

UCLA

UCLA Women's Law Journal

Title

Child Sexual Abuse: Adult Survivors, Repressed Memories, and Stories Finally Told

Permalink

<https://escholarship.org/uc/item/3721b6td>

Journal

UCLA Women's Law Journal, 11(2)

Author

Whitcombe, Rebecca J.

Publication Date

2001

DOI

10.5070/L3112017752

Copyright Information

Copyright 2001 by the author(s). All rights reserved unless otherwise indicated. Contact the author(s) for any necessary permissions. Learn more at <https://escholarship.org/terms>

Peer reviewed

ESSAY

CHILD SEXUAL ABUSE: ADULT SURVIVORS, REPRESSED MEMORIES, AND STORIES FINALLY TOLD

Rebecca J. Whitcombe*

ABSTRACT

This Essay addresses the problem of repressed memories in adult survivors of child sexual abuse, and the effect of silencing the survivor. The first part of the Essay is actually the author's own story — her memories of the abuse, and the effects she is dealing with as an adult. The remainder of the Essay discusses the effects of abuse on adult survivors in general, legal remedies available to survivors, and other related issues. Part II addresses the pervasiveness of incestuous child abuse. Part III discusses repressed memories and other long-term effects of incest. Part IV delves into the legal issues involved with this memory suppression. This discussion includes an examination of the history of the legal and social treatment of the issue, recent attempts to accommodate suits brought by adult survivors through use of the “delayed discovery doctrine,” and the potential impediments to these efforts. Part V addresses the importance of allowing survivors to tell their stories for its healing effects and the need to end the silence that pervades the subject of child sexual abuse.

* Cornell Law School, J.D. Candidate 2001; St. Bonaventure University, B.A., *magna cum laude*, 1995; Managing Editor, *Legal Information Institute libbulletin-ny*, 2000-2001; Recipient, Robert S. Pasley Memorial Prize and CALI Excellence for the Future Award. I would like to thank Jennifer Foss, Laurie Blumenthal, and Bryan Messenger for their support and patience during the writing of this Essay, and to Tammie Miller for being unbelievably supportive. Thanks to Nancy Cook, at the Cornell Legal Aid Clinic, for her aid and encouragement, and to Dr. Dorothy Tien Shaffer, for helping me through my difficult healing process and for giving me the strength to go public.

TABLE OF CONTENTS

PREFACE	256
I. INTRODUCTION.....	257
II. Pervasiveness of Incestuous Child Abuse....	258
III. Repressed Memories and Other Long-Term Effects of Incest	259
A. <i>Effects of Incest</i>	259
B. <i>My Perspective</i>	264
IV. THE LAW'S RESPONSE TO AMNESIA IN Survivors	265
A. <i>Past Treatment of Child Abuse</i>	265
B. <i>Historical Perspective of Adult Survivors</i>	266
C. <i>Recent Changes in the Law</i>	267
D. <i>Impediments to the Law's Response to Amnesia in Survivors</i>	271
V. THE IMPORTANCE OF TELLING THE STORY	275
VI. CONCLUSION	279

"The act of rape on an eight-year-old body is a matter of the needle giving because the camel can't."¹

He said it was a game, our own secret game. I was young, what did I know? Whenever I would try to protest, he would shush me, remind me that it was a game, that I had to keep it a secret because my mother would get mad if she knew. My mother had a temper. He knew I would never want to anger her.

So I went along. I played the game. Rather, I let him play the game. I did what he told me to do. I let him do the things he always did. I didn't know that this wasn't a normal game for young girls like me to play. Nobody told me.

I don't remember how often it happened, or how long it lasted. I seem to have blocked out much of my childhood because it's easier not to remember. The few vivid details I can still recall are bad enough.

I know that he is my father's half-brother, and that he and his sister moved in with my family the summer that I was 5 years old. I know that he lived with us for about a year, and left when I was 6. I know that he was in high school at the time, but I don't know how old he was. I know that what he did to me was not a one time thing. It happened a lot, maybe every day, as often as he could be alone with me. I know that I gave my

1. MAYA ANGELOU, *I KNOW WHY THE CAGED BIRD SINGS* 73 (Bantam Books 1997) (1969).

first blow job at the age of 5 or 6. And I know exactly how my parents discovered what he had been doing to me — they saw it.

I remember the day perfectly. I was sitting at an old school desk in my bedroom, where I did my homework and colored in my coloring books. I remember the sign on the door that said, "Keep out!! — This means you, G — !!" I remember that I had decided that I didn't like playing the game anymore, and that I wouldn't let him touch me anymore. But he didn't pay attention to the sign. He just came right in, knelt beside me, and put his hand up my skirt. And I started yelling. My parents heard me yelling and came running up the stairs, and that's what they saw — me sitting at my desk yelling, and him kneeling next to me with his hand up my dress. I remember that my mother took me into one room, and my father took him into another room, to talk. My mother was angry just like he said she would be. She yelled when she asked me what he had been doing to me and where he had been touching me. I remember just sitting there crying, unable to tell her anything because now I knew that it wasn't a game, it wasn't okay, and that it was very, very bad. I couldn't tell my mother everything that we had done. I just couldn't. I never have.

I. INTRODUCTION

"Time does not cure the effects of incest. Although the memories go underground, the consequences of the abuse flourish."²

Child sexual abuse is a problem that is all too real and all too common. Many women today are dealing with the long-term effects of having been sexually abused as a child, many by family members. These long-term consequences can affect every aspect of a woman's life and can be even more difficult when the abuser was her father, brother, or uncle. In this Essay, I will address only a few of the many issues faced by adult survivors of incest. Part II of this Essay discusses the pervasiveness of incestuous child abuse, while Part III discusses the problem of memory loss by incest survivors — a trait that many survivors share. Part IV analyzes the legal issues involved with memory repression, including the history of the legal and social treatment of the issue, as well as impediments faced by adult incest survivors. Finally, Part V discusses the importance of allowing survivors to tell their stories, and its healing effect. This Essay will refer to literature

2. E. SUE BLUME, SECRET SURVIVORS: UNCOVERING INCEST AND ITS AFTER-EFFECTS IN WOMEN 15 (1990).

by authors who have studied incest and its effects and to nonacademic literature written by survivors whose stories reflect some of the topics being discussed.

As a point of clarification, the story that begins this Essay is my own. I am a survivor of incest who is trying to deal with its effects as an adult. I am a living testament to the benefits of telling one's story. I originally wrote this Essay for a law school class, hoping that the writing process would begin my own healing process. That healing process is still ongoing and publishing this Essay is another step. I wanted to publish my story to inform readers of the issues survivors face and to let other survivors know that they are not alone. Thus, this Essay will also include some of my own thoughts, beliefs, and experiences on this topic that is so personal to millions of women like me.

While I realize that incest is also an issue for many men, this Essay will focus on the experience of women, since it is more prevalent,³ and it reflects my own knowledge and experiences. Similarly, while I realize that many children are sexually abused by adults to whom they are not related, this Essay will focus primarily on incest because it is the most common form of child sexual abuse.⁴

II. PERVASIVENESS OF INCESTUOUS CHILD ABUSE

Incest is a pervasive, but largely unrecognized (or perhaps just unacknowledged), problem in our world today.⁵ Studies show that as many as 25% to 38% of adult females today are

3. See SANDRA BUTLER, CONSPIRACY OF SILENCE: THE TRAUMA OF INCEST 5 (1978); DAVID FINKELHOR, SEXUALLY VICTIMIZED CHILDREN 3, 69 (1979) [hereinafter FINKELHOR, SEXUALLY VICTIMIZED CHILDREN]; DAVID FINKELHOR ET AL., A SOURCEBOOK ON CHILD SEXUAL ABUSE 61 (1986) [hereinafter FINKELHOR ET AL., SOURCEBOOK]; JOHN E.B. MYERS, LEGAL ISSUES IN CHILD ABUSE AND NEGLECT PRACTICE (2d ed. 1998); ELIZABETH A. WAITES, TRAUMA AND SURVIVAL: POST-TRAUMATIC AND DISSOCIATIVE DISORDERS IN WOMEN 3 (1993).

