Title

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Authors

Deferme, Driek
Otgaar, Henry
Dodier, Olivier
et al.

Publication Date

2024

DOI

10.1111/tops.12715

Peer reviewed

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Driek Deferme[2], Henry Otgaar[1,2], Olivier Dodier[3], André Körner[4], Ivan Mangiulli[1,2], Harald Merckelbach[1], Melanie Sauerland[1], Michele Panzavolta[2], and Elizabeth F. Loftus[5],

[1]Faculty of Psychology and Neuroscience, Maastricht University, the Netherlands

[2]Faculty of Law and Criminology, KU Leuven, Belgium

[3]Université de Nantes, France

[4]Medical School Berlin, Germany

[5]UCI School of Social Ecology, USA

In Press, Topics in Cognitive Science

Correspondence should be sent to:

Henry Otgaar: henry.otgaar@maastrichtuniversity; henry.otgaar@kuleuven.be

This paper was supported by a C1 and FWO Research Project grant awarded to Henry Otgaar

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Abstract

One of the most heated debates in psychological science concerns the concept of repressed memory. We discuss how the debate on repressed memories continues to surface in legal settings, sometimes even to suggest avenues of legal reform. In the past years, several European countries have extended or abolished the statute of limitations for the prosecution of sexual crimes. Such statutes force legal actions (e.g., prosecution of sexual abuse) to be applied within a certain period of time. One of the reasons for the changes in statutes of limitations concerns the idea of repressed memory. We argue that from a psychological standpoint, these law reforms can be detrimental, particularly when they are done to endorse unfounded psychological theories. The validity of testimonies is compromised many years after the alleged facts and abolishing the statute of limitations increases the chance that even more (false) recovered memories of abuse might enter the courtroom. We propose solutions to these changes such as establishing an independent expert committee evaluating claims of sexual abuse.

Keywords: Repressed Memory; Repression; False Memory; Statute of Limitations; Trauma, Therapy, Expert Witness, Reasonable Time

Effect of Repressed Memories (of Sexual Abuse against minors) and Statutes of Limitations in Europe: Status Quo and Possible Alternatives

In legal cases, testimonies of alleged victims of sexual crimes are oftentimes diametrically opposed to the statements of accused persons (Brainerd et al., 2008): Victims report being abused by the accused, while suspects deny any involvement and sometimes even come up with an alternative account. The truth cannot always be established by means of forensic technical evidence (e.g., DNA samples, genital lesions) as it exists in only a minority of cases, often less than 10% (Bidrose & Goodman, 2000; Saint-Martin et al., 2007). Under these circumstances, legal decision making is primarily based on testimonial records. For a judge, assessing the veracity of the victims' and defendants' recollections of events is not an easy task. Besides the risk of intentional lies, another problem is that memory is malleable to external factors. For example, suggestive pressure can lead to false memories or memories for non-experienced events (Loftus, 2005). In the worst-case scenario, false memories of sexual abuse might contribute to false accusations (e.g., Pope & Tabachnik, 1995) and thus wrongful convictions (Brainerd & Reyna, 2005; Otgaar et al., 2019).

In the past decade, some European countries (e.g., Belgium, the Netherlands, France) have extended or abolished the statute of limitations for the prosecution of sexual crimes against minors. Statutes of limitations require legal actions (e.g., prosecution of sexual abuse) to be taken or in many continental countries even completed within a certain period of time. These statutes are in place to make sure that – amongst others – claims are put before the court at a time when the evidence necessary for their fair adjudication is likely to be available (Ernsdorff & Loftus, 1993; see also for civil claims for damages United Kingdom Supreme Court, Ministry of Defence v AB and others, March 14, 2012).

While there may be noble reasons behind the idea of extending the statute of limitations for sexual crimes, we will show why extending or abolishing statutes of limitations in sexual abuse cases can have negative effects in the courtroom from a memory perspective. Finally, we provide recommendations for alternative pathways for handling cases concerning alleged sexual abuse that happened long ago.

