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Women: one chapter in the history of South Africa? A critique of the Truth and Reconciliation Commission Report.

by Beth Goldblatt and Sheila Meintjes

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Introduction

The TRC Report is the closest thing South Africa has to an official history of apartheid. In a few years time when the TRC itself is a distant memory, the Report will remain as the legacy of an extremely important process in South Africa's transition to democracy. The way in which the Report represents our history has implications for our national consciousness as well as that of future generations. The way in which people understand their history impacts on the way in which they live in the present. Cognisant of the importance of the Report, the legislators who drafted the Act governing the TRC charged the Commission with the responsibility of "establishing as complete a picture as possible of the causes, nature and extent of the gross violations of human rights committed during the mandate period". This paper suggests that this task has not been adequately achieved. The failure to utilise a gendered analytical framework in the writing of the report has led to a number of weaknesses with the report which has serious implications for the telling of our history.

The five-volume report represents the outcome of more than two years of enquiry into the gross human rights violations that occurred during the period 1960 to 1990. The Commission elicited evidence from thousands of individuals, and also received submissions from political parties, non-governmental organisations (NGOs) and lobby groups. One of these was a submission prepared by ourselves on behalf of a group called together by the Gender Research Project of the Centre for Applied Legal Studies at the University of the Witwatersrand on 'Gender and the TRC'.(1) Our concern was to persuade the TRC to adopt a gender sensitive framework in its treatment of witnesses, in its analysis of their evidence, and in its approach to the history of the thirty years under its review. Our submission showed how violence was experienced differently by men and women because of the gendered nature of society. We felt that it was important that the experience of women be reflected in a manner that drew attention to the nature of gender identity and subjectivity in society.

In a short paper such as this, it is impossible to give a detailed textual critique. However, it is important to draw attention to the way in which the Report deals with gender. In the Report gender is considered in the narrowest possible terms, as pertaining merely to the role and experience of individual men and women. There is no sense of how gender shapes the position of women and men as social and political actors in society and in politics. There is also no questioning of why it is that women and men experience specific and different forms of human rights abuse and torture. During the course of the Report, incidents of violence against

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1 The submission was presented to the Commission at a special meeting of all the Commissioners in May 1996. Subsequently a broader workshop attended by women's organisations was called by the TRC to discuss the submission and the holding of special hearings for women.

women and men are described, including rape. Yet there is no attempt to explain the differential impact of these actions. Women and men simply do not experience sexual abuse or rape in the same way. This was a point we made in our submission, but there is no reflection upon our suggestions, which were an attempt to draw out the significance of and links between sexuality, masculinity, femininity and violence. We showed that the personal disintegration of men and women had quite specific gendered effects and meanings.

In this paper we undertake a partial textual analysis of the TRC's Report in order to draw attention to the implications of the lack of a gender analysis. We reach the following conclusions: first, the emphasis on individual rather than systemic violations leads us away from understanding women's experience of apartheid. Secondly, we argue that the way in which women are portrayed in the Report as secondary subjects perpetuates their subordinate status in society. Thirdly, we suggest that the descriptive rather than analytical way in which sexual violence is dealt with, means that this massive social problem is not properly addressed and is left unexplained. Finally, we argue that the failure to explore the issue of the social construction of masculinity and its role in our society is a missed opportunity with problematic consequences for the building of a society based on gender equality.

Archbishop Tutu, in his foreword to the Report, says that the report "is not and cannot be the whole story" and calls on South Africans to add to the report and to correct it. We have taken on this challenge in the hope that we can make a constructive contribution towards debate about the TRC Report.

Individual versus Systemic Focus

In this section, we assess the way in which the TRC defined its field of concern. In the chapter entitled 'The Mandate'(vol. 1, ch. 4), the TRC points to the problem of restricting its work to cases of gross violations of human rights. The report notes that the "system itself was evil, inhuman and degrading for the many millions who became its second and third class citizens"(para 51). The report draws a distinction between "gross" human rights violations and "serious" human rights violations. This seems to involve distinguishing for example, between a person shot by police in a protest march from a person who died as a result of being turned away from a Whites-only hospital. The report acknowledges the further problem of restricting the definition of severe ill treatment to "specific acts resulting in severe physical and/or mental injury, in the course of past political conflict" (para 55) or what it terms violations of "bodily integrity rights".

