University of Baltimore Law Forum

Volume 24
Number 3 *Spring, 1994*

Article 3

1994

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THE LEGAL RESPONSE TO WOMEN "SURVIVORS" OF CHILD SEXUAL ABUSE: CRITICAL CONSIDERATIONS OF CONTEXT

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One of the more troubling maladies of our society is child sexual abuse. Only within the past twenty years have we openly acknowledged that this heinous activity occurs, thereby beginning to work to stop it and to help victims. During this period of developing efforts to help child victims of sexual abuse, many victims have grown into adulthood without any help. Problems associated with child sexual abuse ("CSA") have consequently grown up with these adult survivors, and efforts to help survivors have emerged in recent years.

The existence of these efforts is notable in our legal system. Since mid-1980, survivors of CSA have increasingly pursued legal action against their alleged abusers.[1] The initial activity of courts and legislatures in response to these cases has focused on statutes of limitations. This threshold issue in CSA survivor cases has gradually been resolved in favor of survivors, thereby allowing them to pursue their claims in court.

While this is a positive, necessary legal accommodation for survivors of CSA, a critical consideration is missing in this legal response. Many CSA survivor claims, as court opinions and legislative amendments acknowledge, are based on memories of sexual abuse that were completely unknown to the alleged survivor until she "recovered" the memories as an adult.[2] These previously unknown memories are called repressed memories. Courts and legislatures, like other segments of society that are dealing with the issue of adult survivors of CSA, have not questioned whether these repressed memories are accurate accounts of events as they happened. The apparent presumption is that repressed memories are memories of actual occurrences. Such a presumption, however, is not reasonable because a substantial challenge to the validity of repressed memories exists.[3]

This article is not intended to diminish the reality of the experiences of survivors of CSA. To the contrary, by alerting legal professionals to the questions surrounding repressed memories and CSA survivor claims based on those memories, this article serves to prevent detracting attention from legitimate survivors.

This study takes two approaches to achieving that end. The first is to explain the questions concerning the validity of repressed memories and CSA survivor claims based on recovery of such memories.[4] The second approach is an analysis of the socio-cultural context in which the legal response to survivor claims of CSA occurs. This view of present circumstances lends perspective to an appeal for re-examination of the legal response in light of the questionable nature of repressed memory CSA survivor claims.

Part I of the article recounts a typical story of an allegation of CSA made by an adult woman based only on recovered repressed memories. Part II describes the responses of courts and legislatures to women who allege that they are survivors of CSA after they recover repressed memories. Part III explains more fully the concept of repressed memories and the questions surrounding that concept. Psychotherapy is discussed as one aspect of the socio-cultural context in which the legal response to women survivors of CSA is occurring. The discussion of context is carried into Part IV where feminism is examined as the source of a unifying theme that guides all societal support for survivors of CSA. Part V concludes that the legal response to women survivors of CSA is currently consistent with the theme emanating from feminism. For those survivor claims based solely on repressed memories, legal professionals are urged to break from the feminist root and consider the important questions raised surrounding repressed memories.

I.

Maria had just completed one year of a medical internship.[5] She had been under tremendous pressure during the internship, working extremely long hours and dealing with the emotional stress of divorcing her second husband. In July 1988, Maria notified her medical board and told her parents that she was checking into a treatment center for substance abuse due to a serious drinking problem. Her parents expressed their support and love for Maria and called to see how she was doing in the weeks that followed.

The substance abuse program was not successful for Maria and she left it to try a counseling group. Sometime before Thanksgiving she worked with a therapist whom she told of some awful thoughts she had about her parents.

Although Maria was not sure if the thoughts were true, the therapist insisted that they may be true and that Maria would feel better if she talked about them. Maria told her older brother about this exchange with her therapist when she told him that their father had sexually abused her as a child. She accused her father directly when he and her mother called her on the evening before Thanksgiving.