The Controversial Topic of Repressed Memory

False memories of sexual abuse are prominent in the scientific discussions on how traumatic experiences are remembered. In the 1990s, a fierce debate, sometimes referred to as the *memory wars* (Crews, 1995), revolved around the controversial topic of repressed memories or the idea that psychological trauma can lead to an unconscious banishment of memories (e.g., Loftus & Ketcham, 1996). The debate unfolded when victims started filing claims adducing repressed memories of sexual abuse that they (allegedly) had recovered only following therapy treatment (Loftus, 1994). In many of these cases, patients did not have recollections of the abuse before starting therapy, but recovered such memories during the course of treatment. Scholars argued that in these cases, therapists might have used highly suggestive interventions, such as dream interpretation or recovered memory therapy that might have fostered false memory formation (e.g., de Rivera, 2000; Mazzoni et al., 1999; Otgaar et al., 2022). Indeed, studies show that when participants are told that they experienced a fabricated event, about 30% of them fall prey to these suggestions producing false autobiographical memories (Scoboria et al., 2017). Importantly, researchers have succeeded in producing false memories in lab settings that share critical characteristics with false memories of abuse such as that they can be shameful, negative, and painful experiences (Otgaar et al., 2022).

Although recovered memories might in fact be therapy-induced false memories (see Lilienfeld, 2007; Otgaar et al., 2022), we want to stress that recovered memories *can* refer to authentic experiences. This is vital because the debate on repressed memory is sometimes so heated that unfounded and extreme views emerge such as that memory recovery processes are by definition dangerous (e.g., Lindsay & Briere, 1997). In fact, claims of repressed memory of sexual abuse can be explained by plausible alternative mechanisms, which are in line with the view that recovered memories can be about true experiences (see other papers in this special issue). Nonetheless, the idea that traumatic memories can be repressed stands in stark contrast with research showing that traumatic experiences are seldomly completely forgotten (Goldfarb et al., 2019; McNally, 2005). Furthermore, claims of repressed memory are sometimes confused with strategies that victims use when experiencing a traumatic event. Specifically, victims of abuse often delay disclosure of the experience because of shame or because they threatened by the perpetrator. Also, victims of abuse oftentimes do not want to think about the event (Goodman-Brown et al., 2003). Importantly, these strategies are unrelated to the concept of repressed memory (e.g., McNally, 2005).

Memory experts generally agree that there is no convincing evidence for the existence of repressed memories (e.g., Patihis et al., 2018). Despite overwhelming evidence showing that unconscious repressed memories are scientifically questionable, such theories retain popularity in academic, clinical, and legal settings (see for a discussion: Brewin, 2021; Otgaar et al., 2019; Otgaar et al., 2021). For instance, the concept of (unconscious) repressed memories – sometimes also called, dissociative amnesia – is oftentimes endorsed by clinicians (for a discussion on this matter, see Brand et al., 2018; Mangiulli et al., 2022), and it is often accepted by professionals from other disciplines (e.g., clinical psychologists, police), but also laypeople (Houben et al.,

2020; Mangiulli et al., 2021; Otgaar et al., 2019; Sauerland & Otgaar, 2021). A strong belief in repressed memories can be perilous in clinical and legal settings. Possible consequences include the foundation of false memories of sexual abuse resulting in false accusations. Another and perhaps even more pervasive legal development concerns the extension or abolishment of statute of limitations in cases concerning sexual crimes such as child sexual abuse.

Statute of Limitations and Repressed Memory

When charges are filed some time after the alleged crime, the statute of limitations might create a barrier to their adjudication. The statute of limitations dictates that legal actions can be pursued – and, in some countries, completed – only within a specific period of time, that normally starts to run at the time when the crime was committed. These limitations are introduced to prevent adjudication of controversies at a time when the crime has already faded into oblivion. These statutes also take into account that the passing of time creates problem in the collection of reliable evidence. For example, scientific evidence becomes more difficult to obtain, potential eyewitnesses might no longer be alive, memories of decades-old experiences might be untrustworthy (e.g., Ernsdorff & Loftus, 1993).