4. See BUTLER, *supra* note 3, at 12; DAVID FINKELHOR, CHILD SEXUAL ABUSE: NEW THEORY AND RESEARCH 2-3 (1984); FINKELHOR (1979), *supra* note 3, at 28, 58, 83, 87; FLORENCE RUSH, THE BEST KEPT SECRET: SEXUAL ABUSE OF CHILDREN 2 (1980).

5. Child sexual abuse in general is pervasive. See *supra* note 3; see also BUTLER, *supra* note 3, at 13; FINKELHOR, SEXUALLY VICTIMIZED CHILDREN (1979), *supra* note 3, at 54; FINKELHOR (1984), *supra* note 4, at 1; FINKELHOR ET AL., SOURCEBOOK (1986), *supra* note 3, at 19; RUSH, *supra* note 4, at xii, 5; WAITES, *supra* note 3, at 2.

survivors of child sexual abuse,⁶ and at least one author has suggested that this is an underestimation. E. Sue Blume has stated:

If one believes the statistics that 25% or 38% of all women were molested by an adult or much older child, and if we then add the 8-year-old child whose abuser was 11, or the daughter whose uncle regularly exposed himself to her, or the many who do not remember and so cannot report, then the number of women who were sexually abused as children may easily exceed 50%. More than half of all women were violated as children, most by someone they loved. Sixty million women (and many, many men as well).⁷

Despite the frequency of the problem, the lack of discussion and dearth of remedies is discouraging at best. Secrecy is a major characteristic of incest, and this secrecy succeeds in hiding the reality. The reality is that incest is everywhere. Millions of women are currently living with the effects of the incest they have survived and may not even know it. Especially since the rise of the child protection and feminist movements of the late 1970s, most researchers agree that child sexual abuse is a serious problem whose true numbers we cannot know due to this secrecy.⁸

III. REPRESSED MEMORIES AND OTHER LONG-TERM EFFECTS OF INCEST

A. *Effects of Incest*

Child sexual abuse is a traumatic experience for all victims, and adult survivors experience many psychological symptoms. Long-term effects of child sexual abuse can include depression, self-destructiveness, anxiety, sleeping problems, eating disorders, dissociation, poor self-esteem, trouble with interpersonal relationships, difficulty trusting others, vulnerability to revictimization later in life, sexual problems, and other problems with functioning socially.⁹ Survivors of child sexual abuse also tend to

6. See FINKELHOR ET AL., SOURCEBOOK, *supra* note 3, at 19; FINKELHOR (1984), *supra* note 4, at 1-2; MYERS, *supra* note 3, at 8.

7. See BLUME, *supra* note 2, at 297; see also FINKELHOR, *supra* note 4, at 1 ("Studies of the prevalence of child sexual abuse in the general population suggest that sexual abuse is still extremely undercounted by official reports.").

8. See DANIEL BROWN ET AL., MEMORY, TRAUMA TREATMENT, AND THE LAW 12-13 (1998); FINKELHOR, SEXUALLY VICTIMIZED CHILDREN, *supra* note 3, at 3; LIZ HALL & SIOBHAN LLOYD, SURVIVING CHILD SEXUAL ABUSE: A HANDBOOK FOR HELPING WOMEN CHALLENGE THEIR PAST 8-9 (1989); MYERS, *supra* note 3, at 29-30, 42.

9. See FINKELHOR ET AL., SOURCEBOOK, *supra* note 3, at 153-62; HALL & LLOYD, *supra* note 8, at 47-65; MYERS, *supra* note 3, at 15-17; INGER J. SAGATUN &

use defense mechanisms to deal with the trauma of the abuse, such as denial, repression of memories, and blocking out a period of childhood, a person, a place, or the more painful aspects of abuse.¹⁰ The tendency to suppress the memory of incest is so common that "[m]any, if not most, incest survivors *do not know* that the abuse has even occurred!"¹¹

Why do incest survivors experience this post-trauma amnesia? Many therapists, when pressed to assign a diagnosis to incest survivors, tend to use the term "Post-Traumatic Stress Disorder" (PTSD).¹² PTSD is used because a survivor's reactions to her experience are similar to those who suffer from PTSD caused by other severe traumatic events such as torture, car accidents, and war. PTSD has been described as illustrating "what happens when stress responses, which may have been originally adaptive, persist in nonthreatening contexts."¹³ It is a response to an extreme traumatic event involving intense fear, helplessness, or horror, whose characteristic symptoms include "persistent re-experiencing of the traumatic event, persistent avoidance of stimuli associated with the trauma and numbing of general responsiveness, and persistent symptoms of increased arousal."¹⁴ However, PTSD is generally considered to be only one of the many psychological diagnoses of child sexual abuse but is not a complete explanation in itself.¹⁵ For example, Blume suggests using the Bereavement Theory to supplement the PTSD diagnosis because it addresses the emotional loss suffered by the incest survivor more accurately than PTSD.¹⁶ "The abused child has much to

LEONARD P. EDWARDS, CHILD ABUSE AND THE LEGAL SYSTEM 252 (1995); WAITES, *supra* note 3, at 99.

10. See BLUME, *supra* note 2, at 17; ELIZABETH A. WAITES, MEMORY QUEST: TRAUMA AND THE SEARCH FOR PERSONAL HISTORY 182 (1997).

11. BLUME, *supra* note 2, at xiii; see also BROWN ET AL., *supra* note 8, at 165; HALL & LLOYD, *supra* note 8, at 7 ("It is estimated that up to 50 per cent of survivors of child sexual abuse are not aware of these experiences and yet there are many signs and symptoms that may lead to a suspicion that a woman has been abused."); ANN M. HARALAMBIE, CHILD SEXUAL ABUSE IN CIVIL CASES: A GUIDE TO CUSTODY AND TORT ACTIONS 122 (1999) ("The studies which have addressed the issue appear to find a significant number of people sexually abused as children who report periods of having no memory of their abuse."); MYERS, *supra* note 3, at 111, 112; WAITES, *supra* note 10, at 110, 192.

