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SUSTAINING LAWYERS

*Seema Tahir Saifee**

Many lawyers are drawn to a career in social justice, in part, to help others and, in part, to fulfill their own path to wellness. Advocacy that sustains personal well-being, however, also poses considerable obstacles to well-being. Some of these obstacles are inherent to social justice work but some are embedded within organizational culture. These cultural norms impair the health of advocates, harm the communities with whom they work, and portend far-reaching consequences for the future of progressive struggles for freedom. Drawing on the author's personal experience, this Essay identifies three cultural norms, described as pathologies, that are rarely discussed in social justice circles. Qualitative studies and accounts by social justice advocates suggest that these pathologies discount attention to well-being in the field, compromise the sustainability of organizations working for social change, divert attention from the complexities of the issues that social justice movements seek to address, and narrow the perspectives within social justice organizations for how best to approach the problems they seek to solve. This Essay argues that sustainable advocacy requires a considerable cultural reorientation that treats collective well-being as an institutional concern.

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INTRODUCTION

The moment an individual is freed from prison, typically everyone who joined in their struggle is elated. As a lawyer who spent over a decade representing individuals imprisoned in cages, the work has transformed me. However, while I, too, rejoiced with newly-freed clients, a profound gloom punctuated the years of struggle and often eclipsed the celebration. Accompanying the transformative changes were disruptive, often pernicious, effects that too often remain unspoken. This Essay draws on my personal experience and examines these disruptive effects that legal, social justice, and activist organizations rarely discuss.

This Essay proceeds in three parts. Part I provides an account of the conviction of Andre Hatchett, an innocent man who spent a quarter of a century in prison for a crime he did not commit. Part II discusses the emotionally challenging and traumatic components of my representation of Andre, as well as the limits of using a “trauma” lens to capture the harms to well-being that lawyers face in the field. Part II further explores the deeply embedded cultural norms that prevent conversations around trauma exposure and well-being in the profession, drawing on literature from both outside and within legal scholarship. Part II then examines how those cultural norms impair our health as lawyers, harm our clients, limit the vision of advocates and organizations seeking social change, and compromise the sustainability of our human rights movements. Part III shares my own journey to understand the importance of having these conversations, which began over a decade ago when I was part of a legal team representing several ethnic Uighur men imprisoned indefinitely at the United States Naval Base in Guantanamo Bay, Cuba. Part III highlights the anguish I experienced during and after the Guantanamo cases and how that consciousness led me to center these conversations in legal education. Part III concludes by envisioning a structural reorientation toward sustainable advocacy where social justice organizations purposely treat collective well-being as an institutional concern. A brief conclusion follows.

I. POST-CONVICTION’S POSTPARTUM

In March 2016, Andre Hatchett was in a courtroom in Brooklyn, New York. He would celebrate his fiftieth birthday that spring. He had spent his last twenty-five birthdays in a cage. That year, Andre was coming home as a free man.

In 1992, Andre was convicted of a brutal murder in the Bedford-Stuyvesant neighborhood of Brooklyn.¹ The victim lived in the same rooming house as Andre's aunt.² Andre visited his aunt almost daily and occasionally spoke with the victim during these visits.³ On the night of the crime, Andre was watching television with the victim's mother when the victim left to buy cocaine.⁴ Andre waited for half an hour, and when the victim did not return, Andre left.⁵ Hours later, the victim's dead body, completely nude and displayed in a crucifix-like fashion, was found in a park.⁶ The crime scene depicted a violent, gruesome struggle. The victim had a crushed larynx.⁷ Deep lacerations to the victim's head exposed her skull, and her teeth had been knocked out of her gums.⁸ Her body had been dragged on the ground.⁹ Her clothing, and three metal pipes that authorities believed were used to bludgeon and sodomize her, were strewn across the park.¹⁰

The victim's mother told police that she had last seen her daughter alive with Andre Hatchett.¹¹ Andre voluntarily went to the police station, confirmed that he had been with the victim earlier in the evening, and provided a detailed account of his whereabouts for the remainder of the night.¹² Police did not consider Andre a suspect, so Andre left the precinct.¹³ Eight days after the homicide, a man named Gerard Williams was arrested in Brooklyn for an unrelated burglary.¹⁴ While in custody, Williams told police that he and his friend "Popeye" witnessed Andre commit the murder in the park that

1. Noah Remnick, *Brooklyn Man is Exonerated After 25 Years in Prison for Murder*, N.Y. TIMES, (Mar. 10, 2016), <https://www.nytimes.com/2016/03/11/nyregion/brooklyn-man-is-exonerated-after-25-years-in-prison-for-murder.html>; Rebecca Davis O'Brien, *Conviction Overturned, Man is Freed After 25 Years*, WALL ST. J., (Mar. 11, 2016), <https://www.wsj.com/articles/conviction-overturned-man-is-freed-after-25-years-1457660927#>.

2. Remnick, *supra* note 1; Transcript of Trial at 144–48, 172, *People v. Hatchett*, No. 3771/91 (Kings Cnty. Sup. Ct., N.Y. Feb. 11, 1992) [hereinafter Trial Tr.]. All transcripts are on file with the author.

3. *See* Trial Tr., *supra* note 2, at 286 (Feb. 14, 1992).

4. *Id.* at 85, 131, 159–61 (Feb. 10–11, 1992).

5. *Id.* at 85, 131.

6. *Id.* at 32–40 (Feb. 10, 1992).

7. *Id.* at 114–15, 119 (Feb. 11, 1992).

8. *Id.* at 108–13.

9. *See id.* at 113–16.

10. *Id.* at 39–40, 109–12, 117–19 (Feb. 10–11, 1992).

11. *Id.* at 164–65 (Feb. 11, 1992).

12. *Id.* at 81–86, 129–34 (Feb. 10–11, 1992).

13. *Id.* at 83–84, 134 (Feb. 10–11, 1992); Transcript of Wade/Huntley Hearing at 33–34, 40, *People v. Hatchett*, No. 3771/91 (Kings Cnty. Sup. Ct., N.Y. Oct. 18, 1991) [hereinafter Wade Hr'g].

14. Trial Tr., *supra* note 2, at 218–19 (Feb. 11, 1992).

had occurred the week earlier.¹⁵ Andre then voluntarily returned to the police station to participate in a lineup, and Williams identified Andre.¹⁶ Despite the positive identification, Andre was not arrested.¹⁷

After many unsuccessful efforts, the New York Police Department (“NYPD”) located and interviewed Popeye.¹⁸ Andre then voluntarily came back to the station and participated in a second lineup.¹⁹ At Andre’s pretrial *Wade* hearing,²⁰ a detective testified that Popeye initially said that she “wasn’t sure” whether she recognized anyone in the lineup, so the detective asked if Popeye wanted the participants to come closer to the window.²¹ Each participant was brought up to the window one by one.²² Popeye then selected Andre, and Andre was arrested.²³ The defense moved to suppress Popeye’s—but not Williams’s—identification.²⁴ The defense’s motion was denied.²⁵

Andre went to trial in 1991. Before the trial concluded, the judge declared a mistrial on the basis that Andre’s counsel was woefully incompetent.²⁶ Andre faced trial again in 1992. At his second trial, Andre was appointed a lawyer who had been suspended from the

15. NYPD, Complaint Follow Up Informational, No. 1467, Follow-Up No. 21 (Feb. 26, 1991); NYPD, Complaint Follow Up Informational, No. 1467, Follow-Up No. 22 (Feb. 26, 1991); Transcript of Audiotape A 91-399: Interview with Gerry Williams (Feb. 26, 1991). All police reports are on file with the author.

16. *Wade Hr’g*, *supra* note 13, at 47–53, 56 (Oct. 18, 1991).

17. *Id.* at 77–78.

18. NYPD, Complaint Follow Up Informational, No. 1467, Follow-Up No. 23 (Feb. 26, 1991); NYPD, Complaint Follow Up Informational, No. 1467, Follow-Up No. 24 (Feb. 27, 1991); NYPD, Complaint Follow Up Informational, No. 1467, Follow-Up No. 25 (Feb. 27, 1991); NYPD, Complaint Follow Up Informational, No. 1467, Follow-Up No. 27 (Mar. 9, 1991); NYPD, Complaint Follow Up Informational, No. 1467, Follow-Up No. 28 (Mar. 10, 1991); NYPD, Complaint Follow Up Informational, No. 1467, Follow-Up No. 29 (Mar. 16, 1991); NYPD, Complaint Follow Up Informational, No. 1467, Follow-Up No. 31 (Mar. 17, 1991).

19. *Wade Hr’g*, *supra* note 13, at 77–78 (Oct. 18, 1991).

20. *Wade Hearing*, BLACK’S LAW DICTIONARY (11th ed. 2019) (“A pretrial hearing in which the defendant contests the validity of his or her out-of-court identification. If the court finds that the identification was tainted by unconstitutional methods, the prosecution cannot use the identification and must link the defendant to the crime by other means.”).

21. *Wade Hr’g*, *supra* note 13, at 67–68 (Oct. 18, 1991).

22. *Id.* at 68–69.

23. *Id.* at 60–71; NYPD, Complaint Follow Up Informational, No. 1467, Follow-Up No. 33 (Mar. 26, 1991); NYPD, Complaint Follow Up Informational, No. 1467, Follow-Up No. 35 (Mar. 26, 1991).

24. *Wade Hr’g*, *supra* note 13, at 114–16, 122 (Oct. 18, 1991).

25. *Id.* at 122.

26. Transcript of Mistrial at 431–43, *People v. Hatchett*, No. 3771/91 (Kings Cnty. Sup. Ct., N.Y. Oct. 25, 1991); O’Brien, *supra* note 1.

practice of law for a period of time in the 1980s.²⁷ Although Andre was represented at his *Wade* hearing by the same attorney whom the court deemed ineffective at his first trial,²⁸ Andre did not receive a new *Wade* hearing before his second trial.

At the second trial, as in the first, the prosecution's star witness was Gerard Williams. He told the jury that he and Popeye were strolling through the park on a dark, rainy night when he heard a female scream.²⁹ Williams testified that he then observed Andre, from thirty to forty feet away, swinging his arm over a body.³⁰ Williams admittedly had no relationship with Andre, as he claimed to have known Andre only by seeing him in passing in the neighborhood.³¹ Williams also claimed to have recognized Andre by his voice, even though he admitted that he had never once spoken to Andre.³² He testified that Andre shouted "Step the f**k off!" in a deep voice that was loud enough to be heard from thirty to forty feet away.³³ At the time of the crime, however, Andre was recovering from a severe gunshot injury to his throat and was having difficulty speaking even at his second trial.³⁴

The prosecution's case against Andre rested on this single eyewitness. Williams had twenty prior convictions.³⁵ He came forward as an alleged eyewitness to the high-profile murder only after he was arrested for committing a burglary.³⁶ "[W]hat happened to the [burglary charge]?" the judge inquired during a colloquy.³⁷ The prosecutor replied that he had no clue, speculating that it may have "died" in the grand jury.³⁸ The judge told the prosecutor that "something must have happened to the case" and instructed the prosecutor to check during the recess.³⁹ The trial transcript gives no indication that the prosecutor ever complied.

Williams testified that when he gave police information about the homicide, the lead detective wanted him to "have a look at a [lineup]" of "the people picked out of the mugshot book."⁴⁰ Outside the presence of the jury, the judge asked Williams whether someone showed him

27. See generally Trial Tr., *supra* note 2 (identifying defense counsel); *In re Medows*, 464 N.Y.S.2d 1011, 1011 (N.Y. App. Div. 1983).

28. See generally *Wade* Hr'g, *supra* note 13 (identifying defense counsel).

29. Trial Tr., *supra* note 2, at 184, 188–93, 217, 256–58 (Feb. 11 & 14, 1992).

30. *Id.*

31. *Id.* at 179–80, 274 (Feb. 11 & 14, 1992).

32. *Id.* at 193, 259 (Feb. 11 & 14, 1992).

33. *Id.* at 192–93 (Feb. 11, 1992).

34. *Id.* at 284, 374 (Feb. 14 & 18, 1992).

35. *Id.* at 217 (Feb. 11, 1992).

36. NYPD, Complaint Follow Up Informational, No. 1467, Follow-Up No. 21 (Feb. 26, 1991).

37. Trial Tr., *supra* note 2, at 232 (Feb. 14, 1992).

38. *Id.* at 233–34.

39. *Id.* at 233–35.

