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Author

Esparza, Juan J.

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Bodies of Silence as Bodies of Evidence: Unpacking Intersectional Failure in South Africa's Truth And Reconciliation Commission (TRC)

Juan J. Esparza, Women's Studies, California State University, Fresno

Land Acknowledgment

The Center for the Study of Women at UCLA acknowledges the Tongva peoples as the traditional land caretakers of [Tovaangar](#) (Los Angeles basin, So. Channel Islands) and are grateful to have the opportunity to work for the [taraaxatom](#) (indigenous peoples) in this place. As a land grant institution, we pay our respects to [Honuukvetam](#) (Ancestors), ['Ahihirom](#) (Elders), and ['eyoohiinkem](#) (our relatives/relations) past, present, and emerging.

“Females are more impoverished than males in South Africa, with poverty headcount of 58.6% as compared to 54.9% for males” (Statistics South Africa)



“Of nearly 9000 cases of violations only about nine have claimed they have been raped” (Women's Hearing: Dr. Sheila Meintjies, 1997, 2) and even then these cases are **Heteronormative and cisnormative.**

5. SHEZI TRANSCRIPT

MS SHEZI: ... We drove all around Soweto... When we arrived at this police station, I can't even remember whether it was John Vorster or Alexandra. When we arrived there I had already been heavily beaten. I'd been assaulted and even the clothes that I was wearing, they were torn. I was almost naked at that stage.... After that he took me away and I still had the sack on my face. He took me to another room. I don't know where this room was, but it was a dark room. When they arrived there, there were two policemen there. The one was Van Heerden, but I can't remember the other one. They said do I know Silver and I said, no, I don't. They asked me where did I train, I said, no, I'm not trained. And they poured cold water on me, they poured acid on this water that they were pouring on me and that acid got into my eye and today I can't see properly in the other eye.

After that, they took some things like Maglite(?) and they put this on my body and they used this electrodes to choke me and today I still have scars.

They choked me until I bit my tongue, because I was trying to breathe with my mouth, because my nostrils were closed by the sack. They choked me until I bit my tongue and my tongue got torn.... They told me that my children and that my children had been handed over to welfare...

CHAIRPERSON: You have mentioned that there were in fact four men who raped you. Now, were all of these men White or were there some Black policemen amongst them?

MS SHEZI: They were all White males and they were speaking Afrikaans.

(Womens Hearing: Shezi, 1997, 1-25)

1. Introduction

Following the fall of the Apartheid government in 1996, South Africa's movement towards restorative justice in the transitional period of government results in an intersectional failure due to the Truth and Reconciliation Commission (TRC) being limited in its ability to handle human rights violations and thus subjecting victims to further violence. The TRC was born from the PROMOTION OF NATIONAL UNITY AND RECONCILIATION ACT (PNURA) 34 OF 1995 in the spirit of restorative justice, the calling for healing and unity of all social groups in South Africa in order to develop a more prosperous nation. PNURA (1995) states that true healing will arise through:

“facilitating the granting of amnesty to persons who make full disclosure of all the relevant facts relating to acts associated with a political objective and comply with the requirements of this Act “(SS 2-11, 3(b))

This research focuses on **Black South African women** who resided in **townships** and were raped and forgotten in the time that the TRC was active, which is 1995 to 2002.

2. Thesis

The TRC's main goal was to bring forth apartheid abuses along the lines of race, but never gender, sexuality, class and much less basic human rights. I argue that bodies of silence are bodies of evidence through a narrative analysis of Black South African Women's' lived experiences and call for academics to queer Kusafuka's work to heighten attention to multi-dimensional violence that Black bodies are faced with in South Africa that need further study. **The bodies of silence surrounding the intersectional violence that Black South African women endured during the TRC period should not be correlated with absence, but rather with reticence.** If this approach is adopted, then we will successfully capture what remains untold in these testimonies.

3. Why were cases not brought forth to an amnesty panel?

A Mishandling of Justice

Per the TRC guidelines regarding the application for amnesty, there are requisites that must be met by the applicant. In order to apply for amnesty for acts of violence committed during this time period, the alleged criminal must appear for interrogation and they must meet the victim(s)/survivor(s) and/or their families. One example of how the TRC created restorative justice was in the cases of the Gugulethu 7 and the Cradock 4 (Clark & Worger, 2016, 105-108). In both cases, Afrikaaner police had murdered and tortured black men who were activists from townships for opposing the Apartheid government. At the end of both cases, the families of the deceased find some peace and manage to forgive the murderers. However, in the instances of rape brought forth, not a single man came forth seeking amnesty for raping, torturing, and kidnapping Black women who were in the struggle. Given this background of racist state sanctioned violence, we can understand why Black South African women would not want to report the offender and why they are omitted from the list of Apartheid abuses.

4. Rape as "Severe ill-treatment" under TRC's Human Rights Violations framework

“gross violations of human rights' means the violation of human rights through (a) the killing, abduction, torture, or severe ill treatment of any person; or (b) any attempt, conspiracy, incitement, instigation, command or procurement to commit an act referred to in paragraph (a)” (Truth and Reconciliation Commission, 2003, 289-290)

Yes, the TRC held special hearings on women; However these human rights violations are only held at face value since the only dialogue it can produce is around how to curb a form of violence. In the end, the TRC could not address gender violence and was ill-equipped because it fails to recognize that Apartheid was not just about race, but also about gender and patriarchy. Cheryl de la Rey in “Chapter 10: Special Hearing on Women” (1998) states that “...when we do not undertake specific actions to draw attention to the issues that affect women, what happens is that men and the experiences of men become the yardstick by which judgements are made...because they unwittingly assume a male outlook in accordance to equality” (Truth and Reconciliation Commission, 1998, 284)

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