



Seeing the Victim Before You: A New Understanding of the Identification of Human Trafficking

BY LAUREL G. BELLOWS

More than 150 years after President Abraham Lincoln promised in the Emancipation Proclamation a nation free of slavery, his promise has yet to be fulfilled. Today, within our borders and across the world, the injustice of human trafficking continues to grow. This modern form of slavery is one of the most tragic and disgraceful criminal endeavors ever to exist.

Human trafficking affects large and small communities throughout the United States. Thousands of US citizens have been forced into sex or labor for the profit of their captors. Thousands more men, women, and children are illegally trafficked into our country each year.

Nearly 21 million people across the globe, predominantly women and children, are denied basic rights, such as sleep, food, compensation, or free interaction with others, while forced to work or engage in sexual acts under threat of violence, abuse, or death, according to the US State Department. Human trafficking is believed to be one of the fastest-growing criminal enterprises, generating an estimated \$32 billion a year in illicit profits.

Dispelling the Myths

The American Bar Association (ABA) is mobilizing the legal profession to combat human trafficking in our nation. As I reflect on this journey, it is apparent that while more people are aware of the crisis of modern-day slavery, some myths about its existence in the United States need to be dispelled.

One myth is that trafficked people are only foreign nationals. This is false. Slavery flourishes in our own backyards—in urban, suburban, and rural America—and affects American citizens as well as immigrants.

Another myth is that persons who engage in

illegal activities cannot be considered victims of trafficking. This is false. Trafficking victims often cannot seek out help because they fear abuse, they fear their loved ones will be harmed, or they fear law enforcement. At the same time, trafficking victims frequently are confronted by a criminal justice system that treats human trafficking victims as defendants, further complicating efforts to intercede and stop this heinous crime.

Prostitution vs. Sex Trafficking

I am often asked, “What is the difference between prostitution and sex trafficking?” Often, in individual cases, prostitution and sex trafficking coexist. And there is such a significant overlap between prostitution and sex trafficking that I now refer not to the “sex industry” but to the “sex trafficking industry.”

Researchers and law enforcement inform us that most people in prostitution enter this industry as minors, with the average age from 13 to 16. Children do not choose to become prostitutes. They are recruited, seduced, procured, or coerced for the economic gain and sexual gratification of adults exerting control over them, such as pimps or buyers. The federal Trafficking Victims Protection Act and state Safe Harbor laws consider commercially sexually exploited minors to be sex trafficking victims. Thus, an adult woman in prostitution who appears to be there voluntarily likely started out as a trafficked child.

In addition, a significant amount of prostitution—regardless of whether the victims are immigrants or American citizens—takes place under the control of sex trafficker pimps. Courtney Bryan, director of Midtown Community Court, which processes prostitution cases in Manhattan, estimates that 70 percent of people arrested for prostitution and arraigned in her court are victims of human trafficking. Pimps secure domination of their victims using tactics ranging from psychological manipulation—usually through protestations of love and promises of support—to threats and

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physical violence. Pimps have learned that psychological manipulation is often more effective than physical abuse and subject their victims to a process called “seasoning,” transforming their identities from autonomous individuals to owned objects. Pimps confiscate victims’ identity documents, give victims’ a new look and new name, convince them that they owe the pimp money, and/or tattoo them with indicia signifying possession. As a result, I believe, along with many law enforcement providers and victim advocates, that pimps are traffickers and that a significant percentage of prostitution is controlled by pimps.

A recent interview by Rachel Lloyd, a survivor of commercial sexual exploitation in England and Germany who fell under the control of a brutal pimp at age 18, demonstrates the complexity of distinguishing sex trafficking from “sex work.” Rachel led a US effort to ensure that commercially sexually exploited minors are treated under state law as child trafficking victims who need refuge and services—not as juvenile delinquents or adult criminals who deserve stigmatization and punishment. Rachel believes the links between prior sexual abuse and entry into the sex industry are well established. “Are there a handful of women for whom this looks different?” Rachel said. “Cool, great. Let’s not argue with you. [But let’s] talk about the systemic issues of poverty and racism and classism and sexual abuse and family abuse and all the things that make young people and adult women . . . vulnerable.” (Julie Greicius, *The Rumpus Interview with Rachel Lloyd*, RUMPUS (Feb. 28, 2012), <http://tinyurl.com/qd7um2c>.)