12. See, e.g., HARALAMBIE, *supra* note 11, at 110.

13. WAITES, *supra* note 3, at 37.

14. MYERS, *supra* note 3, at 14.

15. See, e.g., BLUME, *supra* note 2, at 79; MYERS, *supra* note 3, at 16.

16. BLUME, *supra* note 2, at 79 (citing ANN KAISER STEARNS, LIVING THROUGH PERSONAL CRISIS (1992)); see also WAITES, *supra* note 10, at 242.

mourn She grieves lost hopes, lost safety, lost innocence. She grieves her childhood. And she grieves the view of the world as a safe place, for that is lost to her forever."¹⁷ Since incest survivors experience grief and mourning as a result of the incest, this theory addresses an aspect not covered by PTSD, namely the violation of the relationship between the survivor and the abuser.¹⁸

Using PTSD as an attempt to fully explain incest has its shortcomings because it fails to address many important matters:

[P]sychiatrists tend to overvalue "symptoms" and undervalue life, to overemphasize "chemistry" and underplay human feelings The diagnosis of post-traumatic stress disorder also fails to describe the post-incest experience because it generally ignores issues of how early trauma affects a child's development. It only generally addresses some issues (the sexual aspect of incest) and ignores others (the violation of the relationship). However, it remains the best available psychiatric framework for understanding the effect of this trauma.¹⁹

Thus, Blume creates the term "Post Incest Syndrome" which combines PTSD, bereavement theory, and other symptoms of child sexual abuse.²⁰

Regardless of the label given, one of the common characteristics found in many survivors of child sexual abuse is a loss of memory of the traumatic event(s).²¹ Most research on child sexual abuse indicates that memory loss²² is common to many incest survivors.²³ Indeed, one sign that therapists use to identify patients who are unknowing victims of incest is whether a significant part of her childhood is blocked out, most frequently ages one through twelve.²⁴ Alternatively, the survivor may have blocked the room or house where she lived at the time of the abuse, or trips or events during which she was abused.²⁵ The in-

17. BLUME, *supra* note 2, at 78-79.

18. *Id.*

19. *Id.* at 79-80.

20. *Id.* However, it appears that the use of this term has not been adopted by others in the field.

21. See WAITES, *supra* note 3, at 27. See generally BLUME, *supra* note 2; WAITES, *supra* note 10.

22. Also referred to as memory repression or traumatic amnesia.

23. See BROWN ET AL., *supra* note 8, at 38; HALL & LLOYD, *supra* note 8, at 55; HARALAMBIE, *supra* note 11, at 122-124; MYERS, *supra* note 3, at 110-112.

24. See BLUME, *supra* note 2, at 82. It should be noted, however, that amnesia of events that occur before the age of three is a normal developmental phenomenon, referred to as "infantile amnesia." Thus, a lack of memory of events prior to one's third birthday should not be understood as a symptom of incest. MYERS, *supra* note 3, at 113.

25. See BLUME, *supra* note 2, at 82.

cest survivor has experienced severe trauma, many times at a very young age, and must find a way to deal with it. For many incest survivors, as with survivors of many other kinds of severe trauma, the only way to deal with the trauma is to forget it. But forgetting does not solve the problem. Many women who have no memory of their incest still exhibit the psychological symptoms of incest survivors.²⁶ They know that they have emotional sore spots and severe reactions to people and events, but they do not know the cause is incest.²⁷ For many, the best way to deal with such a severe event is not to deal with it at all. Memory loss is a defense mechanism that allows a victim to live with the abuse that has occurred without being overwhelmed by it.²⁸

In addition to memory suppression, adult incest survivors may experience many other long-term psychological effects. Depression has been highly documented as a major effect of child sexual abuse in adult survivors.²⁹ Many adult survivors have trouble with anxiety, including sleeping difficulties.³⁰ They may have eating disorders, ranging from bulimia to obesity.³¹ Frequently, survivors suffer from poor self-esteem and have difficulty with interpersonal relationships, largely because they have trouble trusting people.³² Adult survivors are more prone to becoming prostitutes or drug abusers,³³ or being revictimized later in life.³⁴

Commonly, survivors also experience a process called dissociation, which "is a psychobiological mechanism that allows the mind, in effect, to flee what the body is experiencing, thus maintaining a selective conscious awareness that has survival value."³⁵ Dissociation is different than memory suppression, although both

26. See HALL & LLOYD, *supra* note 8, at 7.

27. BLUME, *supra* note 2, at 81.

28. SAGATUN & EDWARDS, *supra* note 9, at 252.

29. See FINKELHOR ET AL., SOURCEBOOK, *supra* note 3, at 153; FINKELHOR, SEXUALLY VICTIMIZED CHILDREN, *supra* note 3, at 31; MYERS, *supra* note 3, at 15.

30. See FINKELHOR ET AL., SOURCEBOOK, *supra* note 3, at 154-55; HALL & LLOYD, *supra* note 8, at 51, 54; WAITES, *supra* note 3, at 102.

31. See FINKELHOR ET AL., SOURCEBOOK, *supra* note 3, at 155; HALL & LLOYD, *supra* note 8, at 54-55.

32. See FINKELHOR ET AL., SOURCEBOOK, *supra* note 3, at 156-57; HALL & LLOYD, *supra* note 8, at 47-48; WAITES, *supra* note 3, at 104-06.

33. See HALL & LLOYD, *supra* note 8, at 60, 65-66; FINKELHOR ET AL., SOURCEBOOK, *supra* note 3, at 161-62; WAITES, *supra* note 3, at 114, 167.

34. Examples of revictimization include being raped as an adult or battered by their significant other. See FINKELHOR ET AL., SOURCEBOOK, *supra* note 3, at 158; HALL & LLOYD, *supra* note 8, at 59; WAITES, *supra* note 3, at 114.

35. WAITES, *supra* note 3, at 14.

can result in a type of amnesia.³⁶ It is essentially a “[p]sychic numbing . . . of external events — a closing off of perceptual or emotional reception, so that the event is not fully experienced.”³⁷ Dissociation can be so severe as to lead to such disorders as Multiple Personality Disorder (MPD).³⁸ MPD is an extreme form of dissociation in which the victim’s identity is split or fragmented, and distinct alter personalities are organized around distinct traumatic memories, some of which remember traumatic events that others do not.³⁹ Alternatively, it may simply result in an emotional shutdown, wherein survivors simply feel nothing much of the time or do not associate any emotional response with the memories of their abuse.⁴⁰ This emotional shutdown, while a valid and effective coping mechanism for survivors, can also be harmful. Blume points out that “[b]locking prevents the survivor from facing and dealing with her pain; it interferes with her general life functioning; and it affects relationships because remoteness interferes with intimacy.”⁴¹ Also, suppressing emotions tends to dull “the emotional richness of life. The baby gets thrown out with the bath water And blocking doesn’t stop the pain, which lurks under the survivor’s awareness.”⁴² Thus, while the type of blocking involved may differ, the fact remains that some blocking is common to most incest survivors.⁴³

Some of these long-term psychological effects can be more severe for survivors of incest than for survivors of other types of child sexual abuse⁴⁴ because a family member has betrayed the child’s trust. “The scars from that betrayal can run very deep, affecting the molested children into adulthood and complicating their relationships with future sexual partners.”⁴⁵ This betrayal contributes to the incest survivor’s lack of trust as an adult:

36. See WAITES, *supra* note 10, at 132 (“Dissociation is not simply a matter of forgetting; it typically involves the disconnection or lack of integration of responses at several levels of information-processing.”).

37. See BLUME, *supra* note 2, at 82.

38. See WAITES, *supra* note 3, at 33.

39. See *Id.*

40. See BLUME, *supra* note 2, at 83.

41. *Id.*

42. *Id.*

43. See WAITES, *supra* note 10, at 132.

44. See BUTLER, *supra* note 3, at 5; TERENCE W. CAMPBELL, SMOKE AND MIRRORS: THE DEVASTATING EFFECT OF FALSE SEXUAL ABUSE CLAIMS 7 (1998); FINKELHOR, SEXUALLY VICTIMIZED CHILDREN, *supra* note 3, at 59.