Maria did not respond to her parents' efforts to communicate with her after that Thanksgiving call. In September 1989, she wrote her two sisters about going to a treatment center for incest survivors. By Christmas 1989, she had moved and would not give her address or telephone number to anyone in her family, none of whom believed her allegations of incest.

In May 1990, Maria's parents were served with a complaint and summons of a civil lawsuit filed by Maria. Among other things, Maria's complaint charged her parents with physical and verbal abuse, substandard parenting and negligence, intrusion of foreign objects into her body, and molestation. After much pre-trial activity, an out-of-court settlement was finally reached in September 1991. The settlement agreement did not include compensation for Maria in any form, but did include a requirement that Maria have a psychiatric evaluation by a doctor chosen by her parents.

The apparent presumption is that repressed memories are memories of actual occurrences.

The evaluation was completed in January 1992. The psychiatrist reported that Maria was not "crazy" but, like an increasing number of cases across the country, had been subjected to some unscrupulous and inappropriate counseling. The psychiatrist said some therapists, thinking that they are "rescuing" adults who were allegedly abused as children, are, by suggestion and projection, making their clients believe that they have indeed been abused sexually, verbally, and emotionally. The psychiatrist went on to say that some counselors advocate that their clients sue their "perpetrators," usually parents, for alleged damages. It appeared that Maria's therapist may have provided just that prompt.

II.

Lawsuits like Maria's present a relatively new issue for courts and legislatures in the area of child sexual abuse. Reported cases involving adult survivors of CSA date back to only 1985, with sixty-four percent of those cases reported since 1990. Adult women are the plaintiffs in at least eighty percent of the cases.[6]

The initial response of most state courts to cases involving women's complaints of sexual abuse that allegedly occurred in their childhoods, often decades earlier, has been to dismiss the complaints as time-barred by the applicable state statutes of limitations. In *Lindabury v. Lindabury*,[7] for example, a Florida state district court of appeals affirmed the trial court's order granting the parents' motion to dismiss an action brought against them by their adult daughter. The court based its decision on the expiration of the statutory period within which Nancy Lindabury could have brought legal action for the "sexual batteries" she alleged had occurred more than twenty years earlier.[8] Like Maria, Nancy Lindabury based her complaint on previously repressed memories of sexual abuse which she discovered years later in psychological counseling.

As more cases like Maria's and Nancy's are brought before the courts, many states are permitting them to go forward.[9] These states are modifying their laws to toll statutes of limitations for complaints by people accusing their parents of having sexually molested or abused them as children. For instance, *Mary D. v. John D.*[10] established that the statute of limitations in California is tolled when the victim of the alleged child sexual abuse "psychologically represses all memory of the acts of abuse while she is still a minor and does not remember those acts until a date after attaining majority, which date will constitute the time of accrual of the cause of action."[11]

Mary Doe claimed that she had suffered "mental and emotional health problems since childhood, low self esteem, distrust of people, self-destructive behavior, alcohol and drug abuse, sexual promiscuity, suicidal tendencies and attempts, and related injuries" as a result of alleged sexual molestation by her father.[12] She said that the alleged abuse occurred from the time that she was an infant until she was approximately five years old and that she had no memory of the alleged abuse until she was participating in group therapy eighteen years later.[13]

The California court explicitly stated that claims based on memories of CSA that a survivor always had were not covered by its ruling in the *Mary Doe* case. Specifically, the court was not willing to toll the statute of limitations for an adult who always knew that she had been sexually abused as a child yet did not bring legal action within the statutorily permitted period.[14] This distinction between two types of cases involving adults who claim to be survivors of child sexual abuse was first recognized in the Illinois case of *Johnson v. Johnson*.[15]

Deborah Johnson, like Mary Doe, Nancy Lindabury, and Maria, based her claim of sexual abuse by her father on memories that she did not recover until entering psychotherapy as an adult. The United States District Court for the Northern District of Illinois called cases like Deborah Johnson's Type II cases, that is, the type in which the plaintiff "had no recollection or knowledge of the sexual abuse until shortly before she filed suit."[16] Type I cases

were identified as those in which the plaintiff knew of the CSA before the age of majority but did not know of the causal connection between the abuse and other problems.[17]

While the California court was willing to toll the statute of limitations in Mary Doe's Type II case, the California legislature went even further. Following *Mary Doe*, the California legislature essentially rewrote that state's childhood sexual abuse statute to toll the statute of limitations for both Type I and Type II cases.[18] Likewise, other states that have modified their statutes toll the onset of the limitations period in CSA survivor cases for both types.[19]

III.

