

HUMAN TRAFFICKING AND DOMESTIC VIOLENCE

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Human trafficking and domestic violence can occur on a continuum of violence, and the dynamics involved in human trafficking are frequently interwoven with those of domestic violence. Central to the Freedom Network's mission is to work with trafficked persons with a victim-centered approach, to empower trafficked persons, and to provide comprehensive social and legal services.

Domestic Violence Defined

The Department of Justice defines domestic violence as a pattern of abusive behavior in any relationship that is used by one partner to gain or maintain power and control over another intimate partner. Domestic violence can be physical, sexual, emotional, economic, or psychological actions or threats of actions that influence another person. This includes any behaviors that intimidate, manipulate, humiliate, isolate, frighten, terrorize, coerce, threaten, blame, hurt, injure, or wound someone. A person who experiences domestic violence and/or human trafficking is oftentimes referred to as a victim, a survivor or a trafficked person/person who experienced domestic violence. Domestic violence impacts a person's self-esteem. Traffickers frequently exploit the already lowered self-esteem of trafficking victims who have experienced abusive family lives. Conversely, trafficking survivors are often vulnerable to future incidences of domestic violence.¹

Dynamics Involved in Human Trafficking are Frequently Interwoven with those of Domestic Violence

Domestic violence and human trafficking are interwoven in complex ways. The intersection of domestic violence and human trafficking occurs in a myriad of ways, such as when: traffickers are also domestic violence abusers; traffickers utilize complex history of victims with complex histories of abuse (i.e., domestic violence or witnessing domestic violence) to further other forms of abuse in trafficking; domestic violence abusers use a victim's history of trafficking to intimidate, control and further abuse the victim; or domestic violence and human trafficking are separate phenomenon in the life of a victim, however, impact the survivor's ability to trust institutions, state structures, and people in general.

When traffickers are also domestic violence abusers, the two forms of violence can be difficult to discern and at times, impossible to separate. Categorizing individuals as *either* being a survivor of human trafficking *or* a survivor of domestic violence may limit a survivor's options for social services and legal remedies. Additionally, legal remedies and criminal convictions do not solely determine the type of violence that has been perpetrated against an individual.² The following are examples of cases where domestic violence and human trafficking can manifest together on the basis of the same set of facts:³

- **Involuntary servitude in marriage:** Cases where traffickers force their spouses to perform services and labor, such as domestic work, working at family businesses, or sex work. These traffickers may also usually physically and sexually abuse their spouses, as well as threaten them with immigration and legal consequences.
- **Sexual economies:** Cases where individuals are recruited into sex trafficking by traffickers feigning love interest in them. The cases may involve fraudulent courtship, sexual assault, and then a distinct pattern of domestic violence to control or convince the victims to engage in selling sex (i.e., prostitution or pornography).
- **Other forced labor:** Cases where individuals are trafficked by other family members (besides intimate partners) into forced labor situations (e.g. restaurant work, sales work, janitorial work).

¹ Jean Bruggeman and Elizabeth Keyes, *Meeting the Legal Needs of Human Trafficking Victims: An Introduction for Domestic Violence Attorneys & Advocates*, AMERICAN BAR ASSOCIATION, 7-8 (2009).

² For example, recipients of VAWA have been identified as trafficking survivors, and recipients of T visas have also been identified as domestic violence survivors.

³ For methods to inquire about whether or not a case is simultaneously a domestic violence and human trafficking case, *see* Bruggeman and Keyes at 13-14.

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Similarities and Differences between Domestic Violence and Human Trafficking

Human trafficking and domestic violence are manifestations of power and control.⁴ Like domestic violence survivors, trafficking survivors often suffer from violence from those familiar and close to them. Trafficking and domestic violence survivors experience similar forms of abuse: physical and sexual violence, physical or mental isolation and restricted movement, threats of harm, degradation and name calling, shame, control of immigration documents and finances, and threats to abuse the legal process (e.g. deportation or a lawsuit).

Few people walk through a service provider's door self-identifying as a victim of human trafficking or domestic violence. Therefore, they are usually unaware of their legal protections, rights, and the resources that are available for them to aid in their healing. Immigrant trafficking and domestic violence survivors suffer from additional high barriers from leaving their violent situation, such as limited language ability, fear of law enforcement, lack of awareness of rights and laws, lack of awareness of available services, fear of deportation, and specific cultural considerations.

Despite the similarities, it is important to note the ways in which domestic violence and human trafficking differ. Their core difference is their legal definition. At the core of human trafficking is exploitation, where another person benefits or gains profits from another person's abuse. A victim of human trafficking must prove force (beatings), fraud (how they were lied to) and coercion (threats) (unless if they are a minor trafficked into sexual economies). In contrast to human trafficking, domestic violence is a pattern of abuse in intimate relationships. The difference in definition necessitates different responses. Protections for trafficked persons are generally tied to their cooperation with the criminal investigation and prosecution of their traffickers.⁵ Because traffickers may utilize complex networks to abuse multiple victims, the image of trafficking is how a person can be "sold many times." Therefore, trafficking victims are viewed of as "expendable" labor. In contrast, domestic violence is defined by an unhealthy dynamic between abusers and the abused, that can lead to, in worst case scenarios murder suicides; data shows that ninety-percent of murder suicides started with domestic violence⁶. Additionally, human trafficking is more likely to exploit men than domestic violence, and resources must be developed to meet the unique needs of trafficked men.