45. CAMPBELL, *supra* note 44, at 8.

Because anger towards the loved person cannot be expressed for fear of losing that person, and cannot therefore be lived out, ambivalence and linking of love and hate remains an important characteristic of later . . . relationships. Many people cannot even imagine that love is possible at all without suffering and sacrifice, without fear of being abused, without being hurt and humiliated.⁴⁶

B. *My Perspective*

I am intimately familiar with many of these psychological consequences of incest. At the age of 28, I struggle every day to deal with its effects. My abuser left not long after my parents saw what happened. I remember being sad when he left, and I remember crying. After he left, I did not remember anything about it for a long time. Then, as a freshman in high school, I started having dreams about myself as a little girl, and a man doing things to me that should not be done to little girls. I do not know when I realized that they were memories, not dreams. I told my aunt (his sister) about the memories. She cried because she had never wanted to believe what she had heard. She made me tell my mother, and my mother made me see a therapist. I do not think I was ready for therapy then, and I do not think it helped me at all. But I do not think my parents knew what else to do for me.

Every day I must deal with this thing that was done to me, this thing that I did. It is not something that just happens once and it is over so that I can move on with my life. It is there every day. It affects the way I see myself, the way I view men, and the way I live my life. I have very little self-esteem. I have been overweight most of my life. I realize now that I am overweight because I feel safer that way. Men are not attracted to overweight women, so my size keeps me from having to deal with men, the real problem. I do not hate men, but I do fear them. I fear being raped by them, I fear being loved by them, and I fear being hurt by them. I also tend to be very abrasive toward men. That way, even if they could get past the weight, I would never allow them to get past the attitude. I do not believe in love, and I do not believe that I am capable of being loved. I am too inse-

46. HALL & LLOYD, *supra* note 8, at 7 (quoting A. MILLER, THOU SHALT NOT BE AWARE: SOCIETY'S BETRAYAL OF THE CHILD (1984)).

cure, and it would take an extremely strong man to deal with all my baggage. I find it difficult to believe that such a man exists.

I realize now that my abuse is not just a story about me — it explains me. It explains why I am abrasive toward men, why I am self-deprecating, why I make jokes when things start to get too serious, why I have touching and personal space issues, and why I have dedicated my life to my career.

I am afraid to bring children into this world. I have heard that those who have been abused tend to become abusers themselves. I have never sexually abused a child and like to believe that I never could. But I do not know and am not willing to take the chance. I also fear that if I am not the one who abuses my child, there are so many others who could. It happened to me right in my parents' own home. You cannot protect children enough, and I could not live with myself knowing that my child could go through a life like mine. I cannot bring a child into a world where small children are treated as sexual objects.

IV. THE LAW'S RESPONSE TO AMNESIA IN SURVIVORS

A. *Past Treatment of Child Abuse*

The practice of incest survivors suing their abusers is not completely new. For example, in a case decided in 1905, a fifteen-year-old girl named Lulu Roller sued her father for damages as a result of his rape of her.⁴⁷ Unfortunately, the attitudes of the time prevented her from obtaining redress. Lulu's case was dismissed by the Washington State Supreme Court on the grounds that "the rule of prohibiting suits between parent and child is based on the interest that society has in preserving harmony in domestic relations."⁴⁸ Another early case involved a man who had been convicted of raping his 10-year-old daughter and was sentenced to life imprisonment. A new trial on appeal resulted in a hung jury, and the defendant was tried again after having spent 13 months in prison. This time, a jury acquitted the defendant after only 30 minutes of deliberation because they believed that the man had "suffered enough" In sympathy, they collected 68 dollars which they presented to the defendant when the case was over.⁴⁹

47. *Roller v. Roller*, 79 P. 788 (Wash. 1905).

48. *Id.* at 788.

49. RUSH, *supra* note 4, at 138.

These cases appear to reflect an attitude that had long been held regarding incest — the idea of family immunity or family privacy.⁵⁰ It was long believed that it was not the place of the state or other individuals to interfere with the privacy of the family.⁵¹ Some have argued that perpetrators of child sexual abuse should not be criminally prosecuted, but that the focus should instead be on the rehabilitation of the perpetrator and the preservation of the family.⁵² However, this approach could be even more damaging to the survivor in that it “trivializes the child’s pain and vulnerability.”⁵³ Similarly, it could cause the survivor to have a distorted worldview:

The family transmits to a child a particular view of reality and filters out competing views. In abusive families, abuse is often presented as necessary and normal and life without abuse becomes, in effect, unimaginable secrecy, which isolates the child from competing views of reality, reinforces the authority of parents to the extent that sometimes even bizarre beliefs are accepted unquestioningly.⁵⁴

Perhaps it is time to reevaluate the importance of the family in our society. The family unit must yield to the right of a child to grow up in a home in which she is safe from the danger of incest. Allowing abusers back into the home with the abused child sends the wrong message, both to the child and the abuser.

B. *Historical Perspective of Adult Survivors*

The phenomenon of adult survivors suing their abusers after recovering memories of the abuse is a relatively new concept. This may be due in large part to Western society’s “long tradition of disbelieving women who claim they were raped or sexually assaulted.”⁵⁵ Historically, society has long disregarded the claims of adult survivors of incest. For example, in 1896, Sigmund Freud raised the issue of child sexual abuse in a paper entitled, “The Aetiology of Hysteria.”⁵⁶ There, Sigmund Freud posited the “seduction theory” which hypothesized “that the neurotic symptoms

50. See, e.g., BUTLER, *supra* note 3, at 140; BROWN ET AL., *supra* note 8, at 578; FINKELHOR, *supra* note 4, at 65; RUSH, *supra* note 4, at 12, 14; WAITES, *supra* note 3, at 3, 12, 70, 72.

51. See sources cited *supra* note 50.

52. SAGATUN & EDWARDS, *supra* note 9, at 116.

53. HARALAMBIE, *supra* note 11, at 12.

54. WAITES, *supra* note 3, at 70.

55. MYERS, *supra* note 3, at 18.

56. *Id.* at 19; see also HALL & LLOYD, *supra* note 8, at 6-7; WAITES, *supra* note 3, at 128.

that he observed in his adult female patients were caused by sexual abuse during childhood."⁵⁷ However, this theory was not well received by Freud's psychiatric colleagues, which led him to abandon the theory in favor of what we now know as the Oedipus complex.⁵⁸ This complex purports to explain women's neurotic symptoms as stemming from sexual fantasy during childhood instead of sexual abuse.⁵⁹ This allowed Freud to return to the good graces of the scientific community and allowed society to again ignore the problem of child sexual abuse.

Research has shown that prior to the mid-1970s the few legal scholars who wrote on the issue of child sexual abuse contributed to the historical skepticism common to the rest of society.⁶⁰ They essentially downplayed the frequency and seriousness of child sexual abuse, blamed the victims for their own abuse, accused adult survivors of fabricating stories of sexual abuse out of spite or a need for attention, and suggested that women enjoyed toying with men by saying "no" when they meant "yes."⁶¹ This skepticism began to change in the late 1970s with the rise of the feminist and child protection movements and the increase in the number of women in the legal field.⁶² This change led to "a virtual explosion of writing that was more sympathetic to victims of rape and sexual abuse."⁶³ This proliferation of writing finally gave a voice to adult survivors and revealed child sexual abuse as the problem that it really was.⁶⁴

C. *Recent Changes in the Law*

Fortunately for survivors, the law has begun to heed the call of the adult survivor whose memory of incest may have been suppressed for many years and who, upon remembering, wants to remedy the wrong that was committed against her. In recent years, there has been a movement to extend statutes of limita-

57. MYERS, *supra* note 3, at 18.

58. *Id.*

59. *Id.*

60. *See* MYERS, *supra* note 3, at 23-24.