Type II cases, those in which the claims of CSA are based solely on recovered repressed memories which the plaintiff never previously knew, raise questions of validity which courts and legislatures seem unaware of or have virtually ignored. As laws are modified to assure that adult claims of past CSA are not barred by statutes of limitations, one may presume that repression of memory does occur and that accounts of experiences drawn from repressed memories are valid. Examination of the information presently available about repressed memory reveals the inappropriateness of such a presumption.

The notion that recovered repressed memories . . . are valid is strongly supported by many psychotherapists.

The dictionary defines "repression" as used in the field of psychoanalysis as "the unconscious exclusion of painful impulses, desires, or fears from the conscious mind."[20] Psychotherapists who treat adult "survivors" of CSA contend that repression of the memory of a painful experience can result from dissociation during that experience. Dissociation is the scientifically verified process wherein an active mental mechanism blocks conscious experience of certain traumatic occurrences while they are happening.[21] It is not difficult to accept that a child might dissociate during the occurrence of sexual abuse. More controversial is whether memory of that dissociated experience can be totally repressed.

Until recently little challenge has been raised to the notion that repressed memories of CSA are factual accounts of sexual abuse. To the contrary, the recent societal acknowledgement of the problem of CSA in our country[22] has resulted in popular support for eliminating CSA by identifying and punishing past or present child sexual abusers. This response to the previously unrecognized reality of CSA has not included questioning the validity of alleged survivors' claims.

Unquestioning belief is becoming less possible as a new phase in dealing with CSA is beginning. The mark of this new phase is the growth of a group of social science and other professionals and affected families which is cautioning that claims of CSA emerging solely from recovered repressed memories may be false.[23] Instances of CSA identified only after an adult recovers allegedly repressed memories are being distinguished from corroborated, factual CSA. Whether the repressed memories can be authentic is at the heart of the concern regarding the validity of claims based on those memories.

The notion that recovered repressed memories of CSA are valid is strongly supported by many psychotherapists. The studies supporting this conclusion show that the belief in the authenticity of these memories is based on an adult client reporting that she has particular psychological and behavioral symptoms now associated with "survivors" of CSA.[24] It is assumed that the memories were never previously known because they developed when the "survivor" was dissociated from the occurrence of abuse. These particular memories formed in a dissociated state of mind are presumed to be stored and recoverable later fully intact.[25]

The bases of therapists' belief in the authenticity of repressed memories may be challenged in two ways. First, reliance solely on client-reported symptoms as necessarily indicative of past CSA is questioned as being overly suggestive, having the potential to lead a client to believe she was sexually abused when she was not.[26] For example, a client might seek the help of a psychotherapist for recurring depression, an eating disorder, and frustration with not being able to establish an intimate relationship. While concern about possible CSA is not raised by the client, the therapist might suggest to her that the problems she describes are often present symptoms of past CSA.[27] Depending on factors such as the client's receptiveness to this suggestion and the intensity with which the therapist makes the suggestion, the client, during later counselling sessions, may convert her therapist's suggestions into her own recovered repressed memories.