40. *Id.* at 220–22 (Feb. 11, 1992).

photographs.⁴¹ Williams retracted his testimony, telling the judge that he “was thinking of something else.”⁴² The judge asked the prosecutor whether he was absolutely certain that Williams did not see any pictures of Andre prior to the lineup and whether the prosecutor had questioned the detectives on the issue.⁴³ The prosecutor replied that Williams “made the same mistake yesterday when I was talking to him last night.”⁴⁴ The judge retorted, “Maybe it is not a mistake.”⁴⁵

The jury was not informed that, despite Williams’s identification, Andre was not arrested. The jury was never presented with any information about Popeye’s identification, and the prosecution never called Popeye as a witness.⁴⁶

Perhaps most significantly, Andre, and his alibi witness, testified that Andre’s leg was in a cast at the time of the crime.⁴⁷ Both testified that, on the night of the crime, Andre was walking on crutches.⁴⁸ Defense counsel did not introduce any medical evidence about the injuries to Andre’s leg and throat or call an expert to testify about the extent of Andre’s physical disabilities. In 1992, Andre was ultimately convicted of second-degree murder and sentenced to twenty-five years to life in prison.⁴⁹

The Innocence Project⁵⁰ opened Andre’s case in 2007 after a man who befriended Andre in prison wrote in seeking assistance on Andre’s behalf.⁵¹ Andre was intellectually disabled.⁵² He had been a special needs student since he was a small child, and he read and

41. *Id.* at 223.

42. *Id.*

43. *Id.* at 224.

44. *Id.*

45. *Id.*

46. *Id.* at 368.

47. *Id.* at 285–86, 298, 335–37 (Feb. 14 & 18, 1992).

48. *Id.* at 161–62, 285, 298, 335–36 (Feb. 11, 14 & 18, 1992).

49. *Id.* at 444 (Feb. 19, 1992); Transcript of Sentencing at 5, *People v. Hatchett*, No. 3771/91 (Kings Cnty. Sup. Ct., N.Y. Mar. 11, 1992).

50. *About*, INNOCENCE PROJECT, <https://innocenceproject.org/about/> (last visited Oct. 2, 2021) (“The Innocence Project . . . exonerates the wrongly convicted through DNA testing and reforms the criminal justice system to prevent future injustice.”).

51. Wrongful Conviction with Jason Flom, *S5E11: A Gruesome Murder, an Impossible Scenario, and a Sloppy, but Ultimately Successful Frame Up: The Terrible Saga of Andre Hatchett’s 25 Years Behind Bars for a Crime He Didn’t Commit*, WRONGFUL CONVICTION PODCAST, at 36:20 (May 14, 2018), <https://www.wrongfulconvictionpodcast.com/podcast/s5e11>.

52. Transcript of Hearing on Motion to Vacate at 15, *People v. Hatchett*, No. 3771/91 (Kings Cnty. Sup. Ct., N.Y. Mar. 10, 2016) [hereinafter *Exoneration Tr.*]; Remnick, *supra* note 1.

wrote at a first-grade level.⁵³ In his letters from prison, Andre could only write “HELP ME I AM INNOCENCE.”

The Innocence Project obtained a court order to conduct post-conviction DNA testing on the victim’s fingernail clippings, but no foreign male DNA was detected.⁵⁴ The Medical Examiner’s Office reported that no semen was detected on swabs collected from the victim’s intimate areas at autopsy, and the swabs were discarded after pretrial analysis.⁵⁵ Additionally, despite police vouchers documenting their collection and years-long searches, the metal pipes could not be located. After exhausting DNA efforts, the Innocence Project, joined by the law firm Paul, Weiss, Rifkind, Wharton & Garrison (“Paul Weiss”), began a more comprehensive investigation.⁵⁶

Andre’s legal team unearthed troubling documents in both the police’s and district attorney’s files. For example, while in central booking, Williams told police that the man who committed the murder was in the precinct’s bullpen, and Williams pointed him out to police.⁵⁷ Andre was not in the precinct at the time. A redacted document from the district attorney’s file produced under the Freedom of Information Act (“FOIA”) stated that “Williams accidentally identif[ied] defendant in showup,” seemingly referring to the unknown man in the precinct.⁵⁸ Additional police reports revealed that Williams was released from police custody after he identified Andre in the first lineup and returned to the precinct days later “volunteering further assistance in locating [Popeye].”⁵⁹ Notably, in another FOIA-produced document, an assistant district attorney noted that Popeye had initially identified a filler in the second lineup.⁶⁰ This contradicted the detective’s testimony at the *Wade* hearing that Popeye initially “wasn’t sure” if she recognized anyone.

In 2014, Kenneth Thompson took office as the first African-American district attorney in Brooklyn after defeating twenty-three

53. Exoneration Tr., *supra* note 52, at 15; Remnick, *supra* note 1.

54. Order Granting Post-Conviction DNA Testing Pursuant to New York Criminal Procedure Law Section 440.30 (1-a), *People v. Hatchett*, No. 3771/91 (Kings Cnty. Sup. Ct., N.Y. Feb. 5, 2009).

55. Charles S. Hirsch, Dep’t of Health, Off. of Chief Med. Exam’r, LAB REPORT, No. FB91-0303 (Feb. 19, 1991). DNA test results and documentation on the evidence search and investigation are on file with the author.

56. *With Consent of Brooklyn DA Ken Thompson, Man’s Murder Conviction Reversed After Serving 25 Years*, INNOCENCE PROJECT (Mar. 10, 2016), <https://innocenceproject.org/hatchett-conviction-reversed/>.

57. Off. of the Dist. Att’y, Kings Cnty., Homicide Bureau Information Sheet 2 (Feb. 28, 1991) (on file with author).

58. *Id.*

59. Complaint Follow Up, No. 1467 (Feb. 27, 1991); NYPD, Complaint Follow Up Informational, No. 1467, Follow-Up No. 24 (Feb. 27, 1991).

60. Off. of the Dist. Att’y, Kings Cnty., *People v. Hatchett*, No. 3771/91, Voluntary Disclosure Form (Mar. 29, 1991) (on file with author).

year incumbent Charles Hynes.⁶¹ Thompson was the first challenger to defeat a sitting district attorney in Brooklyn since 1911.⁶² In a significant move, Thompson recruited Ronald S. Sullivan Jr., a Harvard Law School professor and former director of the Public Defender Service for the District of Columbia, to advise him in designing the district attorney's conviction review unit.⁶³

The Innocence Project shared the disturbing information uncovered in Andre's case with the revamped unit, along with a detailed request to reexamine the integrity of Andre's conviction. A joint reinvestigation with the conviction review unit revealed what the FOIA production had redacted: Williams had, in fact, seen another man in the precinct and informed police that the man in the precinct committed the homicide.⁶⁴ The NYPD had documented the man's name, investigated him, and discovered that he had an ironclad alibi: he was in prison at the time of the crime.⁶⁵ That positive identification and alibi—sitting in the district attorney's trial file—was not disclosed to Andre's defense counsel.⁶⁶ Also not disclosed was

61. Vivian Yee, *For Hynes, History of Making Brooklyn Safer Wasn't Enough to Survive*, N.Y. TIMES (Sept. 11, 2013), <https://www.nytimes.com/2013/09/12/nyregion/for-hynes-history-of-making-brooklyn-safer-wasnt-enough-to-survive.html>; R.W., *Ken Thompson: Prosecutor and Criminal Justice Reformer*, ECONOMIST (Oct. 11, 2016), <https://www.economist.com/democracy-in-america/2016/10/11/ken-thompson-prosecutor-and-criminal-justice-reformer>.

62. Sean Gardiner, *Hynes Out as Brooklyn D.A.*, WALL ST. J. (Nov. 6, 2013, 12:34 AM), <https://www.wsj.com/articles/SB10001424052702304391204579179873869561610>; Simone Weichselbaum & Glenn Blain, *Kenneth Thompson Defeats 23-Year Brooklyn District Attorney Charles Hynes*, N.Y. DAILY NEWS (Sept. 11, 2013), <https://www.nydailynews.com/news/election/voters-choose-public-advocate-borough-presidents-article-1.1451747>.

63. Matthew McKnight, *No Justice, No Peace*, NEW YORKER (Jan. 6, 2015), <https://www.newyorker.com/news/news-desk/kenneth-thompson-conviction-review-unit-brooklyn>; Scott Simon, *Brooklyn DA Works to Overturn His 'Legacy of Disgrace'*, NPR (Oct. 18, 2014, 7:43 AM), <https://www.npr.org/2014/10/18/357153346/brooklyn-da-works-to-overturn-his-legacy-of-disgrace>; Stephanie Clifford, *Another Man Freed as Brooklyn District Attorney's Office Reviews Cases*, N.Y. TIMES (June 3, 2014), <https://www.nytimes.com/2014/06/04/nyregion/in-brooklyn-scarcellas-cases-continue-to-face-review.html>.

64. Exoneration Tr., *supra* note 52, at 3–4; Press Release, District Attorney Kings County, Brooklyn D.A. Moves to Vacate the Wrongful Conviction of Andre Hatchett Who Was Convicted of Murdering Acquaintance in 1991 in Bed-Stuy Park (Mar. 10, 2016), <http://www.brooklyn-da.org/2016/05/10/brooklyn-d-a-moves-to-vacate-the-wrongful-conviction-of-andre-hatchett-who-was-convicted-of-murdering-acquaintance-in-1991-in-bed-stuy-park/>.

65. NYPD, Complaint Follow Up Informational, No. 1467, Follow-Up No. 20 (Feb. 26, 1991); Exoneration Tr., *supra* note 52, at 4, 6–7; Press Release, District Attorney Kings County, *supra* note 64.

66. Exoneration Tr., *supra* note 52, at 4–7; Press Release, District Attorney Kings County, *supra* note 64; Maurice Possley, *Andre Hatchett*, NAT'L REGISTRY

documentation in the trial file that Williams, the prosecution's sole witness, told detectives that he was smoking crack on the day of the crime, which contradicted his testimony at trial that he had never smoked crack in his life.⁶⁷ Twenty-four years after Andre's conviction, the chief of the conviction review unit also concluded and told the court that, given Andre's serious physical injuries at the time of the crime, it would have been physically impossible for Andre to have committed the homicide.⁶⁸ The chief prosecutor described defense counsel's failure to order Andre's medical records as "unconscionable."⁶⁹

Due to the "severe"⁷⁰ *Brady* violations⁷¹ and evidence of Andre's innocence, the district attorney's office moved to vacate Andre's conviction and dismiss the indictment.⁷² At the exoneration, the courtroom was packed with Andre's family and supporters. Andre's radiant smile delighted the room. Andre told us, "I'm always smiling, even in my prison pictures." After he was freed from a quarter century in prison as an innocent man, Andre moved to a small town in Pennsylvania to live with his sister. He said that he enjoyed the quiet town because there were few police cars on the streets.

I was an attorney at the Innocence Project, and one of Andre's lawyers, when we brought his case to the attention of the new conviction review unit. After Andre's exoneration, I felt detached, emptied, unable to focus, and uninterested in work. I asked a senior colleague if she had ever experienced a strange feeling post-exoneration. She replied, "Oh yes, we have likened it to postpartum depression."

Her description was penetrating. All of a sudden, a person I had come to know only by phone or behind metal grating, whose case my colleagues and I had carried for years, was in my office sitting next to me. The labor vanished. No more work was required to get to the finish line, and a new life had been released—a free one. Nearly every time a client was exonerated, whether the days preceding were sleepless or relaxed, the feeling was almost always the same. Invariably, I got back into work, by necessity, or after abiding by my body's need for rest, but it took me a long time to understand the

OF EXONERATIONS, https://www.law.umich.edu/special/exoneration/Pages/case_detail.aspx?caseid=4850 (last updated Nov. 1, 2020).

67. Press Release, District Attorney Kings County, *supra* note 64; Possley, *supra* note 66; *see also* Trial Tr., *supra* note 2, at 186 (Feb. 11, 1992).

68. Exoneration Tr., *supra* note 52, at 11–12.

69. *Id.*

70. Press Release, District Attorney Kings County, *supra* note 64.

71. *See* *Brady v. Maryland*, 373 U.S. 83, 87 (1973) (holding "that the suppression by the prosecution of evidence favorable to an accused . . . violates due process where the evidence is material either to guilt or to punishment").