61. *Id.* at 25-27.

62. *Id.* at 29.

63. *Id.*

64. ELLEN BASS & LAURA DAVIS, *THE COURAGE TO HEAL: A GUIDE FOR WOMEN SURVIVORS OF CHILD SEXUAL ABUSE* 482-83 (3d ed. 1994).

tions to allow adult incest survivors to bring civil suits against their perpetrators.⁶⁵

Statutes of limitation for personal injury claims begin to run when the cause of action accrues.⁶⁶ Normally, this means that the statute begins to run at the time of the injury. However, there are discovery rules that extend (or toll) the limitations period for certain specified reasons. For example, in the case of those who incur injury before reaching the age of majority or for those who have a disability, the statutory period will be tolled until the age of majority is reached or until the disability has been overcome.⁶⁷

These discovery rules, however, tend to be of little help for adult incest survivors, especially for those survivors who repress their memory of the abuse until well after they have reached the age of majority. Furthermore, "most courts that have been asked to rule on the question have held that a turbulent mental state, which results from the abuse itself, does not amount to a mental disability that would toll the statute of limitations."⁶⁸

However, there does exist one legal device that has proved useful to survivors — the delayed discovery doctrine.⁶⁹ According to this doctrine, which was traditionally used in cases "where the plaintiff could not have reasonably discovered his injuries,"⁷⁰ the statute of limitations can be tolled until the plaintiff "has

65. While recovered memories of abuse may sometimes play a part in criminal cases, see BROWN ET AL., *supra* note 8, at 591, my focus here is solely on civil remedies.

66. See BROWN ET AL., *supra* note 8, at 579; HARALAMBIE, *supra* note 11, at 82; SAGATUN & EDWARDS, *supra* note 9, at 252.

67. Sheila Taub, *The Legal Treatment of Recovered Memories of Child Sexual Abuse*, 17 J. LEGAL MED. 183, 194 (1996).

68. *Id.*

69. Almost every state has a statute allowing the use of the delayed discovery doctrine, some of which are specific to cases of child sexual abuse. *E.g.*, ALASKA STAT. § 09.10.140 (2001); ARK. CODE ANN. § 15-56-130 (West 1999); CAL. CIV. PROC. CODE § 340.1 (2001); COLO. REV. STAT. § 13-80-103.7(1) (2000); 735 ILL. COMP. STAT. 5/13-202 (2000); IOWA CODE § 614.8A (2001); KAN. STAT. ANN. § 60-523 (1999); KY. REV. STAT. ANN. § 413.249 (1999); LA. STAT. ANN. § 9:2800.9B (West 2000); MINN. STAT. § 541.073 (2000); MONT. CODE ANN. § 27-2-216 (1997); NEV. REV. STAT. 11.215 (2000); N.J. STAT. ANN. § 2A:61B-1(b) (1987); N.M. STAT. ANN. § 37-1-30 (2000); OR. REV. STAT. § 12.160 (1999); S.D. CODIFIED LAWS § 26-10-25 (2000); UTAH CODE ANN. § 78-12-25.1 (2000); VT. STAT. ANN. tit. 12, § 522 (2001); VA. CODE ANN. § 8.01-249(6) (2000); WASH. REV. CODE § 4.16.340 (2001). *Cf.* CONN. GEN. STAT. ANN. § 52-577d (1999).

70. Gary Strauss, *Child Sexual Abuse Civil Actions and the Statute of Limitations: Time is Running Out*, 1993 DETROIT C.L. REV. 1641, 1647; see also HARALAMBIE, *supra* note 11, at 87.

knowledge of all the essential facts necessary to bring a cause of action."⁷¹ Unfortunately, determining the point at which an incest survivor knew or should have known of her injury is not easy. Usually there is a complete lack of physical evidence since the harm is mostly psychological for adults. Also, there are many instances in which the survivor simply does not know that the abuse was wrong, and therefore may not know of a "harm," even though she remembers the abusive acts. Similarly, "although the victim might realize for a long time that she is suffering from abnormal psychological symptoms, it is often beyond the pale of reasonableness to charge the victim with the knowledge of making the connection between the abuse and the damage."⁷² For these and other reasons, it has been difficult to apply the delayed discovery rule to incest survivors.

The delayed discovery rule was first applied in the groundbreaking case of *Johnson v. Johnson*.⁷³ In *Johnson*, the court divided child sexual abuse cases into two categories: Type I and Type II. A Type I case involves a survivor who always remembered the abuse, but was unaware of the connection between the abuse and her psychological problems. A Type II case, however, involves a survivor who "has totally repressed the memory of the abusive sexual acts."⁷⁴ Applying Illinois state law, the *Johnson* court held that "at some point the injured person becomes possessed of sufficient information concerning his injury and its cause thereby putting a reasonable person on inquiry to determine whether actionable conduct is involved. At that point, under the discovery rule, the running of the limitation period commences."⁷⁵ The court found that the plaintiff was a Type II plaintiff, and in such a situation, "the strictures of the statutes must sometimes be loosened in order to give the substantive law room to develop." Thus, the court held that the delayed discovery rule applied.⁷⁶

The *Johnson* court's division of child sexual abuse cases into two types provided the basis for other courts' application of the delayed discovery doctrine to incest survivors' claims. Some

71. Strauss, *supra* note 70, at 1647.

72. *Id.* at 1648.

73. *Johnson v. Johnson*, 701 F. Supp. 1363 (E.D. Ill. 1988)

74. Strauss, *supra* note 66, at 1648-9.

75. *Johnson*, 701 F. Supp. at 1370 (quoting *Knox College v. Celotex Corp.*, 430 N.E.2d 976, 980-81 (Ill. 1981)).

76. *Id.* at 1369. The Court did not indicate whether a Type I plaintiff should be equally entitled to the benefit of the delayed discovery rule.

courts have held that Type II plaintiffs are entitled to the benefit of the delayed discovery rule, but Type I plaintiffs are not.⁷⁷ Others have agreed to also apply the rule to Type I plaintiffs, reasoning that although the survivor may remember the abuse, she may not know that her psychological problems as an adult were caused by that abuse and thus should have the benefit of the rule once she discovers the causal connection.⁷⁸ This division of cases into Type I and Type II has also become "a convenient standard for measuring how lenient a particular state is in preserving the [child sexual abuse] victim's cause of action."⁷⁹

As of mid-1997, at least 31 states had enacted statutes dealing with claims of recovered memories of child sexual abuse.⁸⁰ 26 of these statutes permit some sort of delayed accrual of the action,⁸¹ while 5 of them simply provide for a longer statute of limitations, without any delayed accrual.⁸² Some statutes, such as one in New Jersey, are especially pro plaintiff.⁸³ Others, like those in California and Louisiana, provide rather extensive protection for defendants.⁸⁴ Of the states with no statute specific to child sexual abuse, 4 states have provided for delayed discovery in some survivor actions through judicial opinion or some other means.⁸⁵

77. See, e.g., *Hildebrand v. Hildebrand*, 736 F. Supp. 1512 (S.D. Ind. 1990); *Marsha V. v. Gardner*, 281 Cal. Rptr. 473 (Cal Ct. App. 1991); *Meiers-Post v. Schafer*, 427 N.W.2d 606 (Mich. 1988); *E.W. v. D.C.H.*, 754 P.2d 817 (Mont. 1988).