The second challenge is to the assumption that a memory of a dissociated experience, or any sort of memory, can come into a person's present mind as a fully accurate depiction of what actually occurred. This notion is unsupported by scientific research. Rather, scientists agree that memory is reconstructed and is affected by such things as wishes, fantasies, and the context in which the memory is brought forth. Memory is not like a videotape of an experience as it actually occurred.[28]

Adhering to the scientific principle that memory is reconstructed does not require disbelief of memories of CSA

that are not fully acknowledged until adulthood. It does require consideration of other factors that might shape that memory. Previously completely repressed memories which are the only basis for "survivor" allegations of CSA must be carefully reviewed, particularly since suggestive psychotherapy and popular self-help books often provide the context in which they are brought forth.[29]

Questioning the authenticity of repressed memories requires confronting a well-established network that believes women's accounts of sexual abuse by men regardless of the circumstances surrounding those accounts. Society is sympathetic to victims of CSA. Along with the belief and encouragement of her psychotherapist, the alleged survivor can find ample validation of her claimed condition in suggestive self-help books[30] and in the tone of the recovery movement in general.[31] This network provides the context in which courts and legislatures shape the legal system to be more receptive to complaints of often decades-old CSA.

The common theme underlying these supportive sources is belief without doubt that a woman who says she was a victim of CSA was indeed sexually abused. This theme has its origin in modern feminism. Feminism thereby provides the basic sustenance for the unquestioned belief of repressed memory claims of CSA.

IV.

Feminism is not one unified way of thinking. Feminist legal scholar Patricia A. Cain presents a concise description of four schools of feminist thought: liberal, radical, cultural, and post-modern.[32] Each of the four has a distinct theoretical basis so that the types of feminism are of varying applicability to issues that concern women. To better understand the link between feminism and the issue of repressed memory claims of CSA, the following summary sketches the relationship of the broader issue of women as victims of wrongful acts by men to the four types of feminism. This relationship is explained in a legal context.

The development of laws relative to the general issue of wrongful acts in which women are almost always the victims is most relevant to radical feminism and its dominance theory. By describing women, in general, as victims of domination by men, radical feminism can lend strong support to efforts to create or modify laws concerning wrongful acts such as rape, domestic violence, and child sexual abuse.[33]

These wrongful acts do not neatly fit into considerations of legal equality which are the chief focus of liberal feminists. The focus of liberal feminism is that women be treated as equal to men where they are or could be involved in the same activity, e.g., employment. This question of equal treatment for similarly situated women and men simply does not arise where women are overwhelmingly the victims of wrongful acts committed by men.

The focus of liberal feminism is that women be treated as equal to men . . .

Likewise, the theories of cultural and post-modern feminism do not completely encompass the problem of particular wrongful acts that uniquely victimize women. Cultural feminism focuses on the differences between women and men but is not primarily concerned with the negative condition of "woman" as a victim. Rather, cultural feminism emphasizes the positive contribution that "woman's moral voice" can and must make to shaping the law.[34]

Post-modern feminism views the problems of women not through the paradigm of a unitary definition of "woman" but as actual experiences of varying groups of women.[35] Because of this diverse view of women, post-modern feminism is not well positioned to promote a solution to a problem that lumps all women together as potential victims of particular wrongful acts.

In contrast, radical feminism can fully confront such problems since it focuses on women as a class.[36] Furthermore, radical feminism assumes a duty to expose the dominance and control that men have exercised in constructing the law as it exists today and to command changes in the law that eliminate the oppressive treatment of women and their experiences. Embracing this position, radical feminism easily supports legal reform relative to child sexual abuse, a wrong committed mainly by men against women.[37]

The dominance theory of radical feminism and what is called "feminist method" are the roots for the various branches that support belief of repressed memory claims of CSA. This link is better understood through examination of the substance of dominance theory and feminist method in the instances in which they are applied.

In feminist legal scholarship, the dominance theory of radical feminism is perhaps most pronounced in the work of Catherine MacKinnon. MacKinnon continuously repeats the theme that women are and have always been oppressed by men's dominance and control.[38] The impression made by MacKinnon is that women are trapped in a strongly entrenched, highly complex web of men's definition of women and that women must break out of this confinement to define themselves and claim the power to control their lives.

