article 1 paragraph (1) and Article 4 of the Anti-Trafficking Law, employing victims of trafficking is also regulated in Article 12 of the Anti-Trafficking Law, which reads:

*"Any person who uses or takes advantage of victims of trafficking in persons by committing sexual intercourse or other obscene acts with victims of trafficking in persons, employing victims of trafficking in persons to continue exploitative practices, or taking advantage of the proceeds of the crime of trafficking in persons shall be punished with the same crime as referred to in Article 2, Article 3, Article 4, Article 5, and Article 6"*

Based on Article 12 of the Anti-Trafficking Law, the element of using or utilizing victims of trafficking is to make the victim a means to obtain economic, sexual, or other benefits. In the case of scam centers, this article is very relevant because related parties in the company use trafficking victims as labor to make profits from online fraudulent activities. Meanwhile, the element of employing victims of trafficking in persons crimes to continue exploitation practices is very relevant because victims are forced to work to commit online fraud. This situation shows that the exploitation of the victim in the form of *Digital forced labour* Because the victim works under threats, physical and psychological violence, full control of the perpetrator's network (Putrazta, 2025). In other words, taking advantage of trafficking victims and continuing those exploits to gain profits from the scam center company has been fulfilled.

In addition, within the framework of national criminal law, the concept of exploitation in scam center is also closely related to the prohibition of forced labor (*forced labor*) and the protection of human rights. Forced labor practices in scam center contrary to constitutional principles as reflected in in Article 27 paragraph (2) of the 1945 Constitution of the Republic of Indonesia (1945 Constitution) that "Every citizen has the right to work and a decent livelihood for humanity". This means that it has constitutionally guaranteed the right to decent work for humans. The right to decent work (*decent work*) is not only interpreted as the right to obtain a job, but also includes a guarantee that the work is carried out freely, safely, humanely, and free from all forms of threats, violence, exploitation, and respect for the dignity of workers (Rantanen et al., 2020). This concept is in line with the principle *Human dignity* in human rights and the concept of *decent work* from the International Labour Organization (ILO) which places the protection of workers as an important part of the fulfillment of fundamental human rights (Rantanen et al., 2020). Therefore, the condition of the victim scam center who are recruited through fraud, illegally transferred, detained, and forced to carry out fraudulent online activities under threat of violence indicate a violation of constitutional rights and principles human dignity and the concept decent work ILO.

In addition, the practice of exploitation in scam center it is also contrary to the principle of respect for human dignity on which the protection of human rights is based (HAM, 2023). In practice, the victim not only loses freedom of movement, but also loses the freedom to determine his will due to the full control of the perpetrator's network (Irfani, 2025). Victims often experience physical torture, psychological intimidation, confiscation of travel documents, and threats of being traded back if they do not meet the work target. This condition shows that victims are treated solely as means of production to generate economic benefits for crime syndicates, thus placing human beings as objects of exploitation that are contrary to human values (Weitzer, 2015). Therefore, the exploitation in scam center in essence it is a form of serious violation of the principle of protection of human dignity which is a fundamental value in the state of law and the human rights system.

Based on the description above, in some cases scam center as mentioned earlier, it can be said that they are victims of trafficking in persons. However, the victims who were rescued were also reported as perpetrators and were legally processed in the destination country for their involvement in the activities scam center, even if the engagement is carried out under duress. From the perspective of Indonesian criminal law, this condition poses a fundamental dilemma in determining the legal status of the victim, whether as a perpetrator of a criminal act *Scam Center* or as a victim of trafficking in persons. Therefore, the theory *victim-offender overlap* It becomes relevant to explain the dual position of a person as a victim as well as a perpetrator in a series of crimes (Carlos et al., 2025). A person can be a victim of a criminal system, but at the same time be forced or encouraged to commit a criminal act against another party (Carlos et al., 2025). This condition shows the existence of a dual position and a complex relationship between victimization (recruitment, transfer, and exploitation) and criminality (committing crime). *Scam Center*) in cross-border organized crime structures such as trafficking in persons and *Scam Center*. Jennings, Piquero, and Reingle explain that the relationship between victimization and criminal behavior often intersects (*overlap*), so that individuals who are victims of a crime have the possibility of engaging in criminal acts as a consequence of the victimization process

they experience (Jennings et al., 2012). Alexandra Louise Andreson Baxter further argues that the boundary between victims (*Victimization*) and perpetrators (*Criminalization*) often becomes a fugitive because the victim is forced to participate in activities that benefit the perpetrator's network (Louise & Baxter, 2019). Therefore, the theory victim-offender overlap it becomes important to explain that the victim scam center cannot simply be positioned as a pure perpetrator, because the actions he commits are part of the mechanism of exploitation that he himself experienced.