Using a Victim-Centered Approach with Domestic Violence and Human Trafficking Survivors

Domestic violence "victim-centered approaches" to care and service, is a model for supporting victims of human trafficking. A victim-centered approach stresses that empowering the person, offering choices, and respecting their choices is the most effective means of meeting their needs and goals.⁷ Domestic violence advocates emphasize providing services that are voluntary, non-judgmental, culturally and linguistically appropriate, and that are informed by the priorities and concerns of the client. Domestic violence advocates have also made great strides in decreasing the public's tendency to "blame the victim." For example, domestic violence advocates are trained to assist domestic violence survivors, even if they have in the past chosen to reconcile with an abusive partner. A victim-centered approach for trafficked persons means, for example, providing them non-judgmental assistance even if they facilitated their own border crossing, consented to sex work, or were required the victim participate in other criminal activities as part of their abuse.

Trafficking persons who are able to exercise self-determination tend to regain security, trust and self-sufficiency much more quickly and make for stronger witnesses in legal cases. When trafficking survivors lack a sense of control over their own cases, they can withdraw from services and legal processes, experience re-traumatization, hesitate to tell the truth, go back to the trafficker, and/or enter new, exploitative relationships. Service providers must recognize that although trafficked persons have suffered unimaginable abuses at the hands of their trafficker, they are not helpless victims. The idea of "saving" trafficked persons also forces them to construct the identity of the helpless "perfect victim," which is contrary to the empowering, victim-centered model.⁸

⁴ National Resource Center on Domestic Violence, "What are the connections between domestic violence and human trafficking?," available at <http://www.nrcdv.org/dvam/sites/default/files2/HumanTrafficking%26DV-TalkingPointsForm.pdf>.

⁵ Under VAWA 2005 Section 801(a)(3), trafficking survivors whose physical and psychological impairment impedes their ability to cooperate with law enforcement make seek a waiver for the purposes of applying for a T visa. Additionally, minors under 18 years of age are not required to cooperate with law enforcement. Additionally, under TVPA 2000, Pub L. No. 106-386 § 107(c)(1), 114 Stat. 1464 (2000), minors under the age of 18 are exempt from cooperation with law enforcement for purposes of a T visa.

⁶ National Resource Center on Domestic Violence, "Men Who Murder Their Families: What Research Tells Us," *NIJ Journal*, No. 266, available at <https://ncjrs.gov/pdffiles1/nij/230412.pdf>.

⁷ See generally an example of domestic violence advocates using a victim-centered approach in working with trafficking survivors, Family Violence Prevention Fund, *Collaborating to Help Trafficking Survivors: Emerging Issues and Practice Pointers* (July 2007).

⁸ See generally Jayashri Srikantiah, *Perfect Victims and Real Survivors: The Iconic Victim in Domestic Human Trafficking Law*, *BOSTON UNIVERSITY LAW REVIEW*, Volume 87, Issue 157 (2007).

Domestic Violence Advocates Can Provide Appropriate Services for Human Trafficking Survivors

Many of the first social services responders to human trafficking were domestic violence and sexual assault advocates, who offered services to trafficked persons even before the federal TVPA law was passed in 2000. Domestic violence advocates are well-positioned to leverage their agency's institutional framework for trafficked persons to access housing, medical services, interpreters, crisis lines, caseworker privilege, and service providers trained in power and oppression issues, confidentiality, working with trauma survivors, and linguistic and cultural competency.⁹

Domestic violence advocates and shelters frequently support trafficked persons. Human trafficking funding alone is always insufficient to provide the long-term support needed to address the issue and so domestic violence advocates and shelters usually generously support trafficked persons with other domestic violence funding and absorb the long-term costs. Any cut in domestic violence and trafficking funding significantly reduces the abilities of those providing social services and legal services to support trafficked persons.

Recommendations

1. Inquire whether or not a person can experience both domestic violence and human trafficking, and seek all possible services and legal remedies available.
2. Recognize interwoven dynamics, similarities, and differences between human trafficking and domestic violence.
3. Use a similar domestic violence victim-centered approach to empower trafficked persons.
4. Adapt and build upon domestic violence services and coalitions to support trafficked persons.
5. Increase dedicated funding for assisting trafficked persons while recognizing cuts in funding domestic violence work and human trafficking work hurt both causes.
6. Strengthen coordinated efforts across institutions that privilege "victim-centered" approaches (i.e., family law, immigration law, criminal law, social services, law enforcement, protective services and medical/health care providers).

⁹ For more information on how domestic violence advocates can leverage their pre-existing resources for trafficking survivors, *see* Bruggeman and Keyes at 31-33.