In her advocacy for change, MacKinnon focuses particularly on wrongful acts in which women are predominantly the victims of men.[39] Although she has not written at length about child sexual abuse, MacKinnon includes CSA in her general discussion of the sexual oppression of women by men.[40] It seems fair to conclude that MacKinnon's advocacy specifically reaches CSA since the statistical data suggests that females are the chief victims and males the main

perpetrators of this abuse.[41]

MacKinnon credits feminists with revealing to society the reality of sexual abuse of women by men. She describes and endorses the method used in getting at this body of information as simply "believing women's accounts of sexual use and abuse by men."[42] The first part of this method, believing women's accounts, has tremendous potential in the development of feminist jurisprudence.[43] As a whole, however, the practice of believing women's accounts of sexual use and abuse by men can be carried to harmful extremes.

Literal application of feminist method, for example, has resulted in the recent emergence of many adult women adamantly claiming to be survivors of CSA while basing their claims solely on recovered repressed memories.[44] The method of unquestioning belief of women's accounts of sexual use and abuse by men supports the contention that repressed memory claims, like all others, are valid. In fact, the many questions which surround the concept of repressed memory indicate that claims based on nothing more may be quite suspect.[45] Thus, this use of feminist method results in support for claims of CSA that could well be false.

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The harm caused by false allegations of CSA can be irreparable. Such harm includes the pain suffered by the accused, who does not escape stigmatization as the perpetrator of one of society's most detestable acts, and often includes the break-up of families.

Questions concerning the validity of women's repressed memory claims of CSA have not been acknowledged in the application of feminist method. The method has produced results that confirm the dominance theory of radical feminism by revealing the lack of appropriate social and legal recognition of women's experiences involving CSA. Remedial efforts stemming from this convergence of the method and the theory are of great value for true survivors of CSA. However, to the extent that these efforts fail to consider the substantial challenges to the validity of repressed memory claims, they perpetuate the tremendous pain and suffering surrounding false allegations of past CSA.

MacKinnon's feminist method of believing women's accounts of sexual use and abuse by men is virtually repeated in the self-help book *The Courage to Heal*.[46] A product of the recovery movement of popular culture, *The Courage to Heal* is sub-titled "A Guide for Women Survivors of Child Sexual Abuse."[47] Those who question repressed memory claims of CSA repeatedly cite the book as a primary resource for women alleging that they are CSA survivors.[48] Suggestions throughout *The Courage to Heal* are directly identifiable with the feminist method of believing without question women's accounts of sexual use and abuse by men. The book is implicitly premised on belief of such accounts. It offers ways to identify oneself as a survivor of CSA and affirms identity as a survivor with statements such as, "If you think you were abused and your life shows the symptoms, then you were."[49] The multiple lists of symptoms in the book are so broadly applicable that a woman could easily be enticed to claim CSA as the source of her emotional or psychological problems.

It may seem doubtful that a woman would choose to assume the burdensome identity of being a survivor of CSA. Yet, coping with such an identity can be alluring when persuasive books like *The Courage to Heal* are available and offer strong encouragement, particularly when the alternative is to face the possibly more difficult task of working on real problems that conveniently appear to be symptoms of CSA.[50]

Just as *The Courage to Heal* is representative of application of the feminist method of believing women's accounts of sexual use and abuse by men, it is also implicitly premised on the dominance theory of radical feminism. The book validates a woman's experience of surviving CSA and offers strategies for taking control of that experience. The implication is that a woman who has survived CSA has experienced negative dominance by a man. She is entitled to assert her power now to expose and find a remedy for that wrongful treatment. Among the methods that *The Courage to Heal* suggests for a survivor to find her remedy is pursuit of legal action against the alleged abuser.[51]

The suggestions of *The Courage to Heal* are a collective example of extreme application of the method of believing women's accounts of sexual use and abuse by men. *The Courage to Heal* is part of the driving force behind the potentially large number of accusations of CSA by alleged survivors whose claims come from repressed memories.[52]