In addition to theory victim-offender overlap, in determining the legal status of individuals based on Indonesian criminal law refers to the theory of criminal liability (Criminal Responsibility Theory) because this theory requires an error in the form of *dolus* (intentional) and *Guilt* (forgetfulness/negligence) that is built on free will as a basis for criminal (Aldin, Jumanudin, 2026). This is in line with the principle no punishment without guilt which means that there is no crime without error. This concept is also reflected in Article 36 paragraph (1) of the Criminal Code which states that everyone can only be held accountable for criminal acts committed intentionally or due to negligence. Thus, criminal liability does not only require the existence of a criminal act (*Actus Reus*), but also the element of error (*Mens Rea*) and the ability to be responsible (*Accountability*) from the perpetrator (Hiariej, 2026). This means that a person can only be convicted if his actions are truly born from free will and complete legal awareness.

In context scam center, the element of free will becomes problematic because the victim is in a situation of threats, violence, intimidation, detention, and full control of the perpetrator's network. Victims are often forced to meet daily fraud targets under the threat of physical torture or the threat of being traded back if they refuse to work (Irfani, 2025). This situation causes the victim's actions not to be carried out entirely on the basis of free choice, but as a result of systematic pressure that limits his freedom of will. Therefore, the theory of criminal responsibility becomes relevant to assess whether the elements of guilt in the victim are really met.

Furthermore, if online fraud is carried out by coercion without free will, then the theory of coercion (*Force Majeure Theory/overmacht theory*) becomes relevant to explain the condition of a person committing a criminal act under pressure that deprives him of freedom of will due to coercion. Vam Bemmelen and van Hattum as quoted by Eddy O.S.Hiariej, that coercion is physical or psychological pressure and coercion can be carried out by a third party by force or other means or that coercion lies in the nature of nature or things around us (Hiariej, 2026). That is, *Force majeure* or coercion is one of the reasons for the abolition of criminal punishment because a person in committing a criminal act is considered not to have enough freedom to make his choice rationally due to serious physical or psychological pressure. The concept has been regulated in Article 42 of the National Criminal Code which reads"

"Every person who commits a criminal act is not punished because:

- a. Forced by an irresistible force; or
- b. Being forced by the presence of threats, pressures, or forces is inevitable."

Based on Article 42 of the National Criminal Code, what is meant by "forced by unstoppable force" is absolute coercion, namely there are circumstances that cause the perpetrator to have no other choice, except to commit the act (Eddy O.S. Hiariej, 2025). While the element of "Forced by the existence of threats, pressures, or unavoidable forces" is called relative coercion in which the existence of threats, pressures, or forces that in common sense cannot be expected to carry out resistance and the sacrificed interests are balanced or slightly more than those saved (Eddy O.S. Hiariej, 2025). This means that the coercive force in Article 42 letter a is absolute and Article 42 letter b is relative. Therefore, this shows that Indonesian criminal law recognizes coercive force (*Force majeure*) as a excuse for forgiveness that erases the fault of the perpetrator because his actions were not done based on free will. This is in line with Remmelink's view as quoted by Eddy O.S.Hiariej, that those who act out of coercion are excluded from the rule of law (Hiariej, 2026).

Based on theory force majeure and Article 42 of the National Criminal Code in the case of scam center, the victim committed an act of fraud online not solely of its own volition, but as a result of the

threat of violence and full control of the trafficking network. This condition shows that there is psychological and physical pressure that can eliminate or at least reduce the element of guilt in the victim. That is, the theory force majeure can be used to analyze the possible elimination or reduction of criminal liability against victims scam center who are forced to commit a criminal act in a situation of exploitation. In addition, this theory is also related to the principle no culpability without freedom in modern criminal law which affirms that a mistake cannot be imposed on a person if his actions are not carried out freely (Horta & Romero, 2024). This means that freedom of will is a fundamental condition in determining whether or not there is criminal liability. Therefore, the greater the pressure and coercion experienced by the victim, the weaker the basis for imposing a criminal offence on him.