The tendency to extend the statutes of limitations for sexual crimes appears in several European countries (e.g., Belgium, the Netherlands, France).[1] Strengthening the interests of victims was a central aim of these reforms. Yet, the idea of repressed memories also emerges as one of the reasons (e.g., Belgium: Deferme & Otgaar, 2020; France: Dodier & Tomas, 2019; the Netherlands: Otgaar et al., 2017). Studying the recent adaptations in statutes of limitations and

[1] Although beyond the scope of the current article, in the Supplemental Materials, we have also discussed the statutes of limitations in Germany and Italy (see https://osf.io/3uj9d)

the underlying motivations can offer an instructive lesson for legal psychologists, because these developments demonstrate how psychological topics (e.g., repressed memory) may impact legal proceedings.

Statute of Limitations in Europe

Belgium

In Belgium, the law of 14 November 2019 abolished the statute of limitations for serious sexual offences against minors that have been in place since 1878.[2] Sexual offences against minors are added to the list of imprescriptible offences, that is, offences for which statute of limitations do not apply (art. 21bis Preliminary Title of the Code of Criminal Procedure), next to genocide, crimes against humanity, and war crimes. The abolition of the statute of limitations converges with a legislative trend extending the limitation periods for sexual offences and offences committed against minors[3] (Deferme & Otgaar, 2020; Meese, 2017), a trend also endorsed at international level.[4] The Belgian legislator did not raise fundamental questions about

[2] Law of 14 November 2019 amending the Law of 17 April 1878 on the preliminary title of the Code of Criminal Procedure as regards the abolition of the limitation period for serious sexual offences against minors, Official Gazette 20 December 2019 (entry into force 30 December 2019). The text of the provision has recently been adjusted to the general reform of the sexual crimes (see Law 21 March 2022, Official Gazette 30 March 2022). The tenor of the provision remains however unchanged.

[3] Starting with Law 5 February 2016, Official Gazette 19 February 2016.

[4] See for instance art. 33 of the Lanzarote Convention (Council of Europe Convention on the Protection of Children against Sexual Exploitation and Sexual Abuse, 25 October 2007, CETS No. 201); art. 58 of the Istanbul Convention (Council of Europe Convention on preventing and combating violence against women and domestic violence, 11 May 2011, CETS No. 210).

the pros and cons of extending statutory limitations. The legislative choice was nonetheless recently upheld by a decision of the Constitutional Court.[5]

Interestingly, the Belgian legislator had addressed the issue of statute limitations only few years before (in 2017) and it had then decided not to abolish the statute of limitations completely (though it had extended the limitations significantly), despite already existing proposals in that direction. Although barring prosecutions may under some circumstances be unfair to victims, it was considered necessary at the time for the proper administration of justice in line with the traditional view on statute of limitations that emphasizes legal protection. At the same time, extra-legal initiatives started to accommodate the needs of victims. For example, in 2017, a Sexual Abuse Arbitration Center (*Centrum voor Arbitrage inzake Seksueel Misbruik*) was founded, mainly for sexual abuse cases relating to the Catholic Church. Their purpose was to acknowledge the suffering of victims of time-barred offences and to provide financial compensation, when the courts and tribunals could no longer hear the offences due to the statute of limitations. Because of the previous legislative debate in the Belgian parliament, some concerns were expressed about the desirability of abolishing the statute of limitations in 2019.[6]

The Netherlands

The Netherlands made sexual offences against minors imprescriptible in 2012 (Act of 15 November 2012, Article 70, paragraph 2, 2° of the Penal Code).[7] This adaptation was in line with

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[5] Constitutional Court, 9 June 2022, nr. 76 (ECLI:BE:GHCC:2022:ARR.076).

[6] Verslag namens de commissie [report on behalf of the committee], Parl. St. Kamer 2019-20, No 55-0439/003, 5-6.