72. Exoneration Tr., *supra* note 52, at 12–13; Press Release, District Attorney Kings County, *supra* note 64.

strange feeling as a “trauma exposure response.”⁷³ Andre would never be whole, and something dramatic transformed within me.⁷⁴

II. ANATOMIZING THE STIGMA

I should, at the outset, confess that I have resisted writing on this topic. This Essay is born from the irreparable suffering endured by tremendous people who have spent, or continue to spend, years, or sometimes decades, locked up in cages. Admittedly, it feels self-indulgent narrating my own emotional weight, just as it does for many others in the social justice field.⁷⁵ As the *Wake Forest Law Review*'s 2021 Spring Symposium was meant to improve introspection within the profession, dismantle the guilt associated with thinking about and sharing how our work affects us, and enable future generations to do the work in a way that sustains themselves, their clients, and their organizations, it seems fitting to acknowledge that my own reluctance to chronicle these struggles stems from the

73. LAURA VAN DERNOOT LIPSKY WITH CONNIE BURK, *TRAUMA STEWARDSHIP: AN EVERYDAY GUIDE TO CARING FOR SELF WHILE CARING FOR OTHERS* 41 (2009) (defining trauma exposure response as “the transformation that takes place within us as a result of exposure to the suffering of other living beings or the planet”). A social worker by training, van Dernoort Lipsky is recognized as a pioneer in the field of trauma exposure. *Laura van Dernoort Lipsky*, *TRAUMA STEWARDSHIP INST.*, <https://traumastewardship.com/laura-van-dernoort-lipsky/> (last visited Nov. 14, 2021). She has worked for over twenty-five years with trauma survivors, including survivors of child abuse, domestic violence, homelessness, and natural disasters. VAN DERNOOT LIPSKY WITH BURK, *supra* note 73, at 1–2. Her book includes personal statements from human rights advocates and people working in fields where secondary trauma is prevalent. *Id.* at 33–38, 52–58, 85–89, 124–29, 137–42, 151–55, 161–66, 177–79, 189–95, 204–07, 219–22, 234–42.

74. *See id.* at 41 (drawing attention to how our behaviors, feelings, and worldview change in response to trauma exposure).

75. *See* ALICE M. NAH, *HUMAN RIGHTS DEFENDER HUB, WELLBEING, RISK AND HUMAN RIGHTS PRACTICE* 1–2 (2017) (noting that human rights defenders prioritize the necessity and importance of their work before their personal well-being, focus on the well-being of survivors of human rights abuses, and find thinking about their own well-being to be “self-indulgent”); Margaret Satterthwaite et al., *From a ‘Culture of Unwellness’ to Sustainable Advocacy: Organizational Responses to Mental Health Risks in the Human Rights Field*, 28 *S. CAL. REV. L. & SOC. JUST.* 443, 488 (2019) (explaining that in human rights work, well-being of advocates is seen as indulgent and associated with privilege, and advocates experience guilt for feeling trauma); VAN DERNOOT LIPSKY WITH BURK, *supra* note 73, at 45 (“Many caregivers feel guilty for struggling with their work because, they tell themselves, who are they to complain about their lives?”); Marcia Brown, *The Loneliness of the Immigration Lawyer*, *AM. PROSPECT* (Oct. 29, 2020), <https://prospect.org/justice/loneliness-of-the-immigration-lawyer/> (“Given the extreme violence, trauma, and inhumanity their clients often endure, immigration attorneys don’t like to talk about how it affects them.”).

very same pathologies that not only contribute to but entrench secondary trauma⁷⁶ and a culture of diminished well-being.

76. I use “trauma exposure response” interchangeably with secondary trauma. See VAN DERNOOT LIPSKY WITH BURK, *supra* note 73, at 6 (noting that she uses “trauma exposure response” but that researchers have named the experience of being affected by others’ pain in various terms, including “secondary trauma”). I find “trauma exposure response” to be a more evocative, capacious, and less stigmatizing phrase, but I employ both terms to reflect the literature and because different readers may experience the descriptors differently. More to the point, when discussing “trauma” and distinguishing it from other emotional stress, language and meaning matter. “Secondary trauma refers to the psychological signs and symptoms that result from ongoing involvement with traumatized clients.” Yael Fischman, *Secondary Trauma in the Legal Professions, A Clinical Perspective*, 18 TORTURE 107, 108 (2008). Professionals who engage with empathy with people who have endured severe trauma “may experience, to a lesser degree, some of the same symptoms as those impacted by primary trauma,” including behavioral changes and impacts to their outlook on life. *Id.* at 108, 111 (discussing common symptoms). These symptoms are “produced by the survivors’ account of their traumatic experience and the professional’s reactions to such accounts.” *Id.* at 108 (“By becoming a witness to these atrocities, these may become part of the providers’ consciousness, leading to a potential incorporation of their clients’ traumatic experiences.”). “Secondary trauma may affect a provider’s decision-making process, lead to inhibited listening, decrease the ability to maintain appropriate boundaries and to render effective services.” *Id.* at 114. See also Katie Baird & Amanda Kracen, *Vicarious Traumatization and Secondary Traumatic Stress: A Research Synthesis*, 19 COUNSELLING PSYCH. Q. 181, 181 (2006) (noting that secondary trauma “refers to a set of psychological symptoms that mimic post-traumatic stress disorder, but is acquired through exposure to persons suffering the effects of trauma”); *id.* at 182–83 (distinguishing vicarious traumatization from secondary trauma and noting that both constructs represent different phenomenon but are often written about as though they are the same). It is important to note that the goal in managing our response to trauma exposure is not to prevent the heart from breaking. VAN DERNOOT LIPSKY WITH BURK, *supra* note 73, at 48 (“As hard as it is to feel our full range of feelings, still more damaging are our attempts to not feel.”); Marjorie Silver, Sanford Portnoy & Jean Koh Peters, *Stress, Burnout, Vicarious Trauma, and Other Emotional Realities in the Lawyer/Client Relationship*, 19 TOURO L. REV. 847, 858 (2004) (“[T]he only way to prevent vicarious trauma would be to shut down [your] compassion, which is the very last thing we would ask you to do.”) (statement of Jean Koh Peters, Professor Emeritus of Law at Yale Law School). This may explain why effective interventions are simultaneously, and somewhat confusingly, described in the literature as preventing secondary trauma and reducing the negative effects of secondary trauma. See, e.g., Fischman, *supra*, at 110, 114 (alternating between language of prevention and reduction). We need to be fully present in our lives in a way that tells the person suffering that they are not alone, and we also need to open our hearts to everything that comes in, without experiencing our clients’ anguish in a debilitating way. VAN DERNOOT LIPSKY WITH BURK, *supra* note 73, at 21, 44, 215. “This is difficult terrain to navigate.” *Id.* at 21.

A. *Pathologies of Guilt*

For people whose bodies are locked in prison, every moment is felt. After he “won” his habeas petition, a young man of Algerian descent who remained in executive detention in Guantanamo told his lawyers, “People often talk about killing time. Here, time kills you.” For Andre, this adage was more than symbolic. Andre lost his mother, his father, and his son while incarcerated. He was threatened and assaulted by guards, called a “woman-killer,” stabbed in the head and abdomen, punished with solitary confinement, and held in the special needs unit where corrections officers called him “cuckoo.” Scared, and at times even hysterical, Andre called me, my colleagues, and our clinic students all the time. At their discretion prison staff sedated Andre with bipolar medication before an independent physician determined that Andre did not have bipolar disorder. Because he could barely read or write, Andre was unable to file grievances, which heightened his altercations with guards. He received numerous disciplinary write-ups for “refusing to follow direct orders,” including a ticket for washing his own underwear in the shower, and a ticket for educating a prison guard that he was declining to do his assigned work detail because it was slave labor.⁷⁷ Andre’s “misbehavior” record was the main basis for his denial of parole, which is often the most realistic opportunity for freedom for a person in prison.⁷⁸ Time does not make prison more tolerable; it escalates the urgent plea for freedom.

Andre endured unimaginable cruelty and pervasive indifference, including by his own trial counsel and government officials who remain unaccountable, followed by decades of excruciating pain in

77. Prison labor is deeply rooted in slavery. See Dorothy E. Roberts, *The Supreme Court 2018 Term—Foreword: Abolition Constitutionalism*, 133 HARV. L. REV. 1, 66–70 (2019) (discussing the history of the Thirteenth Amendment’s “punishment” clause). Even in modern times, some people in prison have been forced—by guards on horseback carrying shotguns—to work in the fields and pick crops, including cotton. Bryan Stevenson, *Slavery Gave America a Fear of Black People and a Taste for Violent Punishment. Both Still Define Our Criminal-Justice System.*, N.Y. TIMES MAG. (Aug. 14, 2019), <https://www.nytimes.com/interactive/2019/08/14/magazine/prison-industrial-complex-slavery-racism.html>. If they refused—or failed to pick it fast enough—they could be punished with solitary confinement. *Id.* A number of Black people in prison considered the despair of isolation preferable to the degradation of being forced to pick cotton. *Id.* Some of these men endured isolation, a punishment recorded in their prison disciplinary records, only later to be denied parole based on those discipline records. See *id.*; see also Kevin Rashid Johnson, *Prison Labor Is Modern Slavery. I’ve Been Sent to Solitary for Speaking Out*, GUARDIAN (Aug. 23, 2018, 6:00 AM), <https://www.theguardian.com/commentisfree/2018/aug/23/prisoner-speak-out-american-slave-labor-strike> (discussing prison labor and the legacy of slavery).

78. Daniel S. Medwed, *The Innocent Prisoner’s Dilemma: Consequences of Failing to Admit Guilt at Parole Hearings*, 93 IOWA L. REV. 491, 517 (2008) (observing that parole often represents the most viable possibility for release).

prison and a hard-fought effort to obtain his freedom. Andre was marginalized by poverty, race, and intellectual disability. Knowing that it would have been so simple for the criminal legal system to avoid destroying Andre's life, and that no one within the system cared or felt responsible enough to avoid that destruction, took on a prominence that transcended the uplifting victory of freedom.

I do not mean to understate the triumph that freedom from decades-long imprisonment brings to the individuals released, their families, and their communities or its importance in bringing about the transformation that is essential to dismantle our criminal punishment system. For public interest lawyers, too, having work that contributes a direct, visible, and tangible impact on individuals is rare,⁷⁹ and helping someone in their struggle for freedom is momentous. It is, however, not justice; it is mitigation. Bearing witness to Andre's suffering imprinted in me traumatic reminders of his everlasting adversity. I could not make Andre "whole," return the loved ones and the decades stolen from him, erase the harms he endured, prevent the harms he would continue to face, or prepare him for life after prison, which came with its own substantial, even life-threatening, tribulations.⁸⁰

In Andre's case, we were fortunate that the district attorney's office had changed hands—in a stunning electoral defeat—and a functioning and effective conviction review unit was in place. Without that unit, it is uncertain how, or whether, we would have succeeded or how much longer Andre would have remained in prison. In too

79. Cf. e.g., Satterthwaite et al., *supra* note 75, at 467–69 (documenting perceptions of inefficacy experienced by advocates in the human rights field who could not offer direct services or remedies, where impact of their work was often obscured by the long-term horizon of change); Brown, *supra* note 75 (describing profound and rapid changes in immigration policy during the Trump administration, which led to a sense of futility among asylum and immigration attorneys who wondered if their work made any difference).

80. See, e.g., Janet Roberts & Elizabeth Stanton, *A Long Road Back After Exoneration, and Justice Is Slow to Make Amends*, N.Y. TIMES (Nov. 25, 2007), <https://www.nytimes.com/2007/11/25/us/25dna.html> (exonerees struggle with housing, employment, substance abuse, rebuilding family ties, and continued psychological effects and stigma of imprisonment and they also receive fewer government services (if any) than convicted people who are paroled); Alex Potter, *Life After Guantánamo: Former Detainees Live in Limbo*, NEWSWEEK (Sept. 1, 2016, 8:40 AM), <https://www.newsweek.com/2016/09/09/life-after-guantanamo-former-detainees-live-limbo-494838.html> (discussing struggles of a Yemeni man who was released from Guantanamo and resettled in a third country where he has no family or other ties, does not speak the language, and no one will hire him); Carol Rosenberg, *They Were Guantánamo's First Detainees. Here's Where They Are Now*, N.Y. TIMES, (May 18, 2021), <https://www.nytimes.com/2021/03/27/us/politics/guantanamo-first-prisoners.html> (discussing people formerly imprisoned in Guantanamo who struggled to rebuild their lives and suffered from physical and mental illness as a result of their treatment and time in the military prison).

many other cases, undoing even one conviction was warfare by litigation.⁸¹ In a 1991 double homicide and arson case in Durham, North Carolina, which was prosecuted in 1995 by Michael Nifong, the Innocence Project unearthed critical documents through open-file discovery in 2010 that were not disclosed to the defense.⁸² The documents showed that the government had concealed detailed evidence of our client's innocence, the lead detective had lied under oath, and Nifong⁸³ had suborned the detective's perjured testimony and then urged the jury to believe the truth of what he knew to be false.⁸⁴ Our client, Darryl Howard, a poor Black man from the projects, who was serving a sentence of eighty years in prison for the double homicide and arson, was tormented that prosecutors and police went to such extreme lengths to put him behind bars. After reading the extent of the misconduct in our motion to vacate, Darryl called us crying over the prison phone pleading, "Why me?" In 2014, after Darryl spent over nineteen years in prison as an innocent man,

81. See, e.g., Lara Bazelon, *Ending Innocence Denying*, 47 HOFSTRA L. REV. 393, 400–03, 416–19, 478 (2018) (discussing exoneration cases where "legal dueling" with prosecutors spanned numerous years); Andrew Cohen, *Why Some States Still Fight the Exoneration of the Innocent*, ATLANTIC (Feb. 6, 2014), <https://www.theatlantic.com/national/archive/2014/02/why-some-states-still-fight-the-exoneration-of-the-innocent/283607> ("[A]ll I can think about is how hard it is to undo these faulty verdicts, how much effort it takes by so many on behalf of the wrongfully convicted, and how stubborn so many others are to see what's right in front of their noses.").