In addition, in international law, the principle non-punishment of victims found in Protocol to Prevent, Suppress and Punish Trafficking in Persons, Especially Women and Children, supplementing the United Nations Convention against Transnational Organized Crime (Palermo Protocol) (Piotrowicz & Sorrentino, 2016). Principle non-punishment of victims related to victims of trafficking affirms that persons who commit offences in transit or as a consequence of being trafficked should not be held criminally liable because they have been coerced to do so (Piotrowicz & Sorrentino, 2016). In line with that, Andreas Schoenhardt and Rebekkah Markey-Towler emphasized that the main goal of the Palermo Protocol was to establish a victim protection system, so that the criminalization of victims in situations of exploitation was contrary to the normative purpose of the protocol (Schoenhardt & Markey-towler, 2014). This means that victims of trafficking should not be punished for acts committed as a direct result of the exploitation of digital forced labor and *Scam Center*. This principle further strengthens the importance of legal protection for victims *Scam Center* to prevent this from happening Secondary Victimization (being a victim for the second time) (Rijken & Khadraoui, n.d.) and criminalization (Determination of an act to become a criminal act through laws and regulations).

Criminalization prevention is also strengthened by United Nations Guiding Principles on trafficking in persons which refers to non-criminalization principle also known as *Non-punishment principle* (principle without punishment) which encourages the state not to criminalize the victim for acts committed as a direct result of the exploitation he or she has experienced (Group & Guide, 2020). This principle is in line with Article 18 of the Anti-Trafficking Law which states that "victims who commit acts because they are forced by the perpetrators of the crime of trafficking in persons, are not punished". Principle non-criminalization/non-punishment and Article 18 of the Anti-Trafficking Law views that victims of trafficking commit criminal acts in exploited situations that do not fully have free will so that the state does not criminalize/not be punished. However, if the victim has gained autonomy, economic benefits, or plays an active role in the exploitation of other victims, then the principle non-punishment does not apply automatically.

Based on national criminal law, international law, and the theories above, it can be said that the legal status of scam center perpetrators in Cambodia, Myanmar, and Laos has met the element of guilt, namely committing the crime of online fraud so that they can be held criminally responsible. However, even though the act carried out has met the elements of wrongdoing, the perpetrator is a victim of trafficking in persons who was originally a director and employed at a scam center. In other words, the perpetrators of the scam center cannot be held criminally liable in principle if their involvement is a direct result of exploitation and there is no real freedom of will.

#### 4. CONCLUSION

The crime of trafficking in persons has experienced new developments in the digital era, which initially led to physical exploitation to digital technology-based exploitation or digital forced labor such as scam centers. Victims who are initially recruited through fraud will be given jobs abroad, abuse of vulnerable positions of victims who need work, and unprocedural/illegal delivery, then victims are forced to work to commit online fraud under threats, violence, and full control from the perpetrators. This situation meets the elements of trafficking in persons as stipulated in Article 4 and Article 12 of the Trafficking in persons Law. Meanwhile, from a victimology perspective, victims of scam centers are

in a victim-offender overlap position because in addition to being victims of trafficking in persons, they are also forced to commit online fraud crimes. However, based on the criminal responsibility theory, the theory of coercion (overmacht) and Article 42 of the National Criminal Code, as well as the principle of non-criminalization/non-punishment of victims in the Palermo Protocol and Article 18 of the Trafficking Law, as well as the United Nations Guiding Principles on Trafficking in persons, victims who commit criminal acts due to coercion and exploitation basically cannot be fully held criminally responsible because there is no complete freedom of will. Therefore, victims of scam centers are more appropriately positioned as victims of trafficking in persons who need legal protection than as pure perpetrators of criminal acts, so that an appropriate victim identification mechanism is needed so that criminalization of trafficking victims does not occur.

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