[7]

the previous prolongation of the statutes of limitations for crimes against minors in 2005 (Act of 16 November 2005). The Dutch legislature reasoned that time did not erase all traces and evidence of the crime and that modern techniques of tracing evidence, including audio and visual registration such as photo, film or video and DNA material, restricted the negative influence of the passage of time on evidence.[8] The motivation of the Dutch legislature was to strengthen the position of victims,[9] whereas the traditional arguments in favour of the statute of limitations were weighed less strongly.[10]

Some legal scholars criticized this shift in legislation long before the abolition (Groenhuijsen, 2002). Specifically, the imprescriptibility of sexual crimes reflects a one-sided emphasis on the victim perspective in that it protects the interests of the victim in a disproportionate way relative to the potential costs for innocent suspects and offenders (cf. van Koppen & Malsch, 2001). In addition, the question arises to what extent victims actually benefit from the extension of the statute of limitations (Groenhuijsen, 2002). Recently, members of the Dutch parliament urged the government to install an independent investigative body to investigate claims of alleged victims of ritual abuse (e.g., Grapperhaus, 2021). Some of the

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[8] Act of 15 November 2012 amending the Penal Code in connection with the adjustment of the rules governing the limitation period, Stb. 2012, 572, publication 22 November 2012.

[9] Memorie van toelichting [explanatory memorandum], *Kamerstukken II* 2001-02, 28495/3, 3-4. See also: Memorie van toelichting, *Kamerstukken II* 2010-11, 32.890/3, 4-7.

[10] Nota naar aanleiding van het verslag [note following report], *Kamerstukken II* 2004-05, 28.495/9, 6.

Memorie van toelichting [explanatory memorandum], *Kamerstukken II* 2001-02, 28.495/3, 5.

claims concerned events that ostensibly happened many years ago and were recovered in therapy.

France

In France, the statute of limitations for sexual offences against minors was extended to 20 years in 2004[11] and then to 30 years in 2018[12], starting from 18 years of age (i.e., age of majority in France).[13] The legislator considered that with these extensions, victims would have more time to file a complaint.[14] One reason why victims would need more time to file a complaint concerned the recognition of repressed traumatic memory as a plausible mechanism that would delay the report of sexual abuse[15] (see Dodier & Tomas, 2019). Similar to the Dutch legislator, the law emphasized new technological developments (e.g., DNA) contributing to the gathering of evidence.[16]

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[11] Act No. 2004-204 of 9 March 2004 adapting the justice system to changes in crime, JORF No. 59 of 10 March 2004, 4567.

[12] Law No. 2018-703 of 3 August 2018 strengthening the fight against sexual and gender-based violence, JORF No. 0179 of 5 August 2018.

[13] For a detailed overview: Etude d'impact de 19 mars 2018, *Project de loi renforçant la lutte contre les violences sexuelles et sexistes*, JUSD1805895L, 6-7.

[14] Exposé des motifs, *Loi n° 2018-703 du 3 août 2018 renforçant la lutte contre les violences sexuelles et sexistes*, JUSD1805895L.

[15] See http://www.justice.gouv.fr/bo/2018/20180928/JUSD1823892C.pdf

[16] Etude d'impact de 19 mars 2018, *Project de loi renforçant la lutte contre les violences sexuelles et sexistes*, JUSD1805895L, 14.

Parliamentary debates around child sexual abuse were resumed in 2021 following a media case involving a revered professor and politician accused of repeated sexual abuse of his stepson that allegedly happened in the 1980s.[17] Because the offense was statute barred[18], the issue of the statute of limitations for child sexual abuse was revived, to the point that the French President and the Minister of Justice publicly expressed their interest in reforming the laws on this issue. As a result, the statute of limitations for a first offence was extended to the expiration of the statute of limitations for the second offence[19].[20] This is a novel mechanism, which will make it possible to avoid impunity for sexual predators with a long criminal history who are sometimes only caught for the most recent offences (Bonfils, 2021; Detraz, 2021).[21]

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17 https://www.lemonde.fr/societe/article/2021/01/04/olivier-duhamel-l-inceste-et-les-enfants-du-silence_6065166_3224.html.