The Courage to Heal is recommended by the National Organization for Women Legal Defense and Education Fund ("NOW LDEF"), a feminist group, in its legal resource kit for incest and child sexual abuse.[53] NOW LDEF has taken up the banner for legal reform in this area because of "reliable estimates . . . [that] one-fifth to one-half of all American women were sexually abused as children."[54] NOW LDEF calls incest "an issue of pressing concern to femi-

because it arises from a long-held view of our society "that it is a man's prerogative to abuse female family members."[55] Clearly, this position reflects reliance on the dominance theory of radical feminism.

Lending its support to efforts to change existing laws so that survivors of CSA can bring their cases in the courts, NOW LDEF has filed amicus briefs in eight cases. One of those cases was *Lindabury v. Lindabury*.[56]

The issue on appeal in *Lindabury* was whether the discovery rule applied to toll the statute of limitations until the plaintiff knew or should have known of her injury and her concomitant legal rights.[57] Nancy Lindabury did not discover memories of her alleged CSA and accompanying injuries until participating in psychotherapy twenty years after the abuse supposedly ended. She had no memory of sexual abuse in her life until she was thirty-four years old.[58] In arguing for application of the discovery rule to toll the statute of limitations, the NOW LDEF brief reflects the influence of both the feminist method of believing women's accounts of sexual use and abuse by men and of the dominance theory of radical feminism.

The brief presents facts concerning the appellant/daughter in this case as if she was in fact sexually abused by her father.[59] In accord with feminist method, NOW LDEF indicates that it believes the daughter's account of sexual abuse by her father and accepts as valid her once totally repressed, now substantially recovered memories of CSA. Perhaps it would have been difficult to persuasively argue for tolling the statute of limitations for long-delayed claims by survivors of CSA if the daughter's claim was not believed. The unqualified belief of feminist method is apparent as a basis for the position taken in the NOW LDEF brief.

In advancing its argument NOW LDEF laments the legal system that has ignored CSA and other acts of violence against women.[60] NOW LDEF goes on to advocate that survivors of CSA be given their day in court to seek legal redress.[61] This process of exposing flaws in the legal system that inhibit fair treatment of women who survive victimization clearly arises out of the dominance theory of radical feminism. It is a direct challenge to laws that presumably were created in an atmosphere dominated by men making determinations regarding the treatment due women's experiences.

Here, as in the preceding examples of reliance on feminist method and the dominance theory of radical feminism, the harmony between the method and the theory is apparent. This close association seems to justify calling the method, like the theory, one of radical feminism.

V.

Literal application of the radical feminist method of believing women's accounts of sexual use and abuse by men is the norm. It seems a reasonable reaction to the ignorance, trivialization, and dismissal of women's accounts of sexual use and abuse by men that has historically permeated our legal system. However, strict application is a critical mistake when the method is a factor in persuading lawmakers to modify the law in favor of facilitating alleged CSA survivor claims.

Belief that adult women were sexually abused as children cannot be automatic for the numerous claims that are based solely on the recovery of totally repressed memories of CSA. Reported cases, statutory reform, and the literature of feminism, psychology, and popular culture all reflect a presumption that these memories, and thus the claims based on them, are valid. Present-day society largely accepts any report of CSA as true. In order to preserve and continue important progress that has been made in providing support and remedies for true victims of CSA, the presumption that all claims of CSA are valid must be abandoned. For the benefit of all concerned, the challenges to repressed memory CSA survivor claims must be seriously considered.

Endnotes

[1]*See infra* note 8 and accompanying text.