78. See, e.g., *Franke v. Geyer*, 568 N.E.2d 931 (Ill. App. Ct. 1991); *Callahan v. State*, 464 N.W.2d 268 (Iowa 1990); *J.L. v. J.F.*, 722 A.2d 558 (N.J. Super. Ct. App. Div. 1999); *Osland v. Osland*, 442 N.W.2d 907 (N.D. 1989); *Hammer v. Hammer*, 418 N.W.2d 23 (Wis. Ct. App. 1987).

79. *Strauss*, *supra* note 70, at 1649.

80. See *BROWN ET AL.*, *supra* note 8, at 591.

81. *Id.* These states include Alaska, Arkansas, California, Colorado, Florida, Illinois, Iowa, Kansas, Maine, Massachusetts, Minnesota, Missouri, Montana, Nevada, New Jersey, New Mexico, Oklahoma, Oregon, Rhode Island, South Dakota, Utah, Vermont, Virginia, Washington, Wisconsin, and Wyoming. *Id.*

82. *Id.* These states are Connecticut, Georgia, Idaho, Louisiana, and Texas. *Id.*

83. See N.J. STAT. ANN. § 2A:61 B-1(d)(1) (allowing incest survivors similar protections to rape victims, such as prohibiting admission of evidence of the survivor's previous sexual activity, and protecting the identity of the victim, among other provisions); *Taub*, *supra* note 67, at 198.

84. See CAL. CIV. PROC. CODE § 340.1(d), (e) (West Supp. 2001); LA. STAT. ANN. § 9:2800.9B (West 2000) (requiring that the plaintiff's attorney file a certificate of merit with the complaint, and that the complaint not be served upon the defendant until (1) the court has determined that there is reasonable cause for filing the lawsuit, and (2) some corroboration of the abuse has been provided); *Taub*, *supra* note 67, at 198-99.

85. *Id.*; see *Farris v. Compton*, 652 A.2d 49 (D.C. 1994); *Fager v. Hundt*, 610 N.E.2d 246 (Ind. 1993); *McCollum v. D'Arcy*, 638 A.2d 797 (N.H. 1994); *Leonard v.*

Regardless of which party is more protected by a certain statute, the fact that such statutes exist at all is a great accomplishment. Delayed discovery laws have allowed for the commencement of numerous child sexual abuse suits that would have previously been barred by a technicality. The implications of such statutes for survivors are extensive. Not only are survivors finally given a voice, but “for the first time, large numbers of perpetrators of child sexual abuse may now be held accountable for their past conduct.”⁸⁶

While the use of the delayed discovery doctrine has enabled more survivors to bring their abusers to justice, survivors may still face other obstacles to civil suits. For example, survivors may face evidentiary issues, such as a lack of corroboration. Since many years may have passed between the abuse and the filing of a lawsuit, the entire suit may end up being the survivor’s word against that of the alleged abuser. Further, unless there were witnesses to the abuse, there may be little or no proof available independent of the memory of the survivor. Similarly, “[s]exual abuse is often particularly difficult to prove because the abuse may not be immediately visible. The damage may be primarily emotional, and the symptoms may not be clear.”⁸⁷ Another concern involves the privilege of the relationship between a survivor and her therapist.⁸⁸ As will be discussed below, when the accused offender challenges the validity of a survivor’s recovered memories of abuse, therapy methods may be called into question, possibly requiring that the therapist violate the therapist-client privilege.⁸⁹ Thus, the extension of the delayed discovery doctrine to cases brought by adult survivors of child sexual abuse does not necessarily guarantee that a survivor will succeed in bringing a civil suit against her abuser.

D. *Impediments to the Law’s Response to Amnesia in Survivors*

Cases brought by adult survivors under the delayed discovery statutes have encountered considerable opposition by alleged

England, 457 S.E.2d 302 (N.C. 1994); *Osland v. Osland*, 442 N.W.2d 907 (N.D.1989); *Ault v. Jasko*, 637 N.E.2d 870 (Ohio 1998).

86. Cynthia Grant Bowman, *The Manipulation of Legal Remedies to Deter Suits by Survivors of Childhood Sexual Abuse*, 92 Nw. U. L. REV. 1481, 1483 (1998).

87. SAGATUN & EDWARDS, *supra* note 9, at 21.

88. See WAITES, *supra* note 10, at 210.

89. *Id.* at 210-11.

abusers, as well as from psychologists, psychiatrists, and legal scholars, all of whom have developed extensive arguments against the use of recovered memories to allow survivors to hold their abusers liable. Alleged sexual abusers frequently use the same arguments historically used by abusers in attempting to deny or evade responsibility for their actions. Such arguments essentially amount to attempts "to neutralize the voices of victims, so much so that the victims themselves may participate in deconstructing their own stories of abuse."⁹⁰ They include attempts to attack the victim (by accusing her of being crazy, mistaken, confused, vengeful, manipulative, or seductive) or to reframe the abuse (by minimizing the event or saying that the victim misunderstood the intent behind the touching).⁹¹ These forms of denial are successful for two important reasons:

First, there is a general reluctance to believe victims who speak out against other family members, in part because of a cultural predilection for deference to the sanctity and privacy of the family. Second, where the perpetrator is a family member, attempts to build a case against the victim as somehow crazy or delusional may have been underway even before the abuse is uncovered. If the abuser is in an ongoing, close relationship with the victim, and is psychologically dominant, he or she has had a powerful opportunity to work on the victim's sense of reality.⁹²

One recent development is proving to be a particularly disturbing and discouraging response to cases by survivors who have recovered their memories. That development involves an organization called the False Memory Syndrome Foundation (FMSF), which asserts that memories of child sexual abuse recovered by adults can never be trusted and many times is "implanted" during the course of therapy.

The False Memory Syndrome Foundation was founded in Philadelphia in 1992, by parents whose adult children had accused them of sexual abuse during their childhood, based on recovered memories.⁹³ This group has assumed the task of aiding the efforts of those who have been accused of child sexual abuse. Its activities include local support groups, national lobbying campaigns, and the promotion of research. FMSF also coordinates

90. Elizabeth Mertz & Kimberly A. Lonsway, *The Power of Denial: Individual and Cultural Constructions of Child Sexual Abuse*, 92 Nw. U. L. REV., 1415, 1417 (1998).

91. *See generally id.*

92. *Id.* at 1424.

93. *See BROWN ET AL.*, *supra* note 8, at 16.

an organized, proactive litigation campaign in the area of repressed memory cases. It publishes a monthly newsletter, which provides "litigation strategies to counter survivor claims and advertises pleading and brief blanks that are available for a modest fee, presumably to encourage the filing of lawsuits in other states based upon these models."⁹⁴ Essentially, "the FMSF legal activity is directed not only at defending suits against alleged abusers, but also at preventing and deterring claims of childhood sexual abuse from ever receiving a hearing on the merits in court."⁹⁵

The FMSF has posited the existence of what it calls "false memory syndrome," which "states that false 'memories' of child sexual abuse that never occurred are implanted in the minds of people, generally women, and generally during therapy with master's-level female therapists."⁹⁶ The theory is based on the founders' skepticism about the recovery of memories of abuse long after the alleged events, and their belief that therapists are largely responsible "for manipulating adult patients into believing they were sexually abused during childhood."⁹⁷ However, it has been argued that false memory syndrome "is simply a term conveniently coined to sound 'scientific' and negatively label those who claim to have memories of childhood abuse," or that the syndrome is nothing more than a "calculated legal defense strategy."⁹⁸ Arguably, there does not seem to be any scientific support for the theory that repressed memories cannot be trusted, or that it is so easy for therapists to implant memories in patients.⁹⁹

Regardless of the apparent lack of factual support for their theory, the FMSF has developed several novel legal theories in its effort to combat the use of recovered memories by adult survivors. Three of such theories advocate third party suits by alleged abusers against those whose efforts have helped survivors come to terms with and seek redress for their abuse. The first type of suit involves malpractice suits brought by alleged abusers against the therapists whose treatment resulted in the recovery of memories of abuse by their children. The second theory involves loss

94. Bowman, *supra* note 86, at 1485.

95. *Id.*

96. HARALAMBIE, *supra* note 11, at 119. For a comprehensive review of the FMSF's arguments regarding false memory syndrome, see generally CAMPBELL, *supra* note 44.

