Beyond a Reasonable Doubt -- Human Dignity and Respect

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I believe beyond a reasonable doubt in standing up for the dignity of the human beings who I come to represent in the criminal courts. I believe in demanding respect for them from the system that is prosecuting them. Some of my clients have been famous, most have not. I have represented the truly innocent and some who have not been innocent, whether or not they were guilty as charged. I have represented the incredibly wealthy and the abjectly indigent. All of my clients suffer the embarrassment of being accused and the murmurs behind their backs that, at least, where there is smoke there is fire. Some of my clients, perhaps charged with a heinous murder or other crime of violence, may be regarded by society as lacking any dignity or as being unworthy of any respect whatsoever.

In fact, any criminal defense lawyer will tell you that the most frequently asked question at a cocktail party is, “How can you defend those people?” The question is asked again and again. I have heard other lawyers give responses, for instance, “To stand up for the rights of the guilty is to secure the rights of the innocent.” Or, “You wouldn’t ask that question if the person accused were your son or your daughter.” Or, “It is an adversarial system and I am just doing my job.” None of these answers is incorrect.

But, none of these answers captures the essence of why I get up in the morning and come to work. I still have an enthusiasm for my part of the legal profession after over three decades of defending the accused. And I have a sense that what I do -- or try my best to do -- is not only correct but is at the core of my beliefs. It is my belief that it is my job to stand up for the dignity of the accused, no matter who she or he is, no matter what the charge and no matter what she or he did. It is my belief that my duty is to demand respect for that human being.

No doubt, these beliefs meet with skepticism, hence the incredulous looks on the faces of those cocktail party interlocutors. But those interlocutors have not lived a day, let alone a life, in the criminal justice system. My strong beliefs are based on a lifetime of standing beside “those people” -- those human beings accused by the government of crime. Let me tell you what I see and perhaps my belief in standing up for their dignity and in demanding respect for them will not be so unintelligible.

Let us take the paradigm case imagined by those skeptical interlocutors. Assume that I am representing someone who is charged with a serious crime. For our story, let us say, he is a man, he is poor, he is unkempt, he lacks social graces and he is angry. He has been to prison before and he remains in the custody of the Sheriff because high bail has been set, perhaps for good reason. My job is to stand up for his dignity -- something he may think he lost long ago -- and

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demand that the system accord him respect. Why?

Well, when I walk into the courtroom, there is the prosecutor wearing a pin striped suit seated at the counsel table on the side closest to the jury. He has no regard for my client as a person and sees it as his job to put him in prison. Next to the prosecutor is the arresting officer in full uniform who sees my client as the collar she made and wants to see him go to prison. The bailiff, a deputy sheriff who has the assignment only because he injured his knee wrestling some other “crook” to the ground, is waiting for the order to transport him to prison. The judge seated three feet higher than everyone else with the Great Seal of the government and a couple of flags behind her is, more than likely, a former prosecutor. The court clerk and the court stenographer go to lunch with the rest of them.

My client is handcuffed, chain rapped and clad in an orange jump suit. He is seated in the one chair that does not swivel, farthest from the jury and hovered over by the armed bailiff and his backups. The only person in the world and, certainly the only person in the courtroom, there to stand up for the dignity of the accused and demand that he be treated with respect is the defense lawyer.

This view of the courtroom may sound a bit cynical but is remarkably accurate. Even under the best of circumstances, with the most enlightened participants, the process is stacked against the accused. A wealthy person, perhaps someone theretofore loved and respected by the community, faces some level of animosity, distrust and suspicion once they become the accused. The presumption of innocence is a goal; it is counter-intuitive. The reality is a presumption of guilt. It is the solemn duty of the criminal defense lawyer to reverse that de facto presumption of guilt and to stand up for the dignity and respect due to the accused. Only with that beginning can the system be expected to accord justice.

The criminal justice system is like a train. It is large, it has a lot of momentum and processes a large number of people in an impersonal way. There are plenty of participants in this railroad to see that the criminal justice train runs and keeps moving. And, like the conductor, even the good people in the system start to impersonally punch the tickets of the passengers aboard. The judges, prosecutors, clerks and bailiffs do not see people, they come to see “cases,” case numbers or code sections: “Call up that murder case.” Or, “Let’s take CR975874.” Or, “Where is that Penal Code 187 case?” The defense lawyer is the person in the room to remind them that, “This is an accusation against Mr. ____, who is a human being.” It requires slowing the train down so that the system can acknowledge the dignity and respect due the client -- the same respect shown the prosecutor and any other civil litigant who comes before the court.

Standing up for the dignity of, and respect for, the criminally accused involves investigating and re-investigating every case thoroughly, poring over the reports and documents, re-testing the scientific evidence and rethinking the prosecution’s theory of the case. It involves listening to the client and his or her family; learning about who the client really is. It may also manifest itself in little things, sometimes as simple as forcing the judge to order the bailiff to remove the client’s handcuffs and let him or her sit, like any other litigant, at the counsel table. Sometimes, it is buying a suit for an indigent client. Sometimes it is helping a more prominent client maintain the sanctuary of his or her home in the months pre-trial. It is helping them realize some
sense of that elusive presumption of innocence despite public opinion and sensationalist reporters. It is recognizing that the client -- wealthy or indigent, famous or infamous, out on bail or in custody -- must be treated with dignity and respect, first by his or her own lawyer, and then by the system.
So that is what the true defense lawyer faces every day. There are plenty of people with plenty of power who will see that the guilty are convicted and punished. The power of the government is awesome and no “dream team” will ever have the resources to match the international network of law enforcement officials, computers and resources at the hands of even local prosecutors. What gives any accused person a chance against this is the commitment of his or her criminal defense lawyer to stand up for the client no matter what it takes. There are a few committed and often courageous defenders, private and public, who do not themselves become so cynical that they cannot stand up for the accused no matter who that accused may be. I believe and I believe it beyond a reasonable doubt that it is a privilege to be a member of that part of the legal profession whose duty it is to stand up for the dignity of the accused and to demand that the system accord that human being respect.