[2]Women survivors with repressed memory claims are the focus of this study because females are the primary victims of CSA. *See* David Finkelhor and Larry Baron, *High-Risk Children,* reprinted in *A Sourcebook on Child Sexual Abuse* 60, 61-64 (David Finkelhor ed., 1986); Brenda J. Vander Mey and Ronald L. Neff, *Incest as Child Abuse* 48 (1986) (asserting that most child sexual abuse occurs within the family); and *False Memory Syndrome* (False Memory Syndrome Found., Philadelphia, Pa. 1993) (reporting that adult daughters are the alleged survivors of child sexual abuse in 80% of over 2,600 stories of recovered repressed memories told by families who have contacted that organization as of February, 1993).

[3]The False Memory Syndrome Foundation (hereinafter "FMS Foundation"), 3401 Market Street, Suite 130, Philadelphia, Pennsylvania 19104, provides a conveniently centralized source for professional and scholarly challenges to the validity of repressed memories. The FMS Foundation presently lists forty-two prominent social science professionals and scholars on its advisory board, many of whom have written and continue to write critically about reliance on repressed memories as the singular source of adult claims of child sexual abuse. FMS Found. Newsl. (FMS Found., Philadelphia, Pa.), Jan. 17, 1994. *See, e.g.,* Harold I. Lief, *Psychiatry's Challenge: Defining an Appropriate Therapeutic Role When Child Abuse is Suspected,* Psychiatric News, Aug. 21, 1992. *See also* Elizabeth F. Loftus, *The Reality of Repressed Memories* (August 1992) (unpublished manuscript, all correspondence to the author, Department of Psychology, University of Washington, Seattle, Wash. 98195).

[4]CSA survivor claims based on recovered repressed memories are too numerous to be considered insignificant. As of

January, 1994, the FMS Foundation has been contacted by almost 10,000 families who report that a family member is alleging CSA based on recovered repressed memories. FMS Found. Newsl. (FMS Foundation, Philadelphia, Pa.), Jan. 17, 1994.

[5]Adapted from *Suit, Countersuit, in Confabulations* 139 (Eleanor Goldstein and Kevin Farmer eds., 1992). Names were created for this adaptation.

[6]Statistics compiled from *Cases on Civil Legal Remedies for Survivors of Incest and Sexual Abuse* (NOW Legal Defense and Educ. Fund, New York, New York), 1993.

[7]552 So.2d 1117 (Fla. Dist. Ct. App. 1989).

[8]*Id.* at 1117.

[9]For a current list of states that have modified their statutes of limitations, the code citations, and brief summaries of the new rule in each state, *see Legislative Reform of Statutes of Limitations for Civil Incest and Child Sexual Abuse Cases* (NOW Legal Defense and Educ. Fund, New York, N.Y.), 1992 [hereinafter *Legislative Reform*].

[10]264 Cal. Rptr. 633 (1989).

[11]*Id.* at 634.

[12]*Id.* at 635.

[13]*Id.*

[14]*Id.* at 639.

[15]701 F.Supp. 1363 (Ill. 1988) (denying parents' motion to dismiss the complaint as barred by the statute of limitations).

[16]*Id.* at 1367.

[17]*Id.*

[18]Cal. Civ. Proc. Code § 340.1(a) (West Supp. 1994) (permitting commencement of action to be delayed until plaintiff discovers or reasonably should have discovered *causal relationship* between sexual abuse and psychological injury or illness occurring after the age of majority) (emphasis added).

[19]*See Legislative Reform, supra* note 9.

[20]The American Heritage Dictionary of the English Language 1104 (William Morris & New College eds. 1976).

[21]*Is There Repression or Isn't There?*, FMS Found. Newsl. (FMS Foundation, Philadelphia, Pa.), Feb. 5, 1993, at 3.

[22]For a compilation of several studies indicating the nationwide prevalence of CSA, *see* Stefanie Doyle Peters, Gail Elizabeth Wyatt, and David Finkelhor, *Prevalence,* in *A Sourcebook on Child Sexual Abuse* 15 (David Finkelhor ed., 1986).

[23]*See supra* note 3.

[24]Loftus, *supra* note 3 (manuscript at 15).

[25]*Is There Repression or Isn't There?, supra* note 21.