97. SAGATUN & EDWARDS, *supra* note 9, at 257.

98. *Id.* at 258.

99. See BROWN ET AL., *supra* note 8, at 26-27.

of consortium claims against those therapists. The last involves suits against attorneys who file lawsuits against alleged abusers on behalf of survivors, based on recovered memories of abuse.¹⁰⁰

All three of these suits present disturbing implications for survivors, therapists, and lawyers alike. For therapists, the negative effects of these suits can be overwhelming. "Imposing upon the therapist a duty to a third party would seriously threaten the confidentiality of therapist-patient communications."¹⁰¹ Such suits could deter therapists from taking on any clients with a claimed or potential history of child sexual abuse. Additionally, the threat of such suits could deter them from properly diagnosing actual survivors. Such fear exposes the therapist to a conflict: "[e]ven where the client's best interest seems to dictate a confrontation with her abuser, a therapist abreast of the latest legal developments may be reluctant to encourage a confrontation or to be present if it does take place . . . and may counsel against the filing of any legal action."¹⁰²

The effects of these cases on lawyers could be similar to those imposed on therapists. Many attorneys may simply refuse to take on representation of incest survivors because of the threat of malpractice or malicious prosecution claims. While cases against attorneys generally have not been successful, such attempts represent "the most direct effort . . . to prevent survivors from exercising their newly won right to claim damages for past abuse If successful in this context, they will become a powerful deterrent to survivors seeking damages, making their newly recognized rights illusory."¹⁰³

The most important and most problematic aspect of such cases is their potential for further silencing survivors. Suits by abusers against therapists and attorneys tend to bypass the survivor altogether, robbing her of her voice. It "reduces her to a cipher, neither to be confronted directly nor to be held responsible for the consequences of her actions."¹⁰⁴ In a suit by a survivor against an abuser, the survivor is given a voice, allowed to tell her story, and allowed to heal by the telling. If the abuser sues the therapist, the survivor is robbed of that voice, denied of any agency, and is effectively silenced even further. If the purpose

100. See generally Bowman, *supra* note 86, at 1485-98.

101. *Id.* at 1490.

102. *Id.* at 1489.

103. *Id.* at 1498.

104. *Id.* at 1488.

and effect of delayed discovery statutes was to empower survivors, suits such as these could potentially rob them of any power they had hoped to attain. Many of the women who bring cases based on repressed memories have been silenced all their lives. Through cases such as these, survivors are essentially silenced forever. Having finally been given the opportunity to speak and to seek redress, even that opportunity is robbed from them.

As a survivor, I am disturbed by the beliefs and actions of the FMSF. I acknowledge that the FMSF has served some beneficial purpose. They have called public attention to the existence of dangerous practices by therapists and have provided support for those parents who truly have been falsely accused by their children based on "false" memories.¹⁰⁵ However, I believe that these benefits are far outweighed by the damage done to survivors. There is no concrete statistical evidence to support the claims of the FMSF that "false" memories are as common as they claim. Indeed, most statistics indicate the opposite — that most memories of child sexual abuse, while not perfectly accurate in their details, are reliable and should not be so easily dismissed.¹⁰⁶ Further, those who endorse organizations such as the FMSF appear to be avoiding and denying the real problem — that of the existence and extent of child sexual abuse. Thousands of children are sexually abused every day, and millions of adult women are living with the psychological effects of being abused as children,¹⁰⁷ but members of organizations such as the FMSF refuse to see this, instead choosing to hide safely behind their newsletters and support groups.

V. THE IMPORTANCE OF TELLING THE STORY

In my view, one of the most important reasons for allowing adult incest survivors to bring suits against their abusers is the survivor's need to tell her story. In most cases, it is a story that she was forced to keep secret, either by threat or by shame, at the time that it happened. It is a story that, for many, was repressed for years as a way of coping with the violation of a body too small to withstand it, and a brain too undeveloped to understand it. It is a story that has been denied and disbelieved for too long, and one that should no longer be silenced.

105. See BROWN ET AL., *supra* note 8, at 18.

106. See BROWN ET AL., *supra* note 8, at 26-27, 383; MYERS, *supra* note 3, at 111.

107. See HARALAMBIE, *supra* note 11, at 2; MYERS, *supra* note 3, at 3; SAGATUN & EDWARDS, *supra* note 9, at 4.

Although it is not an extremely widespread topic, women have begun to tell their stories. While there is some evidence that women have been telling their stories for centuries,¹⁰⁸ it has become a much more widespread topic in the last twenty years. Well-known women in television, such as Oprah Winfrey and Roseanne, have gone public with their stories of incest.¹⁰⁹ Prominent authors, such as Maya Angelou and Dorothy Allison, have published stories that graphically describe sexual abuse by family members and friends of the family.¹¹⁰ These are the stories that many people know about. But there are also less well-known stories being told, stories by other women who are also survivors of child sexual abuse. These stories are proof that survivors are no longer willing to be silent.

The benefits of allowing victims to tell their stories are best illustrated in an anthology entitled *I Never Told Anyone*,¹¹¹ which contains several short stories, poems, and book excerpts written by survivors of child sexual abuse. The very purpose of the anthology, as described by one of the editors, is "to help give the sexually abused child a voice."¹¹² Louise Thornton states that the editors' primary hope for the anthology "is that the sexually abused child will come to understand that she can tell. In this telling she can reclaim her innocence. She *is* innocent. She has *always* been innocent. Both the burden of the crime and the crime itself are lifted from her shoulders. She can tell."¹¹³ Ellen Bass, in her introduction to the anthology, illustrates the power of writing the story: "In the process of writing, of saying what has not been said, of giving voice to the unnamable, we claim our experience. We are brave. We are no longer victims. We show what we have endured. We look at this reality in order to destroy it."¹¹⁴

The stories and poems in this book reflect both the experience of memory repression and the survivors' need to end the silence. For example, one author explains that after her abuse, "[f]or the next several years, all of this pain and misery stayed out of conscious memory. I would wake up from a sound sleep

108. See RUSH, *supra* note 4, at 10.

109. See, e.g., HARALAMBIE, *supra* note 11, at 36.

110. See, e.g., MAYA ANGELOU, *I KNOW WHY THE CAGED BIRD SINGS* (Bantam Books 1997) (1969); DOROTHY ALLISON, *BASTARD OUT OF CAROLINA* (1992).

111. *I NEVER TOLD ANYONE* (Ellen Bass & Louise Thornton eds., 1983).

112. *Id.* at 17.

113. *Id.* at 19.

