



Reliability of Witness Testimony of Past Events

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It began as I was following closely the breaking news stories of then Supreme Court nominee Brett Kavanaugh's alleged sexual misconduct leveled by Christine Blasey Ford, leading up to the eventual showdown at the 2018 Senate Judiciary Committee Hearing [1]. Ford gave explosive testimony in front of the Senate Judiciary Committee, alleging that Kavanaugh attacked her at a party when they were teenagers and attempted to rape her, which the judge denied. Further, it was brought up that she had passed a polygraph test beforehand, which was supposed to enhance her credibility.

According to Kavanaugh, his memory was without any doubt. He said he had no recollection of ever meeting Ford in high school. With him categorically denying all sexual accusation charges and the lack of corroborating witnesses, it came down to Ford's testimony at the infamous hearing. Rachel Mitchell, an experienced sex crime prosecutor, was recruited to question Ford when she testified before the Committee. It was telecasted nationally and to most of the TV audience, it seemed Mitchell was challenging Ford's account of what happened when she was aged 15--whether her memories of what occurred about 30 years ago were accurate or faulty, or whether she could be lying.

During this momentous time, I was tasked to author a chapter on the Psychoanalytic Aspects of Personality for a college coursebook. I read up on the psychodynamics of witness testimonials and was surprised that in the case of Ford, no psychologist came forward to offer such analysis--at least on mass media. Herein, this high-stake case is reviewed in light of the psychodynamics of her testimony.

It is noted that in child abuse cases, when there is no objective evidence of abuse other than the child's memory, a very untidy legal situation can result. Freud himself claimed that most parent-child sexual abuse reports were faulty. Freudian theory maintains that sexual assault would be so psychologically distressing that it might very well be repressed, because the conscious mind cannot face the overwhelming stress of the grisly memories [2].

In this way, the child's testimony could be recovered from his/her formerly repressed memory. In the case of George Franklin Sr. he was tried for murder based on his daughter's testimony of re-

membering him molest and kill her playmate 20 years earlier. Was this a true memory, long repressed because it was too awful and horrific, and now it is finally rising to her consciousness? He was convicted of murder and sentenced to life in prison. He was later released from prison after a federal appeals court overturned the conviction; however, his daughter remains convinced of his guilt [3].

A public scandal erupted when the late Joseph Cardinal Bernardin of Chicago was accused of sexually molesting Steven Cook 17 years earlier. The Catholic priest vehemently denied the charges but Cook claimed to have remembered the molestation under the treatment of a hypnotherapist; he was further convinced by passing two polygraph tests. After further psychological and legal investigation, Cook recanted and admitted he was mistaken to accuse the cardinal. He identified another clergyman as the molester and proceeded to take legal actions against him [3].

It is estimated that tens of thousands of adults in the U.S. have made claims of childhood sexual victimization based on recalled memories, and an alarming number of children are indeed victims of molestation, as exposed in the recent large-scale revelations of child abuse by Catholic priests. A memory of a coherent, shocking scene may indeed be repressed in a form that can re-emerge and be retrieved years later.

As a counter-argument, one of the main detractors of "repressed memory" is Professor Elizabeth Loftus. Complex childhood memories are generally not accurate, and she argues that there is no scientific evidence to support these "memories". It is often a case of mis-remembering and one of her key discoveries was that people will recall events differently, depending on how they are questioned, whether by a psychologist, a police officer or other authority figures. This is because people are suggestible; their memories may be distorted and influenced by others or certain events, making memories untrustworthy [4]. Loftus is somewhat of a crusader of falsely accused victims, having testified on behalf of Franklin Jr. and in over 300 court cases in the past 40 years. She has remained unconvinced by the science behind repressed memories.

To interject a first-hand, personal note, I have experienced memory loss from what is referred to as “black-out” or dissociative episodes, under frantic, traumatic and highly stressful circumstances. The first time was when I was in middle school playing around to chase after school mates who had fled into a classroom and locked the door. I was told that I tried to kick open the door. This was when I was taken to the principal’s office to answer for this egregious act. Up to this day, I don’t remember the exact moment of my alleged wrong-doing. And then in my middle age during the funeral of my father when I was carrying his portrait in the procession, I lost about 90 minutes of memory of the goings-on. I was told I acted normally except for a blank look on my face; and up to this day, I cannot retrieve the 90 minutes of memory. I believe my repressed memory took the form of dissociation as an overload response to remove from the cascade of unwanted memories and feelings.

Back to the Kavanaugh/Ford Senate Judiciary Committee Hearing, critics cited that it was more like a kangaroo court proceeding. In fact, it was not a court of law. The one-day hearing, in which each senator had five minutes to speak, pontificate or inquire, was not the most productive. In front of the Senate Judiciary Committee, Kavanaugh behaved in a manner he would likely not tolerate in his own courtroom. He was histrionic, overly emotional and hostile, calling the whole confirmation process a national disgrace. He presented certain evidence that would not be admissible in a court of law.

It was a Senate Judiciary Committee Hearing with its own set of ground rules. Rachel Mitchell, the acting prosecutor, had to comply with them, which impeded getting to the truth of what really happened. Had it been a court hearing, I believe she would have called in a forensic psychologist expert witness. Moreover, there was due discussion about Ford’s polygraph test, and polygraph results are seldom admissible as evidence in a court of law. The Republican senators further interrupted Mitchell to give speech after speech lamenting the way Kavanaugh and his family have suffered, lambasting the Democrats for carrying out a political plot to fight against the dominance of Republicans. Some Republicans were suggesting that while Ford’s assault was real, perhaps her memory about Kavanaugh was flawed or distorted. Further, Congressional Democrats and Ford’s attorney may have affected her recall account. Indeed, considering the unreliability of recovered memory, or even the influence of suggestibility on memory, Ford could very well believe Kavanaugh to be the perpetrator--enough to pass her polygraph test. As we know, Kavanaugh was finally confirmed to the Supreme Court and the real truth behind the allegation of at-

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