18 Although the accused person admitted committing the facts (https://www.lemonde.fr/societe/article/2021/04/14/olivier-duhamel-reconnait-devant-la-police-des-faits-d-inceste-sur-son-beau-fils_6076805_3224.html), the statute of limitations resulted in the public prosecutor ultimately dropping the charges ("*l'enquête classée sans suite*"): https://www.lemonde.fr/police-justice/article/2021/06/14/affaire-duhamel-l-enquete-classee-sans-suite-pour-prescription_6084069_1653578.html.

19 More specifically art. 7 paragraph 3, art. 8 paragraph 3, and art. 9-2 Code de procédure pénale français.

20 Two conditions apply, namely that (1) the statute of limitations for the first offence has not expired when the second offence is committed and (2) the two offences were committed by the same perpetrator. It is irrelevant that the different offences concern different victims. The same applies for the second offence if a third offence occurs etc…

21 The French legislator also made some changes concerning the interruption of the statute of limitations. Interruption is a mechanism wherein certain taken actions will generally result in the renewal of the limitation period, in other words the limitation period will start running anew.

Summary

Some of the extensions that were adopted in certain countries (the Netherlands and France) emphasized technological changes. This entails that statutes of limitation in criminal law should no longer accommodate the problem of evidence, because of technological advances in collecting evidence. With the help of DNA testing, for instance, a successful criminal prosecution is less dependent on (the reliability of) witness statements. However, a DNA match by itself is insufficient for a conviction. Additional evidence, such as eyewitness testimony, is still needed to link the DNA to the crime. However, this evidence is subjected to the passage of time. For sexual offences, evidence remains difficult to secure, when a long period elapsed between the crime and its report by the victim. As a result, technical (DNA) evidence is often lacking.[22] A long time lapse also complicates the collection of rebuttal evidence by the suspect. In sexual offences involving minors, often only the victim's statement and the suspect's denial statement exist.[23] This frequently leads to one person's word against another's (but see Saunders, 2018, for a critical view of this statement).[24] Such situations emphasize the importance of psychological research into the reliability of memory in the legal system.

[22] This comment was also made by the Dutch Council of State: Advies Raad van State en reactie van de indieners, *Kamerstukken II* 2003-04, 28495/5, 6.

[23] Memorie van toelichting, *Kamerstukken II* 2010-11, 32.890/3, 11.

[24] E.g. Court of appeal Amsterdam 29 April 2015, ECLI:NL:GHAMS:2015:1597.

Legal and Psychological Perspective to Extending or Abolishing Statute of Limitations

Tolling the statute of limitations may not have direct impact on the way in which judges assess the guilt of the accused.[25] However, in the absence of statutes of limitations, judges have to decide on the merits of allegations on the basis of evidence that may be incomplete due to the lapse of time (European Court of Human Rights, hereinafter: ECtHR, October 22, 1996; Declercq, 2014). In Belgium, the legislator acknowledged the risk of weak evidence, but decided that it was more important to lower the threshold for victims to file a complaint with the police.[26]

The absence of statutes of limitations may lead to an increased importance of some evidentiary sources at the expenses of others, this could potentially impair the ability to defend oneself. For example, greater importance might be placed on victims' memories of abuse that allegedly occurred long ago. In such cases, the diagnosis dissociate amnesia would provide the court with a 'carte blanche'. This is because the idea of repression cannot be falsified. The presence of repression cannot be tested because the idea is that traumatic memories are unconsciously stored and are inaccessible. The only way to test repressed memories is when they are recovered – but then they are not repressed anymore. We argue that it might be difficult for a court – especially with lay people – to assess the veracity of such claim/testimony, even with the help of an expert witness.

[25] Memorie van Toelichting [explanatory memorandum], *Kamerstukken* II 2010-11, 32.890/3, 12.

[26] Verslag namens de commissie [report on behalf of the committee], Parl. St. Kamer 2019-20, No 55-0439/003.