82. See Radley Balko, *Darryl Howard and the Rampaging Prosecutor: Durham Learns Little from Duke Lacrosse Debacle*, WASH. POST (Mar. 20, 2014), <https://www.washingtonpost.com/news/the-watch/wp/2014/03/20/darryl-howard-and-the-rampaging-prosecutor-durham-learns-little-from-duke-lacrosse-debacle>.

83. Nifong prosecuted this case over a decade before he was appointed Durham's district attorney in 2005. In 2007, Nifong—then the elected district attorney—was disbarred and held in criminal contempt of court for withholding exculpatory evidence and willfully making false statements to the court in connection with pursuing false accusations of sexual assault against three Duke University lacrosse players. Duff Wilson, *Facing Sanction, Duke Prosecutor Plans to Resign*, N.Y. TIMES (June 16, 2007), <https://www.nytimes.com/2007/06/16/us/16duke.html>; Duff Wilson, *Prosecutor in Duke Case Is Disbarred for Ethics Breaches*, N.Y. TIMES (June 16, 2007), <https://www.nytimes.com/2007/06/16/us/16cnd-nifong.html>; The Associated Press, *Day in Jail for Ex-Duke Prosecutor*, N.Y. TIMES (Sept. 1, 2007), <https://www.nytimes.com/2007/09/01/us/01nifong.html>.

84. See Balko, *supra* note 82 (describing how, in the Duke lacrosse case, conservatives (who lined up with the defense) and progressives (who cast early lots with Nifong) simply moved on once it was evident that the players were innocent and that Nifong had lied and suppressed evidence and how they all missed an opportunity to consider that, if a prosecutor could pursue false sexual assault charges against White, well-to-do college athletes, how the system far more easily ensnared poor people of color who comprise the vast majority of criminal defendants).

Durham Superior Court Judge Orlando Hudson vacated his convictions and described Darryl's case as the most horrendous prosecution he had seen in thirty-four years on the bench.⁸⁵

Darryl was on freedom's doorstep. Judge Hudson intended to release him on unsecured bond, but the district attorney and the attorney general took extraordinary measures—including appealing to three different courts—to block his release.⁸⁶ Because of the prosecutors' relentless opposition, Darryl remained incarcerated for over two more years before he was exonerated.⁸⁷ During those two additional years that he languished in prison while appeals were pending, his only son died.⁸⁸

Even when I wanted to be helpful, I was helpless. The toll on lawyers is nothing next to what our clients have suffered, but “[r]ealiz[ing] the overwhelming need and pain in the world and our relative ineffectiveness to mitigate it is difficult to cope with.”⁸⁹ A “burden of guilt” accompanied my inability to always help.⁹⁰ Everyone in prison, whether innocent or involved, was in immense pain. Our teams were in constant heartbreak, recording details about

85. *Although Freedom Eludes Him, Darryl Howard Presses On*, INNOCENCE PROJECT (July 2, 2015), <https://innocenceproject.org/although-freedom-eludes-him-darryl-howard-presses-on/>.

86. *See id.*

87. Nannie Howard, Editorial, *In Darryl Howard's Case, Still Waiting for Justice*, NEWS & OBSERVER (Mar. 4, 2015, 7:48 PM), <https://www.newsobserver.com/opinion/op-ed/article12523220.html>.

88. *Id.* (“Because Darryl has been imprisoned for a crime he did not commit, the streets raised his son Had Darryl been released when Judge Hudson overturned his convictions, his son might still be alive today.”).

89. VAN DERNOOT LIPSKY WITH BURK, *supra* note 73, at 81–82 (quoting a veterinarian and scientist who works in wildlife conservation protecting natural habitats internationally).

90. Kathleen Rodgers, *‘Anger Is Why We’re All Here’: Mobilizing and Managing Emotions in a Professional Activist Organization*, 9 SOC. MOVEMENT STUD. 273, 280 (2010). This burden is carried when bearing witness to others’ suffering, even when that suffering is not within our control. *See* John Eligon, *‘I Was Failing’: Bystanders Carry Guilt from Watching George Floyd Die*, N.Y. TIMES (Apr. 21, 2021), <https://www.nytimes.com/2021/04/03/us/george-floyd-derek-chauvin-trial.html> (reporting on the testimony of eyewitnesses who watched former Minneapolis police officer Derek Chauvin kill George Floyd and who described living with guilt that they could do nothing to save Floyd); VAN DERNOOT LIPSKY WITH BURK, *supra* note 73, at 50–51 (reporting on a study in which two leading psychologists identified perceptions that contribute to feelings of helplessness among people in traumatic circumstances, including that “individuals hold themselves personally responsible for a troubled situation even when no one could reasonably be expected to master it”).

the traumatic events our clients recounted, listening to their harrowing accounts, and watching them languish in prison.⁹¹

I began to move in a constant state of overdrive, drowning in a *mélange* of absorbing our clients' anguish, agonizing over the innumerable clients waiting, and feeling powerless to control the growing obstacles that intensified the distress: an oppressive system that easily churned out convictions but made it exceedingly difficult to release even the innocent; prosecutors whose opposition was vehement and extensive; voluminous trial and post-conviction records too often submerged in police and prosecutorial misconduct, sometimes spanning multiple administrations, that required exquisite study and investigation; and new clients who poured in with urgent needs that outpaced capacity. Each case brought with it an awareness of the countless lives not saved.⁹²

While I often felt energized and emboldened, those moments were punctuated by great sadness. With the limits of what my help could do for our clients (and how many cases I could work on at one time) came my own guilt for feeling distressed when our clients were the ones experiencing real distress and suffering.⁹³ That guilt was heightened by the feeling that it was my fault that my clients who were not yet released remained locked in prison; I was not smart enough to achieve their freedom or fast enough to keep a ball in the air in all of the cases that lagged behind. The guilt became a compulsion. I was enclosed in its seduction. This pull, which was easily triggered, had such a hold on me that it obscured rational thought. "Guilt is one of the strongest signs of a trauma exposure

91. VAN DERNOOT LIPSKY WITH BURK, *supra* note 73, at 215 ("Because we are all inherently connected, the witnesses will share some of the burden of what the mourners are experiencing . . ."); *see also* Lauren Markham, *No End in Sight: What Happens When Immigrant-Rights Advocates Reach a Breaking Point?*, 96 VA. Q. REV. (Mar. 2, 2020), <https://www.vqronline.org/reporting-articles/2020/03/no-end-sight> ("Advocates for asylum seekers know that absorbing the pain of others is an inevitable part of the job.").

92. VAN DERNOOT LIPSKY WITH BURK, *supra* note 73, at 49–50 (quoting environmental scientist struggling with feeling that any awareness she raised was "an insignificant drop in the massive bucket of impending crisis"); *see also id.* at 154 (quoting immigrant rights project coordinator) ("There's this constant clamor in your head, which is filled with the desire to help others and the painful knowledge of what you can't do, and it never goes away."); Brown, *supra* note 75 (quoting asylum attorney) ("A constant paralyzing feeling of complete impotence always surrounds me.").

93. *See* Satterthwaite et al., *supra* note 75, at 488 ("Advocates who experience work-related distress tend to ignore or minimize their own suffering by comparing their pain with [the 'real suffering'] of the 'primary' victims of human rights violations."); Rodgers, *supra* note 90, at 287–88 ("[Amnesty International] employees place the immediate needs of victims and members at the forefront of their energies and view indulgence in their own concerns with guilt.").

response. It can block any experience of pleasure, peace, or happiness.”⁹⁴

The agony of our clients, my personal sense of responsibility for their continued confinement, and the perpetual feelings of guilt for taking a break when our clients were denied any chance to take a break from prison, circulated on repeat in my head. Compounding this weight was overexposure. Our teams were “soaked in trauma.”⁹⁵ Knowing that our clients’ and their families’ last hope rested in our hands magnified the mental toll. To have countless more clients waiting in queue made it impossible to keep up. This boundless need, crushing volume of cases, unconscionable ruin of human life, and emotional avalanche wears down post-conviction attorneys, who are even further worn down by a system stacked against the imprisoned and prosecutors who are determined not to make it easy.⁹⁶

Every time I thought I had seen the worst state misconduct, there was another case to disabuse me of that fantasy. A 1992 murder case from the South that led to the conviction of two high school friends embroiled us in almost a decade of acrimonious litigation. In 2016, a senior assistant attorney general, who opposed our motion for a new trial based on false evidence and extensive police misconduct, threatened, during oral argument, to seek capital punishment if our two clients were awarded a new trial. In the months ahead, the trial court granted the men a new trial, vacated their murder convictions, and released our clients—who had spent a combined forty-two years in prison as innocent men—on bail.⁹⁷ The senior assistant attorney general made good on his threat: He and the elected county attorney went to the grand jury and obtained new indictments against the two men for kidnapping, which arose from the same incident as the vacated murder convictions, based on the prosecutors’ (erroneous) view that the new charges would expose the men to the death penalty. The sole witness who testified before the grand jury to obtain the new indictments was the assistant attorney general. Multiple motions, oral arguments, and disreputable government deeds later, the Commonwealth went, for a second time, to the grand jury to correct fatal errors made on its first go-around and secured, on its do-over, additional perjury indictments against our clients. After contentious

94. VAN DERNOOT LIPSKY WITH BURK, *supra* note 73, at 98.

95. *Id.* at 236 (quoting a manager in the child welfare system).

96. *Cf.* Brown, *supra* note 75 (discussing similar impact of the immigration system on immigration and asylum attorneys); *see also* Markham, *supra* note 91 (“These days, it can feel like the entire architecture of power is designed to mill anyone who resists it into dust.”).

97. Order Granting Motion for New Trial, Vacating Convictions and Ordering New Trial, Commonwealth of Kentucky v. Hardin et al., Nos. 92-CR-42, 92-CR-43 (Meade Cnty. Cir. Ct., Ky. July 14, 2016); Order, Commonwealth of Kentucky v. Hardin et al., Nos. 92-CR-42, 92-CR-43 (Meade Cnty. Cir. Ct., Ky. Aug. 15, 2016).

legal dueling, the judge granted our motion to dismiss all of the new indictments with prejudice for vindictive prosecution, concluding that the very initiation of the new charges evidenced not only presumptive but also actual vindictiveness, and denounced the prosecutors' retaliatory actions as "nothing short of egregious."⁹⁸ During the litigation, my formerly vibrant co-counsel had to be brought into court in a wheelchair. She fell extremely ill from a medical condition that she thought the intense and taxing hearings had exacerbated. Perversely, what had motivated us to do this work was making us fall to pieces.⁹⁹

These aggressive prosecutorial tactics bring to mind what academics and practitioners have called a "war of attrition": a "sustained process of wearing down an opponent so as to force their physical collapse" or doing so "to such an extent that their will to fight collapses."¹⁰⁰ When caregivers—I include public interest lawyers in that term—are pushed to their breaking point, traumatized, or just plain overburdened, it is difficult to provide high-quality care.¹⁰¹ If the attorneys who work on post-conviction cases at organizations known to provide high-quality *pro bono* representation are emotionally and physically worn down, they are less able to provide reliable representation to their clients.¹⁰² For people in prison, who have no constitutional or statutory right to post-conviction counsel

98. Andrew Wolfson, *Judge Slams Prosecutor for Vindictiveness in Kentucky Murder Case Once Linked to Satanism*, COURIER J. (Jan. 29, 2018, 8:17 PM), <https://www.courier-journal.com/story/news/2018/01/29/louisville-satanic-worship-murder-prosecutor-vindictiveness/1074386001/>; Order Granting Motion to Dismiss Indictments on the Basis of Vindictive Prosecution at 2–7, 10–14, *Commonwealth v. Hardin et al.*, Nos. 16-CR-131, 16-CR-132, 17-CR-29, 17-CR-30 (Meade Cnty. Cir. Ct., Ky. Jan. 19, 2018).

99. See Markham, *supra* note 91.

100. Lindsay Harris, *Trump's War of Attrition on Women Asylum Seekers*, MS. MAGAZINE (Oct. 8, 2020), <https://msmagazine.com/2020/10/08/trumps-war-of-attrition-on-women-asylum-seekers/> (citing Nicholas Murray, *Attrition Warfare*, in INTERNATIONAL ENCYCLOPEDIA OF THE FIRST WORLD WAR (Ute Daniel et al. eds., Jan. 13, 2016), https://encyclopedia.1914-1918-online.net/article/attrition_warfare) (describing the Trump administration's non-stop onslaught on asylum seekers that was designed to eviscerate protections for immigrants escaping persecution and torture, and detailing that administration's repeated, dramatic, and rapid changes to immigration policy showing an utter disregard for legal precedent); Brown, *supra* note 75 (describing war of attrition on immigration attorneys).