Rachel points to an important fact. Many in the sex industry who are not currently under pimp control, and therefore who may not be viewed as trafficking victims, were under such control in the past and are now trapped in prostitution because of the economic and psychological harm they sustained. Others who entered prostitution voluntarily are actually in situations of commercial sexual exploitation as the result of experiences of abuse and deprivation that left them vulnerable to predatory sex industry entrepreneurs and buyers.

I do not suggest that prostitution and trafficking should be simplistically conflated. For there to be trafficking, there must be a trafficker—someone who, at minimum, abuses his or her power or exploits another’s position of vulnerability to subject that victim to prostitution and/or to prey on the victim’s exploitation in prostitution. Some individuals enter prostitution voluntarily and can leave voluntarily, although most experts estimate that these individuals represent a tiny percentage of those in the global sex industry.

Identifying and Representing Trafficking Victims

Recognizing the complex barriers to prosecuting traffickers and identifying victims, the ABA is committed to changing the way our legal system approaches human trafficking. The ABA Task Force on Human Trafficking has conducted training sessions across the country to help stakeholders learn to identify and treat victims as victims and to prosecute and punish perpetrators. These training sessions also shine a spotlight on the thousands of victims

funneled through criminal justice systems as defendants.

So far, we have trained more than 500 lawyers and allied professionals. Training programs help those who come into contact with trafficking victims to understand the barriers victims encounter in accessing help and resources. For example, if someone being screened for services is, or has been, in prostitution, lawyers should presume that sex trafficking is likely. Lawyers should also be aware that because of fear and trauma, victims are often reluctant to disclose their victimization. Many are in conditions of “traumatic bonding,” once called Stockholm syndrome, where they identify with their captors and cannot recognize their own victimization. If you learn that a pimp has been in the picture—a pimp who may take the form of an intimate partner or even a husband—you are almost certainly dealing with a victim of human trafficking.

And even if a woman or man is engaged in prostitution, lawyers should not assume that she or he does not need their assistance. Research demonstrates that people in prostitution experience staggeringly high levels of violence from sex industry buyers and are many times more likely to be murdered than others in dangerous industries—and that most want to get out. Lawyers can help them by developing a life-saving exit strategy.

Lawyers should also be aware that extensive time, patience, and heightened sensitivity are needed for victims to disclose their victimization. Rarely will such disclosure occur without the development of a relationship of trust between lawyer and victim. For help in identifying victims and building that relationship, please see *Lawyer’s Manual on Human Trafficking: Pursuing Justice for Victims*, published by the New York State Judicial Committee on Women in the Courts and available online (<http://tinyurl.com/oeztanq>).

Traffickers harm their victims physically and psychologically. The psychological wounds, in particular, often run deep. Those wounds can get in the way of identifying victims, understanding their experiences, and building the relationship of trust necessary for effective advocacy. Lawyers should not try to solve the problems of victims alone. Reach out for help. Throughout the United States, trafficking victims’ services organizations can provide invaluable assistance with victim identification and support. Many groups, such as Breaking Free, the SAGE Project (Standing Against Global Exploitation), and Girls Educational and Mentoring Services (GEMS), are led by human trafficking survivors. The Polaris Project’s National Human Trafficking Resource Center provides a national toll-free hotline, available 24/7 in English and Spanish at 1-888-373-7888, which can assist in finding the organization best-suited to support lawyers and sex trafficking victims or potential victims.

Conclusion

Since undertaking this journey, I have been inspired by the numerous members of the legal profession who have joined me in our shared mission to eliminate modern-day slavery in our nation. Lawyers can give these victims a voice. We can commit ourselves to rectifying the injustice of modern-day slavery in our nation. ■