From a psychological perspective, another problematic issue is how accurate memories for a traumatic event can be assessed after several decades have passed. Like all memories, they are subject to alterations with time (Kensinger & Ford, 2020). Furthermore, forgetting and the likelihood of distortions and creation of entire false memories can increase as time passes (Brainerd et al., 2008). This is because there would be more opportunities for a victim to be confronted with misinformation concerning the pertinent event. For example, a victim might talk with family or friends who ask suggestive questions, thereby fostering the creation of false memories (Dodier & Patihis, 2021; Loftus, 2005). Furthermore, people with mental health issues might seek help from a therapist who might suggest that their problems result from repressed memories of abuse that happened many years ago (e.g., Houben et al., 2021; Loftus, 1994; Otgaar et al., 2019). Thus, our knowledge about the effects of time passage on eyewitness and victim memory does not support the idea of extending statute of limitations beyond the already existing long periods of limitations.

The abolition or extension of the statute of limitations has sometimes directly been motivated by problematic ideas about memory, such as repressed memory. Although it is true that victims often do not want to talk about the abuse, this is different from - and not comparable to – repressed memory (McNally, 2005). The problematic idea of repression can cause therapists to suggest to patients that they have been abused at some point in their childhood while they have no memory for it. Such suggestions, in turn, can lead to false memories of abuse (Otgaar et al., 2019).

Alternatives to Statute of Limitations

Reasonable Time[27]

Next to the traditional statutes of limitations, the right to be tried within "reasonable time" (Article 6 § 1 European Convention of Human Rights) offers a tool for preventing excessive delay in the criminal proceedings. Independently of statutory bars, every person has the right to have their case dealt with within a reasonable period of time. The main differences with statutory bars are that the reasonable time requirement begins to run from the commencement of criminal proceedings (and not from the moment of the alleged offence) and it entails a case-by-case assessment based on the criteria established by the ECtHR in its case-law. When assessing the reasonable time period, the judges should in particular consider the complexity of the case, the conduct of the accused, and the conduct of the judicial authorities.

The protection of the reasonable period of time could nonetheless act as a buffer when abolishing the statute of limitations. The reasonable time requirement gives greater discretion to the courts than for limitation periods. Whereas the judge does not have to deal with all the specific circumstances of the case when dealing with the statute of limitations, this does not necessarily hold for the reasonable period of time. The judge can therefore motivate in greater depth why it is unreasonable to decide on a case given the lengthiness of the proceedings.

A core question when examining abuse cases in court is whether the position of victims would improve if the reasonable time safeguard replaces the statute of limitations or remaines the only tool available against lengthy proceedings. Victims may have a greater understanding of the

[27] For more detail see the compilation by the European Court of Human Rights of their essential case law around this topic: https://rm.coe.int/echr-reasonable-time-of-proceedings-compilation-of-case-law-of-the-eur/native/1680a20c21. See further: Henzelin & Rordorf (2014).

rejection of the criminal proceedings if the court explains in detail why the reasonable time limit was exceeded and which specific circumstances were taken into account. Victims could then feel less uneasy about the judicial system. The interest in reasonable time as a decision criterion is therefore growing (Deferme & Otgaar, 2020; Meese, 2006).

An Independent Committee as a Counterweight

The introduction of an independent commission of experts that examines contentious allegations of abuse could address evidentiary problems stemming from extending or abolishing statutes of limitations. Such a committee exists in the Netherlands since 1999. The so-called National Expert group Special Abuse Cases (Landelijke Expertisegroep Bijzondere Zedenzaken - LEBZ; Nierop et al., 2021) consists of psychologists (cognitive, forensic, investigative, clinical) with expertise in the validity of statements and memory in cases of abuse, and experienced police officers (sexual crime investigators). This committee advises the court and the Public Prosecution Service on the validity of statements. The committee provides advice concerning sexual abuse allegations on details if 1) the known facts about the alleged offence are ambiguous (e.g., it is unclear when the first statement about the alleged abuse occurred), 2) there is limited evidence available, and 3) it is unclear how the police should continue the investigation. The allegations brought to the committee oftentimes involve recovered memories of abuse, ritual abuse, and historic sexual abuse cases (Nierop et al., 2021). Although the advice of the LEBZ is not binding, public prosecutors virtually always follow its advice (Nierop et al., 2021).

