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Criminal Justice Issues and Prisoners' Rights

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Public Facing Advocacy Writing

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As an attorney who advocates exclusively for sex trafficking survivors, I often get asked: what's the hardest part of the job? My answer usually surprises people dealing with the concept of blame. Who or what is to blame for what happened to my client? How can I make sense of what happened, organize it all in a nicely-packaged narrative, and deliver it to our justice system? Blame is my toughest adversary.

Blame plays an active role in anti-human trafficking work. In Ohio, a victim of human trafficking is a victim of Trafficking in Persons. Trafficking in Persons occurs when someone knowingly recruits, lures, entices, isolates, harbors, transports, provides, obtains, or maintains another person for the following reasons: (1) to be subjected to involuntary servitude [labor trafficking]; or (2) to be compelled to engage in sexual activity for hire or to engage in obscene, sexually-oriented, or nudity-oriented performance [sex trafficking]. A victim is compelled through force, fear, duress, intimidation, or fraud.

In this statute, there is a clear villain and victim. To have sex trafficking, the trafficker knowingly did x to another person in order to compel sexual activity for hire. Consequently, when I meet with a survivor of sex trafficking, I find myself naturally looking for who is the blameworthy one. Who victimized my client and how? Who is my villain? Who is to blame? Answering these questions can be extremely difficult for survivors, especially if the trauma and abuse came from family members, significant others, or other trusted members of the community. There are often strong emotional ties between the survivors and their traffickers. Therefore, assigning blame to the trafficker can be a challenge.

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In hindsight, I have understood that searching for the villain is not the right approach. I have learned that, at the end of the day, people are still people. Circumstances are always more complicated than what is understood at face value. Of course, this is not to excuse harmful behaviors or actions. It is simply a reminder that every situation has a context that should be considered. People and the relationships between people are complicated, multifaceted, and changeable. In fact, for some survivors forgiveness is crucial for their personal healing and sense of control.

The second challenge arises when a survivor takes on complete self-blame and cannot identify their trafficker as the wrongdoer or abuser. The survivor takes total responsibility of any crimes committed and outright denies being victimized. This is not unusual or uncommon. Following trauma, some survivors blame themselves for what happened to them in order to have (or take back) a sense of control. This may be the best way for them to cope with their trauma and feel safe, even years after escaping their trafficking situation. This assumption of blame poses a significant challenge in the legal world because certain civil legal remedies, such as safe harbor expungement, is only available to victims of human trafficking. On the most basic technical level, a person cannot be a victim of human trafficking if there is no trafficker.

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According to Melvin Lerner, people need to believe in a just world to deal with witnessed or experienced injustice. Through this just world theory, Lerner suggests that people want to believe that they live in a world where good things happen to good people and bad things only to bad ones. Essentially, we all get what we deserve. This allows people to feel safe and in control, and to see the world as predictable and manageable. Sherry Hamby, professor of psychology at the University of the South, explains that this belief may be stronger among Americans, who are raised in a culture that promotes the American Dream and the idea that we all control our own destinies.

This theory is just one of many that has been used to explain the sociological and psychological roots of blame. But this binary good-for-the-good, bad-for-the-bad, causes trafficking victims to fall through the cracks of our criminal justice system. Life is much more complicated than just good and bad. In my own work, I have challenged myself to focus less on blame and more on what I can do to help my survivor clients heal and move forward with their lives. If there is anything that deserves blame, it is this system that has been structured to blame first, rather than heal. Blame is the true villain.

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