101. See VAN DERNOOT LIPSKY WITH BURK, *supra* note 73, at 21; see also Markham, *supra* note 91.

102. Cf. Markham, *supra* note 91 (examining the impact of secondary trauma and other harms in the field on immigration lawyers); Satterthwaite et al., *supra* note 75, at 480 (citing statements of human rights experts to highlight that human rights advocates both feared that the field was "losing many of [its] most dedicated, capable, best trained, and experienced people" and lamented that "there are lots of people who are simply not effective anymore").

and who depend on these organizations as their last hope, this is particularly damaging.

This Subpart began by examining my response to trauma exposure, but a more complicated picture has emerged: emotional labor in the field is not restricted to the experience of “trauma.” Nor is sustained harm to well-being an inevitable byproduct of battling the criminal legal system and relentless state actors, though their intransigence is maddening. More to the point, field-related harm arises also from long-established cultural norms,¹⁰³ which the following Subparts begin to untangle. Moving, for a moment, beyond secondary trauma to unveil these deep-rooted cultural beliefs helps to explain why lawyers and social justice organizations have, historically, failed to discuss trauma exposure and collective well-being in the field.

B. *Pathologies of “Saving Lives”*

Many new lawyers have deep commitment to, and passion for, working with people who have suffered severe trauma, but these new lawyers typically have “few other internal resources”¹⁰⁴ to sustain themselves. As a law student, I encountered no instruction, even in clinics, on trauma, let alone the emotional labor inherent to public interest lawyering, how it is experienced, or how to manage it.¹⁰⁵ Perhaps this should come as no surprise considering that, in the field, practicing lawyers can appear to be impermeable to the emotional toll.¹⁰⁶ This phenomenon, however, has deeper roots: there is a

103. Satterthwaite et al., *supra* note 75, at 459–60, 466, 538, 553–54 (finding in a qualitative study that exposure to trauma was significant in the human rights field, noting that advocates cautioned against narrowly focusing on “trauma” when considering well-being, and also observing that the advocates reported organizational, cultural, and field-wide sources of harm that have a negative impact on well-being, such as unmanageable workloads, beliefs about how much they should work and sacrifice, and perceptions about the ineffectiveness of their work).

104. See VAN DERNOOT LIPSKY WITH BURK, *supra* note 73, at 3; see also Satterthwaite et al., *supra* note 75, at 480 (finding that human rights advocates noted that younger people in the field were at particular risk).

105. See Sarah Knuckey, Margaret Satterthwaite & Adam Brown, *Trauma, Depression, and Burnout in the Human Rights Field: Identifying Barriers and Pathways to Resilient Advocacy*, 49 COLUM. HUM. RTS. L. REV. 267, 269–70, 303 (2018) (finding in a survey of 346 human rights advocates that 62% received little to no education in potential emotional impacts of human rights work). “[M]any human rights advocates have little education in or support for the potential mental health impacts of their work, there is very little research in this area in either the human rights or psychology fields, and there is limited evidence-based guidance for promoting resilience and sustainable advocacy practices.” *Id.* at 269.

106. See *id.* at 276 (“Advocates frequently remark on the ‘tough’ or ‘cowboy’ attitude that seems expected . . . and are told by colleagues that they should

“normative expectation of selflessness” that is “deeply ingrained” in the culture of many social justice organizations.¹⁰⁷

This expectation creates a culture of “heroes” who rise above, and slog through work, until physical and mental exhaustion.¹⁰⁸ The commitment of heroes is measured by how much they are willing to martyr themselves.¹⁰⁹ This entrenched “warrior” self-image fosters a view that newcomers must also “toughen up” and make sacrifices as a demonstration of their commitment.¹¹⁰ I, too, adopted many of these habits, patterns, and attitudes towards others. Accompanying this expectation of self-sacrifice is a stigma associated with thinking about one’s own well-being, which organizations in the social justice space, until recently, have rarely discussed.¹¹¹ The selfless advocate is

simply remain ‘detached’ from the suffering they witness.”); NAH, *supra* note 75, at 2 (stating that the pressure advocates feel “about needing to be (and to appear) ‘brave,’ inhibit[s] conversations about wellbeing” in human rights work).

107. Rodgers, *supra* note 90, at 283, 287 (finding in qualitative study that Amnesty International employees were expected to be “selfless, denying their own needs in light of the gravity of human rights abuse” and that they felt “morally obliged to work to the point of physical and emotional exhaustion”); Satterthwaite et al., *supra* note 75, at 487–88 (chronicling normative expectations of sacrifice across the human rights field); NAH, *supra* note 75, at 2 (describing “strong social and cultural norms about self-sacrifice, heroism, and martyrdom” in human rights circles).

108. See VAN DERNOOT LIPSKY WITH BURK, *supra* note 73, at 12; Rodgers, *supra* note 90, at 287.

109. See VAN DERNOOT LIPSKY WITH BURK, *supra* note 73, at 12, 44; Rodgers, *supra* note 90, at 287; Knuckey et al., *supra* note 105, at 274 n. 17, 320 (citing Paul C. Gorski & Cher Chen, “*Frayed All Over: The Causes and Consequences of Activist Burnout Among Social Justice Education Activists*,” 51 EDUC. STUD. 385, 392, 397 (2015); Cher Weixia Chen & Paul C. Gorski, *Burnout in Social Justice and Human Rights Activists: Symptoms, Causes and Implications*, 7 J. HUM. RTS. PRAC. 366, 367 (2015)) (citing qualitative studies suggesting that a “culture of martyrdom” contributed to activist burnout); Satterthwaite et al., *supra* note 75, at 487 (noting that human rights advocates “described interlinked cultures of martyrdom, in which the human rights field fostered a view among advocates that they should sacrifice themselves for others and the work” and “a savior or hero mentality, in which advocates view themselves as capable of and duty-bound to ‘save’ others”).

110. See Satterthwaite et al., *supra* note 75, at 487–88; Rodgers, *supra* note 91, at 282–83; VAN DERNOOT LIPSKY WITH BURK, *supra* note 73, at 3, 141.

111. Knuckey et al., *supra* note 105, at 276 (stating that human rights advocates noted a stigma associated with discussing mental health in the field); Satterthwaite et al., *supra* note 75, at 481–82, 487, 491–93 (noting that human rights advocates described significant stigma in acknowledging concerns about mental health, including embarrassment and fear of being viewed as “a weakling” and “not being able to do this work,” and that advocates emphasized that mental health is not often recognized as a “real” issue, before further explaining that the stigma prevents the field from responding better and prevents advocates from accessing needed support); NAH, *supra* note 75, at 1, 3 (stating that well-being is

expected to subordinate their physical and emotional needs to the higher calling of their work.¹¹² “[E]motional distress is viewed as a sacrifice for the cause.”¹¹³

In a culture of self-sacrifice, advocates feel guilt for expressing their own needs which in turn discourages them from dealing with the serious emotional distress that emerges from this work.¹¹⁴ This means that few advocates find a space in which to discuss how trauma and other field-related harms affect them.¹¹⁵ Advocates are called upon to manage their own emotions, and many often contain, suppress, and “attempt to regulate the degree [to] which they experience these emotions,” which can lead to emotional exhaustion and withdrawal.¹¹⁶ Emotionally-charged work “compel[s] [advocates themselves] to develop strategies for dealing with the discomfort of emotional strain” to meet the cultural expectations of the organization.¹¹⁷ In somewhat of a paradox, the positive emotional component of the work is central to recruitment, as it attracts and motivates employees, creates a sense of camaraderie and solidarity, and is necessary to the survival of the organization.¹¹⁸ But the negative emotional component goes unrecognized.¹¹⁹ Organizations that benefit from, and indeed harness, the constructive role played by emotional energy do not view the disruptive component as something to approach “transparently and purposively.”¹²⁰ As a consequence,

not commonly discussed in the human rights field and few human rights organizations embed well-being practices into their work). There are some notable exceptions, including feminist groups, which have long had serious discussions around well-being and early on recognized the importance of mutual care. Satterthwaite et al., *supra* note 75, at 448, 483.

112. Rodgers, *supra* note 90, at 279; NAH, *supra* note 75, at 1 (finding that human rights defenders prioritize their work before personal well-being); Satterthwaite et al., *supra* note 75, at 488 (citing an interview with a social justice activist and describing how human rights advocates view their own well-being as secondary and even “indulgent,” rather than inherent to the work or “necessary to best serve our communities”).

113. Rodgers, *supra* note 90, at 279; *see also* Satterthwaite et al., *supra* note 75, at 487–88 (“Interviewees said that it was a common view that [human rights] advocates should make sacrifices for the work, including by not making time for their own or others’ well-being.”).

114. Rodgers, *supra* note 90, at 286.

115. *Id.*

116. *Id.* at 274, 276, 282 (citing studies); Satterthwaite et al., *supra* note 75, at 491–92 (noting that a human rights advocate explained that the virtue of being “tough” harmed mental health by preventing advocates from releasing and processing their pain).

117. Rodgers, *supra* note 90, at 274, 276.

118. *Id.* at 274, 276–77 (“[P]romoting an emotional association between individuals and the social cause is seen as key to maintaining a committed staff.”).

119. *Id.* at 279, 284.

120. *Id.* at 273–74, 279.

advocates often choose between emotional sacrifice¹²¹ or a truncated shelf-life.

It is important to recognize that this model of self-sacrifice and heroism may begin to take root in legal education where students are inculcated with the inspiring ideal that lawyers have the power to change the lives of others, change the nation, and change the world. When our work is focused exclusively on others, however, our identity can become (entirely) tied up in work.¹²² And “[w]hen work becomes the center of our identity, it may be because it feeds our sense of grandiosity. This can be particularly challenging to acknowledge If our work is breathtakingly important, so are we.”¹²³ Once students join the profession, or perhaps even before, this ideal is often mediated through a hero, or savior, complex. In this hero culture, however, we can “start to feel dependent on other people’s suffering and their need for [us] to relieve it, for [our] own feeling of purpose.”¹²⁴ It is hard, in that dynamic, “to be truly whole.”¹²⁵ Adopting this savior mindset when working in the United States criminal legal system feeds a culture of professional “heroes” who “save” their marginalized—largely Black and Brown—clients. This trope—which has vast dimensions that deserve more attention than I can devote in this short space—produces long-term harm to our clients and communities and occasions poor well-being among advocates.¹²⁶

The insidious implications of a savior culture also extend to the sustainability of organizations that are designed to serve others.¹²⁷

121. *Id.* at 276; Satterthwaite et al., *supra* note 75, at 487–88.

122. VAN DERNOOT LIPSKY WITH BURK, *supra* note 73, at 112; *id.* at 113 (citing an herbalist who states that we run the risk of relying too much on work for our sense of esteem); Markham, *supra* note 91 (quoting a therapist whose statement highlighted that for many immigration lawyers, “the work is what is defining them”).

123. VAN DERNOOT LIPSKY WITH BURK, *supra* note 73, at 111.

124. *Id.* at 113 (quoting an herbalist).

125. *Id.*; *see also* Satterthwaite et al., *supra* note 75, at 490 (noting that human rights advocates discussed how beliefs about themselves as “saviors” and “special people” who “can handle everything” contributed to poor mental health).

126. *See, e.g.*, Satterthwaite et al., *supra* note 75, at 490 (“Poor well-being is linked with the idea of ‘missions’ to save people.” (quoting a human rights lawyer)); *id.* (highlighting a statement by a human rights lawyer that a “saving people approach” treats survivors and clients as weak and powerless, risks creating dependency, diminishes fruitful connections, disempowers communities who should be acknowledged and addressed as agents of change, and devalues learning from and collaborating with others); James M. Anderson & Paul Heaton, *How Much Difference Does the Lawyer Make? The Effect of Defense Counsel on Murder Case Outcomes*, 122 YALE L.J. 154, 209 (2012) (discussing risks to indigent clients posed by legal profession’s “heroizing”).