Critics might argue that the introduction of an additional committee leads to more complexities and that such a committee is unnecessary. Indeed, judges themselves are already at liberty to appoint experts at their discretion. However, the choice and quality of such experts and how they write reports and testify in court can vary greatly and depend on the case. The

advantage of a committee is that it consists of a permanent group of vetted experts with specific knowledge about statement validity and memory. This better guarantees the quality of the advice. Another advantage lies in the fact that the committee frequently becomes active at an early stage, namely at the investigative stage in an assisting role to the police and the Public Prosecution (for further information see Nierop et al., 2021).

Legal Psychologists and Memory Experts as Expert Witnesses

Another safeguard against prosecuting cases with invalid testimonies of abuse could be a recommendation (or even an obligation) for judges to consult legal psychologists or memory experts for assessing the validity of statements and testify about this evaluation through written or oral testimony. Introducing clear rules for when judges have to appoint expert witnesses would be helpful.

When legal psychologists serve as expert witnesses, they can assess the validity of testimonies by examining the context of the first disclosure and inspecting whether suggestive tactics were used (Otgaar et al., 2017). Furthermore, they can provide advice on interviewing alleged victims of abuse that happened with empirically validated interview protocols (Dodier & Otgaar, 2019). In short, legal psychologists might serve a critical role in evaluating the validity of testimonies of alleged abuse. There is controversy about biases among experts and their place in legal systems. This does not negate their added value, but it does point to their selection and to procedures for minimising biases (Vredeveldt et al, 2022).

Concluding Remarks

We have illustrated that the extension and abolishment of the statute of limitations for sexual crimes is partly based on flawed assumptions when it is done solely to allow for the litigation of cases based on repressed memories. One assumption is that longer periods of possible prosecution can serve the victims. However, because the quality of evidence (i.e., eyewitness testimony) tends to decrease over time, it might well happen that it becomes impossible to reach a conviction, hence frustrating the victims' expectations. We argue that truly victim-oriented measures, such as honestly communicating the chances of prosecution and introducing specialized centres, such as the Sexual Abuse Arbitration Centre in Belgium, might ultimately serve victims in a better way.

The second assumption in favour of the extension and abolishment of the statute of limitations often put forward is that traumatic memories of abuse can be repressed and accurately remembered many years later and that therefore, victims need more time to file a complaint. Yet, there is no empirical evidence that repressed memory exists (e.g., McNally, 2005; Otgaar et al., 2019; Piper et al., 2008). Rather, the evidence that people remember experienced trauma relatively accurately is overwhelming.

It is problematic that the disputed ideas of repression and dissociative amnesia have started to make their way into European jurisdictions. Changes in statutes of limitations might make it more likely for factfinders to encounter more cases in which claimants report events that happened decades before and whose recollection they have just recovered. However, the validity of such testimonies is likely to be compromised because memory fades over time, while reliance on external post-event misleading information increases. Additionally, false memories of abuse

due to therapy or misinformation because of the lapse of time are more likely to find their way into the court room. This could fuel the occurrence of wrongful convictions.

We discussed several solutions to remedy this problem, for example, establishing an independent expert committee that advises the court on the validity of testimonies. Their advice can prevent the damaging consequences that the belief in repressed memories can exert and help reduce the chances that innocent people are wrongfully convicted. We would like to stress that our arguments in this paper should not necessarily be extended to all other criminal activities law (e.g., homicide, genocide, and more generally crimes against humanity).

Recent changes or attempts to initiate a shift to be more victim-orientated or child-orientated have led to demanding challenges for forensic experts in the court. For example, by changing statutes of limitations, more weight will be placed on the assessment of testimonies of abuse of alleged victims. Instead of further prolongation or the gradual erosion of basic legal principles such as the presumption of innocence and the burden of proof principle, we call for better training of those involved in the legal system and related disciplines on issues such as the reliability of statements. Only in a fruitful exchange with lawyers, therapists, social workers, scientists and forensic experts, victim protection will become a success.

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