114. *Id.* at 24.

crying but never remembered the dream that made me cry.”¹¹⁵ Similarly, another survivor writes, “A child’s promises, a child’s rules. It has taken me twenty-two years to remember this story.”¹¹⁶ The author continues, triumphantly,

“It’s time to say I love myself and those who give me words that circumscribe this choking silence, who hand me back my life. It’s time to own the fear in that girl’s honor, it’s time to break her code. It’s time to scream, to believe that screams are heard. It’s time to tell on Uncle Mack again and again, tell until he begs us to let him go.”¹¹⁷

As these excerpts suggest, the ability to tell one’s story can be powerfully liberating for adult survivors who have spent many years keeping the secret of their abuse. These works and others powerfully illustrate the reality and horror faced every day by so many survivors of child sexual abuse. They are real stories, and many of them are based on memories of abuse that were repressed for many years. The fact that the abuse was repressed makes them no less real, no less truthful, and no less horrific. Survivors are empowered by being allowed to tell their stories. It allows them to absolve themselves of guilt and shame; it allows them to come to terms with the emotions that they have tried to suppress; and, most importantly, it allows them to tell. They are finally able to break the silence that has been imposed on them for so long. It is important to allow them to tell their stories.

At the end of the *Introduction* to this anthology, Bass stresses the importance and healing power of allowing victims to tell their stories and concludes with a very powerful statement:

In this book, survivors of childhood sexual abuse use the power of speech to transform, to fuse secret shame, pain, and anger into a sharp useful tool, common as a kitchen knife, for cutting away lies and deception like rotten fruit, leaving the clean hard pit, that kernel of truth: These insults were inflicted, are inflicted now, every day. The repercussions are deep and lasting. The will to survive is strong, the tenacity and beauty of survival inspiring. We are not alone. We are not to blame. We are innocent, innocent and powerful, worthy of our healing fury, self-love, and love for each other.¹¹⁸

115. Jill Morgan, *It Began For Me*, in *I NEVER TOLD ANYONE* 11 (Ellen Bass & Louise Thornton eds., 1983).

116. Experience Gibbs, *1952, and Other Years*, in *I NEVER TOLD ANYONE* 164 (Ellen Bass & Louise Thornton eds., 1983).

117. *Id.*

118. *Id.* at 59.

A prominent book for and about adult survivors of child sexual abuse, *The Courage to Heal*, also suggests that telling her story is “an essential part of healing from child sexual abuse.”¹¹⁹ The authors warn, however, that the telling can also be one of the more difficult parts of the healing process.¹²⁰ The survivor must be careful about choosing who to tell, when to tell, and how much to tell.¹²¹ While there is a possibility that some may react negatively to what they hear, it is important that the survivor not get discouraged from telling others. “It is important that you have some relationships in which you can be your whole self — with your history, with your pain and anger — and the only way to create those is to share honestly about yourself. When you are met in that honesty, then you feel real intimacy.”¹²²

The healing power of telling the story is poignantly revealed in a poem called “Caution: There’s a Child Inside,” written by an incest survivor:

There is a child inside me, and though she’s very small,
 There was a time not long ago she seemed not there at all.
 Then one day I was asked to tell a little of my past.
 As I spoke and walls came down, a little comfort the child had
 found.
 Hiding no longer would keep her content,
 though protecting her had been my intent.
 Frantically now she tried to reach out
 to see what this feeling had all been about.
 For while I was thinking I just couldn’t cope.
 Someone had given the child some hope.
 Here began the struggle, you see,
 between this little child and me.
 For she had to be quiet and remain inside,
 so her guilt and shame I could hide.
 Now someone has told her she wasn’t to blame;
 and there wasn’t a reason for her to feel shame.
 Even though she still felt guilt and shame,
 she clung to that hope just the same.
 I continue to fight her for I feel I must,
 for I see her slowly beginning to trust.
 And I don’t want her to hurt for I remember too well,
 Her painful experience, of which I tell.
 But this one who continues to listen to me,
 reaches into the child and tells her she’s free.¹²³

119. BASS & DAVIS, *supra* note 64, at 103.

120. *Id.*

121. *Id.* at 110-11.

122. *Id.* at 112.

123. HALL & LLOYD, *supra* note 8, at 262-63.

I am well aware of the benefits of telling one's story of incest. Although I have told a few close friends about my abuse, it is only recently that my process of telling began with the writing of this Essay. Even if the only person to ever read this Essay was my professor, I found the process of writing to be intensely liberating. I learned that I was not alone, that millions of other women share my story, and that my issues and phobias are normal and manageable.

Since writing the original version of this Essay for a law school seminar, my healing process has continued. I have been in therapy for over a year, and have been successfully dealing with the issues stemming from my incest. My self-confidence and self-esteem have improved, and I have begun to trust people more easily — even men. I have let down some of my defenses, and found the power within myself to control my own boundaries without resorting to abrasiveness. And, most importantly, I am breaking the silence and ending the secrecy. Many people who know me now know that I was sexually abused as a child. My family knows that my incest has become a major factor in my life, and that I am aggressively dealing with its effects. I understand myself better than I ever have before and am proud of what I have accomplished in life.

VI. CONCLUSION

Child abuse is a serious and largely unrecognized problem in contemporary society. Millions of women are currently coping with the memories and psychological effects of the sexual abuse they experienced as children. Its effects are very real and long lasting. Many women repress memories of their abuse as children, only to recover the memories and suffer the emotional consequences as adults. The process of remembering and healing is difficult and exhausting.

The efforts of organizations such as the False Memory Syndrome Foundation only make this healing process more difficult for survivors. It deprives them of their voice, and could potentially prevent them from ever having an opportunity to seek redress for the abuse that was inflicted upon them as children. While I submit that there are some instances in which such an organization's efforts are justified, I believe that their very existence is a threat to survivors everywhere because it will continue to impose the silence that has been forced upon survivors all their lives. Such organizations cannot be denied their right to

organize and to speak; however, the courts should not take their efforts lightly. Cases such as those brought by the FMSF should be very strictly scrutinized, with thorough consideration of the possible chilling effects that they could have on the healing ability of survivors. We must be careful not to allow the efforts of these organizations to enable abusers to evade responsibility and avoid accountability, while forcing women to continue living in silence.

As a survivor myself, I highly recommend that any woman dealing with memories of child sexual abuse find a way to tell her story. Whether she tells a friend, sees a therapist, or attends a support group, the process of telling is very important to the survivor's healing. One resource that was very helpful to me, and can be very helpful to other survivors, is *The Courage to Heal*, by Ellen Bass and Laura Davis.¹²⁴ This book discusses the many long-term effects of child sexual abuse and suggests ways to deal with those effects. It includes a list of resources for those who wish to seek help, including national hotlines and websites.¹²⁵ I also recommend that women take advantage of the legal remedies available to them and bring suit against their abusers. The more cases that are brought, the more society will take notice of the reality of the problem.

Most importantly, adult survivors must realize that, although the memories and healing process may be very difficult at times, there is light at the end of the tunnel. It is important to know that most adult survivors of child sexual abuse "grow up normally and do well in life."¹²⁶ Survivors have accomplished much and will continue to do so in the future. Our abuse has made us strong, determined, independent, and caring. We should be proud of what we have overcome, the women we have become, and the things we have accomplished. Most of all, we should be proud that we ended the silence.

124. See BASS & DAVIS, *supra* note 64.

125. *Id.* at 538-539.

126. MYERS, *supra* note 3, at 16.