127. *See* Rodgers, *supra* note 90, at 276, 284 (“[I]n the same way that emotional labour in mainstream organizations threatens efficiency, by

In a savior culture, “[w]e can lose an accurate sense of our individual capacities and limits as well as our actual interdependence with others working in our fields.”¹²⁸ The dangers of this kind of individualism extend well beyond ourselves, potentially dooming our social movements and struggles for justice.¹²⁹

C. *Pathologies of Urgency*

Another reason that social justice organizations do not discuss trauma and well-being is because our fields function from “a place of tremendous urgency.”¹³⁰ This urgency consumes our resources and “distracts many organizations from addressing how to best retain healthy, happy people who will continue to contribute to the betterment of the world.”¹³¹ This sense of urgency leaves the effects of secondary trauma, and distress from other harms in the field, to accumulate.¹³² And, when left unattended, trauma exposure and diminished well-being limit our capacity to have a larger vision.¹³³ “The deeper we sink into a culture of trauma, the less flexible and original our thinking becomes,”¹³⁴ making it difficult to create

potentially alienating the less than truly selfless employees, the emotional labour of activists threatens the capacity of organizations seeking social change.”); VAN DERNOOT LIPSKY WITH BURK, *supra* note 73, at 17 (noting that trauma “creates a ripple effect” and “shock-waves soon move beyond individual caregivers to influence the organizations and systems in which we work and, ultimately, the society as a whole”); Satterthwaite et al., *supra* note 75, at 471 (arguing that poor well-being implicates sustainability and efficacy of human rights movements).

128. VAN DERNOOT LIPSKY WITH BURK, *supra* note 73, at 111; *see also* ANGELA Y. DAVIS, FREEDOM IS A CONSTANT STRUGGLE: FERGUSON, PALESTINE, AND THE FOUNDATIONS OF A MOVEMENT 2 (2016) (“It is essential to resist the depiction of history as the work of heroic individuals in order for people today to recognize their potential agency as a part of an ever-expanding community of struggle.”).

129. *See* DAVIS, *supra* note 128, at 1 (“Progressive struggles—whether they are focused on racism, repression, poverty, or other issues—are doomed to fail if they do not also attempt to develop a consciousness of the insidious promotion of capitalist individualism.”); VAN DERNOOT LIPSKY WITH BURK, *supra* note 73, at 111 (“We need to acknowledge the value of what we bring without making our work be all about us. Once we cross that line, it can be difficult to come back.”); DAVIS, *supra* note 128, at 1–2 (“Even as Nelson Mandela always insisted that his accomplishments were collective, . . . the media attempted to sanctify him as a heroic individual. A similar process has attempted to disassociate Dr. Martin Luther King Jr. from the [numerous people] who constituted the very heart of the mid-twentieth century [United States] freedom movement.”).

130. VAN DERNOOT LIPSKY WITH BURK, *supra* note 73, at 63.

131. *Id.* at 63, 77.

132. Markham, *supra* note 91; Rodgers, *supra* note 90, at 284, 286.

133. VAN DERNOOT LIPSKY WITH BURK, *supra* note 73, at 241–42 (reciting an account by a decision-maker in the child welfare system).

134. *Id.* at 68 (“The ancient Roman philosopher Cicero said, ‘Only the person who is relaxed can create, and to that mind, ideas flow like lightning.’”).

transformation on a larger scale.¹³⁵ Serving our clients and causes often requires a greater complexity in our thinking and an understanding of the complex nature of systems.¹³⁶ People who have experienced *primary* trauma¹³⁷ often have a difficult time making room for complexities because it is painful and cognitively taxing.¹³⁸ When *secondary* trauma is left unaddressed, it also limits the ways we solve problems and our capacity to lead.¹³⁹ People who regularly bear witness to others' trauma in an environment that is in perpetual crisis mode will pay "too little attention to the complexities of [an] issue."¹⁴⁰ Similarly, when people are running on empty, they are less capable of dealing with complex issues.¹⁴¹ We are naturally going to miss things when we are exhausted and whirling between emergencies.¹⁴² This sense of urgency can narrow our perspectives on how best to approach the uncompromising systems of injustice our work seeks to address.¹⁴³ This is especially harmful for organizations that seek to transform the criminal punishment system, an enterprise that requires creative and complicated thinking.

III. SHIFTING TO A CULTURE OF SELF-PRESERVATION

For purposes of this Essay, I am inclined to expose one more paradox in our "savior" culture that served as a revelatory moment for me. Meeting and working with individuals shut away in prison connected to something inside me. Early on, I realized that my clients had saved *me*. It was a metaphysical healing. Years after this awakening, I came upon the following reflection by Bryan Stevenson:

135. *See id.* at 200.

136. *Id.* at 72, 77.

137. NAT'L REGISTRY OF EVIDENCE-BASED PROGRAMS AND PRACS., BEHIND THE TERM: TRAUMA 1 (2016), https://calswec.berkeley.edu/sites/default/files/4-3_behind_the_term_trauma.pdf ("Semantically, trauma refers to an experience or event; nevertheless, people use the term interchangeably to refer to either a traumatic experience or event, the resulting injury or stress, or the longer-term impacts and consequences.").

138. VAN DERNOOT LIPSKY WITH BURK, *supra* note 73, at 71.

139. *Id.* at 67–68, 241–42.

140. *Id.* at 64–65, 74–77 (discussing the feminist movement's resort to criminal law as the primary strategy to address domestic violence despite vocal misgivings of many in the field and explaining that the focus on the tremendous urgency of the need narrowed the perspective of advocates, disordered and inadequately addressed the priorities of survivors, and diverted energy from community-based strategies that took into account the limits of criminalization).

141. *Id.* at 162 (providing an account by a social justice strategist regarding the internal culture of his team during a project in India on child malnutrition).

142. *Id.* at 166 (reciting an account by a social justice strategist).

143. *Id.* at 77 ("We can convince ourselves that the harm we are trying to end is so bad that the details of how we stop it don't matter.").

My life is filled with brokenness. All my clients have been broke by racism and poverty . . . I don't do what I do because I have to, because I've been trained to. I do what I do because I'm broken too. You cannot defend condemned people without being broken. You recognise this community of the broken. That makes it not about them, but about you—I'm trying to save *my* life. When they're executed, a part of me dies. When they're exonerated, I feel their freedom.¹⁴⁴

To me, Stevenson's introspection was revolutionary. In his book, Stevenson elaborated:

We are all broken by something. We have all hurt someone and have been hurt. We all share the condition of brokenness even if our brokenness is not equivalent . . . [O]ur brokenness is also the source of our common humanity, the basis for our shared search for comfort, meaning, and healing.¹⁴⁵

Stevenson's words spoke to me for another reason. In a post-conviction innocence case in Kentucky, which involved such hostile and ceaseless litigation that my boss described it as “over-litigated,” our client, Keith Hardin, almost completely shut down after his murder conviction in the mid-1990s. Every time we met, Keith spoke fewer words than any other person in prison I had spoken to or encountered. His conviction was overturned during his twenty-second year in prison.¹⁴⁶ When I called him to share the news, it was the first time I had heard emotion—indeed, it was exuberance—in his voice. Today, as a free man, he utters more words in one sentence—in fact, very witty sentences—than I had ever heard him speak before. The Commonwealth had twice attempted to execute Keith and his childhood friend and codefendant, Jeff Clark. A senior prosecutor, who undertook a nearly two-decade odyssey to ensure that these men died in prison, was lambasted by the judge for engaging in intentional vindictiveness in their case.¹⁴⁷ The lead detective from the Louisville Metro Police Department who fabricated the most damaging evidence against the men—and whose misconduct in other cases had put at least two more innocent people in prison—was indicted by a special

144. Ben Beaumont-Thomas, *Bryan Stevenson: 'I Don't Do What I Do Because I Have To. I Do What I Do Because I'm Broken Too'*, GUARDIAN (Feb. 6, 2015, 12:17 PM), <https://www.theguardian.com/membership/2015/feb/06/bryan-stevenson-i-dont-do-what-i-do-because-i-have-to-i-do-what-i-do-because-im-broken-too>.

145. BRYAN STEVENSON, *JUST MERCY: A STORY OF JUSTICE AND REDEMPTION* 289 (2014) (“I couldn't pretend that [my client's] struggle was disconnected from my own. The ways in which I have been hurt—and have hurt others—are different from the ways [he] suffered and caused suffering. But our shared brokenness connected us.”).

146. Emma Zack, *Exoneree Keith Hardin on Freedom, the New Year and Taking Each Day as it Comes*, INNOCENCE PROJECT (Dec. 18, 2018), <https://innocenceproject.org/keith-hardin-new-year/>.

147. Wolfson, *supra* note 99.

prosecutor months after Keith and Jeff were exonerated, something our team had never seen before.¹⁴⁸ I had a much different feeling after Keith and Jeff were exonerated than I did with Andre. I told a trusted friend, “I feel free.” I was so ashamed that the only way to unburden my guilt was to share my feelings with someone else. Two decades had been stolen from two innocent men, and prosecutors continued to vilify, humiliate, and dehumanize them, treating their lives as disposable. How could I be so callous as to say—and think—I felt free? After this experience, I was no longer fully present.¹⁴⁹

148. In 2018, a grand jury indicted former Louisville detective Mark Handy for perjury in a 1995 manslaughter case against Edwin Chandler, who was exonerated in 2009, and for tampering with evidence in a 1995 murder prosecution against Keith West, who was pardoned in 2019. Andrew Wolfson, *Ex-Louisville Detective Mark Handy is Sentenced to Prison for Putting Away Innocent Men*, COURIER J. (May 11, 2021, 10:53 AM), <https://www.courier-journal.com/story/news/crime/2021/05/11/louisville-detective-sent-prison-year-framing-innocent-men/5036358001/>. In 2020, Handy pled guilty to the perjury charge as part of a deal that carried a five-year suspended prison sentence to be served on probation. Andrew Wolfson, *Former Louisville Detective Who Sent 3 Innocent Men to Prison Pleads Guilty to Perjury*, COURIER J. (June 3, 2020, 6:54 AM), <https://www.courier-journal.com/story/news/crime/2020/06/03/former-cop-sent-3-innocent-men-prison-pleads-guilty-perjury/3129621001/>. The judge rejected the plea deal. Andrew Wolfson, *After 2 Weeks Behind Bars, Corrupt Former Detective to Serve Rest of Sentence at Home*, COURIER J. (May 28, 2021, 7:41 PM), <https://www.courier-journal.com/story/news/crime/2021/05/28/corrupt-detective-mark-handy-sent-home-after-2-weeks-behind-bars/5252569001/>. The judge announced that he would sentence Handy, whose misconduct sent Chandler to prison and parole for fourteen years, to a five-year prison term. Handy withdrew his plea. *Id.* Handy then agreed to a new deal that carried a one-year prison sentence in which he would plead guilty to both perjury and tampering with evidence. *See id.* The plea deal prohibited Handy from seeking probation. *Id.* In May 2021, the judge accepted the terms of the plea agreement. *Id.* After he spent just two weeks in prison, however, the Kentucky Department of Corrections, without explanation, released Handy to serve the remainder of his one-year sentence at home on electronic monitoring. *See id.; see also* Matthew Glowicki et al., *Ex-Louisville Cop Who Sent Innocent Men to Prison Charged with Misconduct*, COURIER J. (Sept. 26, 2018, 8:33 PM), <https://www.courier-journal.com/story/news/crime/2018/09/26/former-louisville-detective-mark-handy-indicted-misconduct/1433728002/>; Travis Ragsdale & Jason Riley, *Judge Rejects Plea Deal That Included No Prison Time for Former LMPD Detective Accused of Framing Man for Murder*, WDRB (Aug. 27, 2020), https://www.wdrb.com/in-depth/judge-rejects-plea-deal-that-included-no-prison-time-for-former-lmpd-detective-accused-of/article_4d713002-e871-11ea-a2c9-9b61e1bd93a8.html.

149. It is difficult to pay attention—to be present—to our response to trauma exposure. VAN DERNOOT LIPSKY WITH BURK, *supra* note 73, at 43. “The more we try to protect ourselves through not being fully present to what is unfolding in our lives, the more we feel the effects of trauma exposure.” *Id.* at 13–14. “[W]e find ourselves locked in by the very defenses we have constructed for our own protection.” *Id.* at 43. Our coping skills “imprison us.” *Id.*

In the years that followed, Stevenson's profound words about our common humanity, shared brokenness, and feeling his clients' freedom brought me great enlightenment and solace. If we do this work, in part, to serve our own well-being,¹⁵⁰ and helping others is helping ourselves, it is impoverished to look exclusively outside at the problems we want to fix without also looking inward within ourselves.¹⁵¹

A. *Sharing Conversations on Trauma and Well-Being*

My uncle once called me seeking advice on a simple matter and my brother later said, "Why didn't he ask me?" I was surprised. My brother wanted the call, while I was running from it. (It took only ten minutes to research.) When you are depleted, you naturally have less to give to anyone. I used to respond to every call and email that I received from anyone seeking advice on any topic, be it a family member, colleague, friend, former student, or stranger. After many, many years, I found that helping anyone other than a client in prison was a burden, and I would be relieved when someone seeking advice no longer needed it. I was tired of helping and being asked to help.