[26]Loftus, *supra* note 3 (manuscript at 20-32). For additional insight into suggestibility and misdiagnosis of CSA by psychotherapists, *see* Lief, *supra* note 3; *see also* Paul R.

psychotherapists, *see* Lief, *supra* note 3; *see also* Paul R. McHugh, *Psychiatric Misadventures*, The American Scholar, Fall 1992, at 497, 504-09.

[27]For an example of a popular checklist for survivor symptoms of CSA, *see* E. Sue Blume, *Secret Survivors* (1990) (inside cover).

[28]*Is There Repression or Isn't There?, supra* note 21.

[29]Loftus, *supra* note 3 (manuscript at 20-32).

[30]*E.g.*, Blume, *supra* note 27; *see also* Ellen Bass and Laura Davis, *The Courage to Heal* (1987).

[31]*See supra* note 5 and accompanying text.

[32]Patricia A. Cain, *Feminism and the Limits of Equality*, 24 Ga. L. Rev. 803, 829-41 (1990). Cain acknowledges that there are other ways to categorize feminism. *Id.* at 841 n.145. For other categorizations, *see* Mary Joe Frug, *Sexual Equality and Sexual Difference in American Law*, 26 New Eng. L. Rev. 665, 666-75 (1992) (dividing feminist legal scholarship into four groups: Equality Doctrine, Equality Theory, Feminist Theory, and Feminist Doctrine). *See also* Cass R. Sunstein, *Feminism and Legal Theory*, 101 Harv. L. Rev. 826, 827-29 (1988) (book review) (describing three approaches of feminist legal theory: difference, different voice, and dominance).

[33]Catherine A. MacKinnon, *Feminism Unmodified* 40-41 (1987).

[34]Cain, *supra* note 32, at 836.

[35]Frug, *supra* note 32, at 674.

[36]Cain, *supra* note 32, at 832.

[37]*See supra* note 2 (supporting the conclusion that females are most often the victims of CSA). Males are most often the perpetrators of CSA. Vander Mey, *supra* note 2, at 49.

[38]MacKinnon, *supra* note 33.

[39]MacKinnon, *supra* note 33.

[40]MacKinnon, *supra* note 33, at 5.

[41]Vander Mey, *supra* note 2.

[42]MacKinnon, *supra* note 33, at 5.

[43]*See, e.g.*, Cain, *supra* note 32, at 843-47.

[44]*See False Memory Syndrome, supra* note 2.

[45]*See supra* notes 23-29 and accompanying text.

[46]*See* Bass, *supra* note 30.

[47]*See* Bass, *supra* note 30.

[48]*See, e.g.*, Lief, *supra* note 3; *see also* Loftus, *supra* note 3 (manuscript at 20-21).

[49]Bass, *supra* note 30, at 22.

[50]*See* Loftus, *supra* note 3 (manuscript at 20).

[51]Bass, *supra* note 30, at 310.

[52]*See supra* notes 3 and 28 and accompanying text.

[53]*Incest and Child Sexual Abuse Publications Resource List* (NOW LDEF, New York, N.Y.), 1992.

[54]*Legal Remedies for Adult Survivors of Incest and Child Sexual Abuse* (NOW LDEF, New York, N.Y.), 1992.

[55]*Legal Remedies for Adult Survivors of Incest and Child Sexual Abuse, supra* note 54.

[56]*Lindabury*, 552 So.2d 1117 (Fla. Dist. Ct. App. 1989).

[57]*See City of Miami v. Brooks*, 70 So.2d 306 (Fla. 1954) (stating the Florida discovery rule).

[58]*Lindabury*, 552 So.2d at 1118.

[59]Brief of *amicus curiae* at 10, 15, 19, 20, 22, 23, 34, 35, *Lindabury v. Lindabury*, 552 So.2d 1117 (Fla. 1989) (No. 87-2481).

[60]*Id.* at 25-30.

[61]*Id.* at 30-35.

About The Author

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