

Imagination Inflation and Suggestibility in Children's Testimony: "There is a Santa Claus"

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ABSTRACT

With an increasing awareness of child sexual abuse, children have often been called to testify as either victim and/or witness. The courts and science have failed to reach a conclusion on the reliability of children's testimony. All witness testimony is complicated by the variable elements of memory, suggestibility, and obedience to authority which renders determining the facts of a case for acquittal or indictment, outside of physical evidence or criminal confession, complex. For children, testimony is further complicated by age; their less developed memory faculties; the emotional and psychological trauma elicited by abuse and the courtroom situation; and by their more intense proclivity to cooperate with trusted, adult authority figures. These components tend to make them more susceptible to suggestion and possibly jeopardize a fair trial. This paper looks at current research on suggestibility and imagination inflation, and proposes that several other aspects that may impact children's testimony – imagination, emotionality, and children's innate sexuality – have not been adequately incorporated into this already complicated equation of testimony efficacy.

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"I can't believe that!" said Alice. "Can't you?" the Queen said in a pitying tone. "Try again: draw a long breath, and shut your eyes." Alice laughed. "There's no use trying," she said: "one can't believe impossible things." "I daresay you haven't had much practice," said the Queen. "When I was your age, I always did it for half-an-hour a day. Why, sometimes I've believed as many as six impossible things before breakfast." (Lewis Carroll, Through the Looking Glass)

Dating back to the Salem Witch Trials, children's testimony has continued to be a difficult and controversial issue in American law. Most "scientifically derived" research generally does not question the ability of children to recall events, does recognize the necessity of their testimony in the absence of other witnesses, and supports the potential testimonial competence of children. These studies, however, also debate and explore the psychological influences and potential detriments – primarily suggestibility

and biased interviewer techniques – that may result in tainted recall and unfair convictions (Ceci and Bruck, 1995). Imagination inflation (and reality monitoring) is particularly interesting, with reference to suggestibility (and interviewer technique), as it addresses an element, while evident in all human beings of any age, particularly profound in children – the power of the imagination (Garry, Manning, Loftus, & Sherman, 1996).

As all memory is essentially constructed, testimony becomes a subjective process involving both imagination to facilitate recall and concrete recollection. Imagining enables memory processing, but the imagination also provides opportunity for the development of planted memories (manipulation) and false memories, especially as individuals attempt to fill in memory gaps. Additionally, fantasy and myth-making are fundamental aspects of the social and psychological construction of human life/thought and ordering of history. Is children's testimony valid and credible where it is difficult for adjudicators and children to distinguish fact, lies, and fantasy? Children's testimony can be significant and credible if it is carefully monitored (Ceci and Bruck, 1995).

Legal History and Relevance

The legal system requires cognitive, social, and emotional skills from its participants. Witnesses must encode, store, retrieve, and effectively verbally communicate memories, usually in an environmentally-specific linguistics, all in a stressful atmosphere. Adjudicators must employ sophisticated reasoning skills within an elaborated knowledge base. The courtroom procedure itself necessitates emotional maturity and a facility for advanced coping strategies. Children are still developing these capabilities. The result is a severe mismatch between requirements of the legal system (including emotional and psychological coping mechanisms) and the relative immaturity and delicacy of children. This is fertile ground for misinterpretation on all sides and impacts the credibility of children's testimony (Westcott, Davies, & Bull, 2002).

The two extreme opposing views range from those who believe the child no matter how bizarre the allegations to those who believe all disclosures from children should be viewed with skepticism (Ceci

and Bruck, 1995). For the former, due to the emotional hazards and communicative difficulty for children to convey their victimization, aggressive interview techniques, including leading questions, fantasy play, and guided imagery, must be employed to elicit incriminating information. For the latter, more “passive” interview techniques are implemented, as children are vulnerable to erroneous suggestions and regurgitate interviewer bias and insinuations. Aggressive interviewing, however, can eventuate two contrasting scenarios, that of the frightened, abused child finally persuaded to profess true allegations and that of the non-abused child being coerced to espouse false ones. Below are summaries of some case studies which illuminate the detrimental repercussions of believed false allegations and the potency of imagination when not monitored.