It is important to recognize these shifts within ourselves early to limit their negative impact on our lives.¹⁵² We must "realize and re-realize" that our response to trauma exposure "is not going away unless we give it proper attention."¹⁵³ Ignoring red flags is like "ignoring the early rumblings of an avalanche."¹⁵⁴ Prolonged exposure to trauma can accumulate until it becomes a part of us.¹⁵⁵ "Uprooting this accumulated anguish is much, much harder than preventing it from taking root in the first place."¹⁵⁶ How do we take

150. See, e.g., *id.* at 118–20; NAH, *supra* note 75, at 3 (stating that for some human rights defenders, the work is done to maintain, and is even fundamental to, their well-being); *id.* ("[T]he combat against repression was a healing process" (quoting a human rights defender in Mexico)); Beaumont-Thomas, *supra* note 144 (explaining that choosing to represent condemned people is "about you—I'm trying to save *my* life" (quoting statement of Bryan Stevenson)); Satterthwaite et al., *supra* note 75, at 515 ("Activism not only makes us sick, it heals us." (quoting a human rights advocate)).

151. VAN DERNOOT LIPSKY WITH BURK, *supra* note 73, at 246 (stating that we can honor others well only if we make a "commitment to our own path of wellness"); *id.* at 98 ("[I]f we are going to be present for life's suffering, we will need all the nourishment and rejuvenation that comes from life's beauty."); NAH, *supra* note 75, at 4 ("A human rights defender has to love life We have to transmit optimism and transformative messages." (quoting a human rights lawyer in Colombia)).

152. VAN DERNOOT LIPSKY WITH BURK, *supra* note 73, at 45 ("[B]y the time you're thirsty, you're already dehydrated.").

153. *Id.*

154. *Id.*

155. *Id.* at 3; *id.* at 215.

156. *Id.* at 215.

a preventative approach? To begin, we need to understand how our work, and our exposure to the suffering of others, affects us.¹⁵⁷ Inherent to this task is considering the source(s) of the pain we are experiencing.¹⁵⁸ This Subpart traces the origins of my journey.

Over a decade ago, I met Dr. Kate Porterfield, a clinical psychologist who counseled refugees, child soldiers, survivors of torture, individuals on death row, and others who had endured unspeakable violence. At the time, I was working at a law firm that represented *pro bono* several ethnic Uighur men who were imprisoned indefinitely at the United States Naval Base in Guantanamo Bay, Cuba. After my first visit, when our clients were held in isolation for twenty-two, sometimes twenty-three, hours a day, I thought I could never return to re-witness their suffering, and I simultaneously thought I would have to return. Beyond the legal work, the visits—the human contact—were vital to their well-being. I came to realize that the meetings were healing for me too. With more and more visits, it became evident to me that these men were among the kindest people that I had ever met. In their presence, I felt that I was at home.¹⁵⁹

After the initial meeting in the prison, our clients were often the first thing I thought about when I awoke. Their suffering was rooted in a cruel and oppressive ethos that did not care for them and, for that very reason, dragged them into its net. Their pain had transformed them. The men were not the same people they once were. Meeting the men who were so gentle and hospitable despite their unlawful imprisonment and witnessing the trauma on their faces haunted me. The never-ending struggle to obtain their freedom became all-consuming. Every day I was not working on their cases was another day they were locked in a hellhole, another day they were subjected to physical and psychological abuse, another day their health was declining, and another day they were separated from their families by thousands of miles.

After Congress divested federal courts of jurisdiction to hear habeas petitions by Guantanamo detainees, and while the constitutionality of the jurisdiction-strip was on appeal,¹⁶⁰ I realized the limitations of depending solely on U.S. courts to secure our clients'

157. *Id.* at 41.

158. *Id.* at 164 (providing a reflection by a social justice strategist); *id.* at 238 (providing a reflection by a child welfare worker); Satterthwaite et al., *supra* note 75, at 457.

159. See STEVENSON, *supra* note 145, at 14 (“Proximity to the condemned, to people unfairly judged; that was what guided me back to something that felt like home.”).

160. See Jenny S. Martinez, *Process and Substance in the “War on Terror,”* 108 COLUM. L. REV. 1013, 1053 (2008) (describing two laws Congress passed in 2005 and 2006 seeking to strip federal courts of jurisdiction to consider habeas petitions by Guantanamo detainees and ensuing litigation).

freedom. From my limited vantage, challenging the President's wartime military detention was so enormous a task that it could be matched only by imagining capacious strategies beyond traditional courtroom litigation. Restricting ourselves strictly to the confines of what litigators are formally trained to do seemed inadequate to bring an end to indefinite and unlawful executive detention. Release by an Article III court appeared so elusive that I adopted new roles for which I was emotionally and physically ill-prepared: amateur diplomat, foreign resettlement proxy, immigration and asylum researcher, and medical conduit. Juggling these roles with the habeas litigation, I traveled overseas to collaborate with human rights allies on innovative and constructive strategies to increase pressure internationally to extend humanitarian refuge to our clients, worked with domestic and foreign non-governmental organizations ("NGOs") to initiate new immigration and resettlement cases abroad, and encouraged our clients to join in their own advocacy so that their voices and stories could be heard. Showing our clients that we were trying to imagine and undertake every possible beneficial move to achieve their release was as critical to obtaining their freedom as it was to maintaining their hope. I came to realize that the intense work also healed something fractured inside me.

When President Obama assumed office, lawyers were permitted phone calls with our clients in Guantanamo and no longer needed to await two connecting flights to have a conversation.¹⁶¹ Calls were either thirty-, sixty-, or ninety-minutes. My clients each wanted a ninety-minute call once a week. After every call, I felt sick or deeply distressed. I confided in senior mentors. One responded, "if that is what you're feeling, you shouldn't have a phone call with him by yourself." Another legal veteran said, "these men have not gone through *real* torture—you shouldn't be feeling this way." Fortunately, I spoke to an organizer-turned-attorney with the Center for Constitutional Rights, who reassured me that she and many seasoned advocates were experiencing what I was experiencing, and she put me in touch with Dr. Kate Porterfield.

The men imprisoned in Guantanamo were held incommunicado. Attorneys, typically through interpreters, were often the only ones who could tell our clients news about their families because we were their only contact with the outside world. Some of the men went on long-term hunger strikes and were emaciated, almost skeletal, when we saw them. My colleagues were representing a man whose wife remarried during his imprisonment. Another colleague represented a man whose children died while he was in prison. Kate helped lawyers process these painful conversations and ran trainings for

161. See JONATHAN HAFETZ, *OBAMA'S GUANTÁNAMO: STORIES FROM AN ENDURING PRISON* 17, 113 (2016) (discussing changes made to prison operation once President Obama assumed office).

legal teams that focused on working with people who experienced severe trauma. I gave her a call.

Kate, however, was out of town. I decided to take the weekend off, visit my parents, and have a few good meals. Of course, I came to realize that those are routine life activities. I sought an outlet for the melancholy, the heartache, and the anger by speaking with family and close friends. By the time Kate returned and heard my phone message, I thought I had self-cared my way out of the gloom and foolishly told her that I no longer needed to talk. Perhaps I did not want to dig up the feelings that I hoped had disappeared.

Years later, when I joined the Innocence Project, I noticed immediately that I was very anxious before client calls. I could not box up the feelings or “power through” this time. I had thirty-five clients. A colleague suggested it was “post-traumatic stress” from the Guantanamo work. I called Kate. I did not expect much to result from one phone call with a clinical psychologist, but that one candid conversation had far-reaching influence. Kate’s initial observation that I was experiencing empathy, simple though it sounds, helped me honor the pain. Kate also alerted me to a self-imposed pressure that I adopted before each client call. In the Innocence Project clinic, I viewed legal calls as teaching moments for our law student interns and paralegals. I also worried that every word I said and every piece of advice I gave to a client would be modeled and, therefore, had to serve as an example. After consulting with Kate, who identified the source of my anxiety, I was stunned. Until that heart-to-heart, I had no awareness that I was shouldering this performative labor. As I reflected on her insight, I no longer felt a disquietude before client calls.

Although the phone call anticipation dissipated, my anguish was perennial. Due to Kate’s invaluable advice, I invited her to the Innocence Project to teach a class to our clinic students on barriers to and strategies for working with traumatized clients. Kate spoke to the class about the neurophysiology of trauma. After class, a student came to me privately to share that he never realized that he had been using a coping mechanism that Kate described in class as avoidance behavior in response to his father’s unexpected death years earlier. Another student privately met with Kate to discuss abuse that she experienced in her own life. Another student spoke to the class about representing a client who had just been executed. I realized that Kate had not only educated our students on the biopsychosocial impact of trauma, taught them that trauma is present in the room during their client calls and visits, and described what our clients might experience when narrating traumatic memories, but she also helped students process their own trauma—in law school, in their families, and in their lives. Kate is now a core part of the curriculum.

An unexpected benefit of teaching the class with Kate was healing with the students. During one class, I mentioned that I had no reason to feel so overwhelmed, as advocates had toiled on cases for

far longer than I had, and I was not doing the hard work that human rights workers did every day, on the ground, with little respite, often while living in conflict zones or experiencing poor working conditions. Kate asked the students for their thoughts. They commented on my minimization, stating that the people I was celebrating would probably say “we’re not doing the difficult work you do.” The class setting created an uplifting type of community-based care.

B. Investing in a Culture Shift

Integrating Kate’s clinical knowledge into the classroom exposed a deeper structural gap in the social justice field. The nonprofit organizations that I have worked at and alongside, to my delight, had a capacious understanding of the role of a lawyer. Conceptualizing a lawyer as someone who is emotionally connected to the work and who juggles multiple roles that may not be strictly “legal” with a capital “L” is refreshing and aligns with those of us who believe in holistic representation. However, organizations that celebrate a holistic understanding of client representation typically do not take a holistic approach to sustainable advocacy. This Subpart argues for a reorientation and offers some preliminary recommendations.

Legal organizations need lawyers to continue to do their jobs in a sustainable way and to do them well. Our culture, however, is designed to provide minimal support for well-being.¹⁶² Institutions are not often invested, or competent, in managing trauma. This is particularly true in a culture of productivity-based identity,¹⁶³ despite the evidence that secondary trauma can pose serious risks to productivity.¹⁶⁴ Complicating this difficulty is that everyone experiences trauma and field-related harms differently,¹⁶⁵ and leadership and managers themselves might engage in unhealthy practices.

I place a prominence here on exposure to trauma because, in my experience and based on the literature, the negative effects can accumulate. However, this emphasis should not distract attention from the cultural norms that contribute to poor well-being in the field. Indeed, these cultural norms are precisely why institutional discussions around trauma remain largely absent or peripheral.¹⁶⁶

162. VAN DERNOOT LIPSKY WITH BURK, *supra* note 73, at 164 (providing a reflection by a social justice strategist).

163. *Id.* at 109.

164. *See* Fischman, *supra* note 76, at 114.

165. VAN DERNOOT LIPSKY WITH BURK, *supra* note 73, at 43 (“Different people will experience the consequences of trauma exposure in very different ways.”); *see also* Markham, *supra* note 91 (noting that secondary trauma in immigration legal services is difficult in part because advocates can be susceptible in different ways).

166. *See supra* notes 103–45 and accompanying text.

Another problem is that lawyers often do not have time for “wellness.” Organizations understandably do not want to turn away potential clients in need but end up taking on more than their lawyers can handle. In helping professions, we often fail to calibrate our expectations of what we can do. As a result, organizations are well over capacity, employees cannot responsibly manage their dockets, and workers take home the stress and trauma every day, exhausted and constantly recovering.¹⁶⁷ Embracing a culture of care is difficult when well-being “ends up being an extra load.”¹⁶⁸

Organizations have an ethical duty to attend to their employees’ trauma exposure.¹⁶⁹ They also have a duty to discuss, respond to, and reduce emotional strain, including crushing workloads, openly and without guilt, when these sources of harm affect the very providers who are uniquely qualified to improve the circumstances of their clients.¹⁷⁰ Failure to do so is even more troubling when organizations benefit from advocates’ shared emotional motivation. Moreover, if part of the reason for doing this work is self-serving,¹⁷¹ social justice lawyers are, in a way, already taking into account our well-being, or at least what sustains us in our work. Organizations need to ensure that what sustains lawyers stays sustainable.

Most organizations place the responsibility on the advocate to engage in “self-care.”¹⁷² Self-care, however, is insufficient.¹⁷³ The term alone is often linked with indulgence.¹⁷⁴ Self-care is also

167. See VAN DERNOOT LIPSKY WITH BURK, *supra* note 73, at 152–53 (providing a reflection by an immigrant rights project coordinator).

168. Satterthwaite et al., *supra* note 75, at 513 (quoting a human rights advocate).

169. See Silver et al., *supra* note 76, at 854 (explaining that lawyers have an ethical duty “to attend to the ways in which [the negative effects of] trauma and vicarious trauma disrupt ourselves and to repair that on a regular basis” (quoting Professor Jean Koh Peters)).

170. See Markham, *supra* note 91.

171. See *supra* notes 150–51 and accompanying text.

172. Satterthwaite et al., *supra* note 75, at 486, 496.

173. *Id.* at 449 (relating advocates’ concerns that organizations can inhibit deeper, more structural responses by over-emphasizing the steps that individuals can take for self-care, “rather than viewing well-being politically, holistically, relationally, culturally, and organizationally”); *id.* at 517 (reporting advocate’s perspective that educational efforts—trainings, videos and readings—were often ineffective and staff were too busy to use them); *id.* at 518 (understanding that holistic strategies are needed as “specific interventions are likely to be weakened without a broader enabling environment”).

174. *Id.* at 450, 496 (explaining that in an environment that values certain characteristics, such as hyper-productive people who need no help, it is not easy for an individual to initiate finding support); Markham, *supra* note 91 (describing self-care as a “fashionable platitude”); *id.* (“Who had time for self-care when clients were hanging themselves in their cells, or dying at the hands of Border Patrol? When deportation to an all-but-certain execution was imminent?”); VAN

unattainable in the long-term,¹⁷⁵ and it is a very individualized conception of well-being: it takes the onus off the profession and places yet another burden on the individual.¹⁷⁶

This dynamic plays out in many ways, but one unpredictable—or perhaps predictable—result was that, outside of loved ones, the most prominent voices across organizations who insisted on my well-being were my clients. One young client observed my weight loss during a visit to the prison and encouraged me to take a break from his case. This advice was despite the fact that his wife was pregnant when he was captured, he never met his daughter, who was about to turn nine when he was released, his leg was amputated upon his arrival at Guantanamo, and in his early thirties, he had to use the assistance of a walker in prison.¹⁷⁷ Another client, who spent half of his life in a cage as an innocent man, told me that when he read our 140-page motion to vacate, “it was the first time I ever had any hope in twenty years in prison.” After my colleague told him that I spent every day, night, and weekend writing it for months, he begged me, “don’t make your world into a prison.”

We would never tolerate for our clients what we do to ourselves, and our clients do not tolerate it for us. Neither should our organizations. Health and wellness must be built into organizational structure, not grafted on later.¹⁷⁸ This is not easy because consciously building in practices for wellness requires organizations to shift their thinking from what was once viewed as “dispensable practices” to understanding that very same thing as indispensable.¹⁷⁹ “It’s easy to look at problems in other communities, [or] other practices. But to shift and look at ourselves—to look at how we are contributing to this

DERNOOT LIPSKY WITH BURK, *supra* note 73, at 3 (explaining that there is a widely-held belief in many fields that self-care “is for the weaker set”).

175. Markham, *supra* note 91 (“[F]or legal-aid workers with so little spare time in their lives, these remedies [of self-care] were bound to fail . . .”).

176. Mallika Kaur, *Negotiating Trauma & the Law: Maybe We Won’t ‘Shake It Off,’* CAL. L. REV. BLOG (Nov. 2020), <https://www.californialawreview.org/negotiating-trauma-and-law/> (explaining that self-care advice feels at once like “too much work and too little help”); Satterthwaite et al., *supra* note 75, at 495–96 (“Ideas of ‘well-being’ as primarily individual-focused could also negatively impact how organizations . . . respond to the concept.”).

177. Seema Saifee, *Exchanging One Prison for Another*, DER SPIEGEL (Jan. 19, 2012, 1:08 PM), <https://www.spiegel.de/international/world/from-guantanamo-to-palau-exchanging-one-prison-for-another-a-810072.html>.

178. See VAN DERNOOT LIPSKY WITH BURK, *supra* note 73, at 164–65 (reflection by a social justice strategist).

179. *Id.* at 162–63, 165 (providing a reflection by a social justice strategist); JANE BARRY WITH JELENA ĐORDEVIĆ, WHAT’S THE POINT OF REVOLUTION IF WE CAN’T DANCE? 115–16 (2007) (explaining that to change culture we must be deliberate, put well-being at the top of our agendas, and dedicate significant resources to it).

in the moment—that takes a lot of courage and a lot of will.”¹⁸⁰ Organizations need to think meaningfully about a more functional and sustainable way to tend to our clients while doing our work joyfully and well and while enhancing our potential to work for change.¹⁸¹

To begin, organizations must view well-being not as an individual issue but as an institutional concern.¹⁸² Investment in well-being requires a culture shift that begins with organizational acknowledgement and strategic planning to create “a culture of well-being.”¹⁸³ Providing advocates with a phone number to call, instituting a one-off training, or tacking on perks such as spa days once a month is not a culture shift.¹⁸⁴ Mandating that colleagues sit down for a one-hour meditation or conversation once a week or once a month may be welcomed by some but feel artificial and ill-timed to others. One advocate noted that well-being should not be a “project” that can be “fixed” by hiring a consultant; sustainability needs to be an integral part of the organization’s work.¹⁸⁵ Each advocate has different needs, and structures of care need to be tailored to fit the needs of the advocate.¹⁸⁶ Some organizations have succeeded in creating cultures of care and can share strategies and models of well-being.¹⁸⁷ Organizations can experiment with approaches, such as

180. VAN DERNOOT LIPSKY WITH BURK, *supra* note 73, at 163 (quoting a social justice strategist).

181. *Id.* at 11–12, 116; *see also* Rodgers, *supra* note 90, at 287 (calling on organizations to respond to the emotional dilemmas of their advocates “who may not be willing to accept the emotional trade-offs of the gratification”).

182. Satterthwaite et al., *supra* note 75, at 485–86 n.177, 496–97 (finding that advocates reported that organizations need to take responsibility for staff well-being); *id.* at 540 (“The powers that we face seek to undermine the action of our [human rights] movements. When we invest time, actions, funds, and energy to take care also of ourselves, we strengthen our action to face those powers.” (alteration in original) (quoting a human rights defender)); NAH, *supra* note 75, at 4 (recommending that well-being be approached as a “collective responsibility”).

183. Satterthwaite et al., *supra* note 75, at 448, 496, 499, 509, 513–14, 552, 554; BARRY WITH ĐORDEVIĆ, *supra* note 179, at 132–35 (arguing that wellness needs to be included in the budget of organizations and in strategic planning).

184. Satterthwaite et al., *supra* note 75, at 448, 496–97 (“Just putting resources in place . . . is not dealing with mental health.” (quoting an advocate)); *id.* at 513 (“The culture that prevails is that of responsiveness and not prevention. We see many manifestations of stress [in the body]. We consider [these symptoms] to be expressing in the body what is not worked out in the mind.” (second alteration in the original) (quoting a human rights defender)).

185. *Id.* at 548 (quoting an advocate).

186. *Id.* at 530, 538, 542, 544.

187. *See, e.g.*, VAN DERNOOT LIPSKY WITH BURK, *supra* note 73, at 162–66 (profiling a social justice strategist who built in health and wellness into organization structure); Satterthwaite et al., *supra* note 75, at 539–54 (examining

bringing employees together with paid counselors who are tailored for human rights advocates, either in group or one-on-one discussions.¹⁸⁸ This engagement should be early and ongoing, not only during or after crisis situations.¹⁸⁹ It is only through the modeling of collective care that shifts in culture can begin to take form.¹⁹⁰ Because the stigma associated with discussing mental health and well-being has not disappeared, it is particularly important to normalize that “the experience of trauma is never entirely isolated, nor is the process of healing.”¹⁹¹

Another initiative that can be built into organizations are group or one-on-one sessions with clients and their legal teams, perhaps mediated by a counselor, that facilitate honest discussion about their respective experiences and the help the other provided to them. Depending on various factors, including the organization and the people involved, this initiative may be appropriate—or possible—only after a client has obtained relief unless ongoing sit-downs are both feasible and suitable. These sessions should only be entered into voluntarily by the client and provider. This may be effective only at the end of a case and does not replace early and ongoing non-client-based sustainability plans.

In facilitating these listening and sharing sessions, it is essential that the trauma survivor does not feel coerced or exploited in any way.¹⁹² Even if all parties consent, this initiative might carry risks of retraumatization to clients, so it should not be entered into without

several human rights organizations that have invested in well-being and healthy activism through a wide range of actions); Markham, *supra* note 91 (discussing innovative strategies in the immigration field to promote and maintain advocate wellness).

188. See Satterthwaite et al., *supra* note 75, at 506–08, 521–23 (“The importance of access to counseling is clear from extensive psychology research.”); Markham, *supra* note 91 (“The experience of sharing pain and grief as a collective helps normalize the suffering, thus removing its stigma and helping build a sense of communal support.”).

189. See Satterthwaite et al., *supra* note 75, at 520, 523; Markham, *supra* note 91.

190. See Satterthwaite et al., *supra* note 75, at 497, 509–10, 512–13, 552; VAN DERNOOT LIPSKY WITH BURK, *supra* note 73, at 238 (“The ability to model resiliency is crucial [for ourselves and our clients].” (quoting a manager in a child welfare system)).

191. Markham, *supra* note 91 (discussing camaraderie in group counseling sessions which provided a “sense that these lawyers were not alone in their work or in their struggles”); see also Satterthwaite et al., *supra* note 75, at 540 (“[I]t is not only the transformation of the world around me that matters . . . it is my personal transformation as well The struggle is not just what we dream for others, but also how we live our lives” (quoting a human rights defender)).

192. Katherine Porterfield, *Principles of Care of Survivors of Organized Violence in a Global Society*, in *THE CAMBRIDGE HANDBOOK OF PSYCHOLOGY AND HUMAN RIGHTS* 361, 369 (Neal S. Rubin & Roseanne L. Flores eds., 2020) (discussing principles of care for trauma survivors).

meaningfully accounting for and discussing potential risks with mental health and other professionals.

In her book *Trauma Stewardship*, Laura van Dernoot Lipsky recites a narrative by an emergency room social worker who brought together her former trauma patients with rescue workers, firefighters, and medical providers.¹⁹³ The social worker united them to discuss their experiences and gave them the tools to speak about what happened to them.¹⁹⁴ In that process, the trauma survivors were “able to transform the way they s[aw] themselves, as well as experience the gratification of being listened to by service providers.”¹⁹⁵ The social worker reflected on the shared benefits:

One of the most powerful aspects is that the paramedics and firefighters and other providers are able to see the parallels between the survivors’ experiences and their own experiences. They are able to hear the survivors talk about the impact trauma has on their lives and their families, and whereas before, the providers may have felt it would be too much or too hard to recognize how they, themselves, are impacted by trauma exposure, when they hear the survivors share their stories, they can see how their experiences are so very similar. This experience and the awareness gained then opens up the possibility for the providers themselves to think, “Hey, maybe I can deal with this differently.”

Another very exciting piece of this is that, when providers realize how much impact their work has on others, it helps them to feel unburdened. They see that they can make a difference. They hear directly from the trauma survivors how important it is. They really get that it matters how well they take care of themselves, and it matters how well they do their work.¹⁹⁶

A similar process can be valuable to legal teams and their clients, and, in turn, to organizations in their efforts to sustain lawyers. This process can also strengthen lawyer-client bonds and, for trauma survivors, create a path toward rebuilding.¹⁹⁷

193. VAN DERNOOT LIPSKY WITH BURK, *supra* note 73, at 194–195.

194. *Id.*

195. *Id.* at 195 (explaining that this process placed trauma patients into the role of “educator” or expert). This can provide a positive or therapeutic experience for trauma survivors. Porterfield, *supra* note 192, at 367.

196. VAN DERNOOT LIPSKY WITH BURK, *supra* note 73, at 195; *see also id.* at 122 (“It can be humbling to realize how much we have in common with those we attempt to help. Our pain and strategies for healing may look much the same as theirs.”). For trauma survivors, too, knowing that sharing their story may help others can be a powerful component of their own recovery. *See* Porterfield, *supra* note 192, at 368. “Narrative agency, then, can be a potent tool for healing.” *Id.*

197. *See* Porterfield, *supra* note 192, at 370–71.

CONCLUSION

Two decades ago, a college professor told me that we cannot understand balance until we have experienced the extremes. Having parroted that advice ever since, I am not sure I believe it anymore. This work “is a constant test of how centered [we are].”¹⁹⁸ (Perhaps that is what he meant.) For me, the most enduring element is that some of the best people I have ever met were—and are—locked behind bars. Our connection with the communities and people we work with and serve is immeasurable, but when tending to their welfare, the cumulative effects of trauma and other sources of anguish should not be. In doing work that serves our well-being, when exposure to trauma and other field-related sources of harm accumulate, we may find that we are no longer present the way we once were. To maintain ourselves, value our communities, and sustain our struggles, we need to imagine, together, a movement toward collective preservation.

198. VAN DERNOOT LIPSKY WITH BURK, *supra* note 73, at 241 (quoting reflection by a child welfare worker).