The report notes that a number of submissions made by several groups argued that the TRC should deal with all those whose rights had been violated in the past. However, as the report says, the TRC decided not to focus on the systemic effects of apartheid laws. It made a choice in limiting its work in this way. Perhaps it would have been more understandable if the Commission had honestly admitted that it needed to draw a line between dealing with systemic abuse and gross human rights violations against individuals for reasons of practicality and limitations of resources. Instead, the TRC has unconvincingly attempted to justify its decision on the basis of a narrow interpretation of its legal mandate.

This legal mandate then translated into a particular focus that limited the way in which the TRC was able to interpret past violations. The experience of individual men and women was chosen as the way in which to gather together a sense of past human rights violation. This does not mean that the TRC did not provide any context to these actions. Volume two

provides a contextual history of the period, and attempts to periodise the nature of state violence, both inside South Africa and without. However, it does not succeed in going beyond a description of apartheid's attempts to contain, and subsequently to destroy, its opposition. This is not enough if we are to fully grasp the extent and nature of apartheid as a system.

The Report does give one a sense of the evolution of conflict in South Africa from the 1960s to the 1990s, describing the shift towards a people's war and insurrectionary politics, which generated counter-insurgency models of state repression. The description lacks an analysis and exploration of how the state in turn made every person in the society subject to vigilance and suspicion, citizen and subject alike. As the regionalisation of conflict occurred in the late 1960s and early 1970s, so a new discourse emerged, couched in militarism and revolutionary terminology. What is interesting about this new development was the shift it created in gender relations throughout society. For this new militarism at the same time created new kinds of masculinities, defining the role of male and female citizens in different ways. All South Africans became objects of control and the consequence was the use of state violence in new ways.

The decision of the TRC to limit its focus to individual violations of bodily integrity rights had significant gender implications (as we warned in our submission).2 Gender relations in society mean that men are more likely to come into direct conflict with authority figures. While men and women suffered under apartheid, the forms of suffering differed. Black women in domestic labour faced various forms of abuse and violations because of their vulnerable position as unprotected workers, temporary visitors in white areas and by being forced to live apart from their partners and children. The history of apartheid, just as it can be told by a man tortured in detention, could be told by almost any black woman in describing her life. It would be a tale of families torn apart, land taken away, schooling denied, movement and speech curtailed, of fear, harassment and poverty.

As the Report itself admits, there has been a "failure fully to grasp the significance of individual victims' testimony ... Each story of suffering provided a penetrating window into the past. The challenge ... is to keep the memories alive, not only of gross violations of human rights, but of everyday life under apartheid" (Vol 1, ch 5, para 109). This should be qualified by a broader understanding of the gendered nature of that everyday life. We do not need to keep memories of those violations alive. Their legacy is very much a part of most South Africans' lives. Millions of mothers and fathers live hundreds of kilometres away from their children who continue to be

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2 In the discussion on methodology (vol. 1, ch. 6), the need for a plurality of methods, both qualitative and quantitative is emphasised. This includes an analysis of systematic patterns as well as documented human rights violations. Volume two reflects an attempt to provide a periodisation of the pattern and nature of human rights violations in the context of an historical overview. Moreover, the Report accepts the view of Richard Wilson who says that "violence, like any other social process, is expressed and interpreted according to sets of metaphors about the nature of power, gender relations, and human bodies" (Vol 1,Ch 6, para 11). It is disappointing that the Report does not follow through an exploration of systemic human rights violations nor of the thematic and metaphorical aspects of power, gender relations and human bodies suggested by Richard Wilson.

provided with dismally poor education. Poverty, illness and discrimination are very much alive in many parts of the country. The millions of farm workers, the unemployed, domestic workers and many others still suffer from apartheid policies despite formal legal changes.

The failure to adopt a gendered analytical framework means that a seemingly neutral approach to the recording of our history has resulted in the exclusion of women's experiences (Olckers, 1996). It also means that the historical role of patriarchy in shaping the society we have today, is almost entirely left out. In the chapter 'Concepts and Principles' (vol.1, ch. 5), the following statement seems to indicate the need for such a framework. It says: "Gross socio-economic inequalities are the visible legacy of the systematic, institutionalised denial of access to resources and development opportunities on grounds of colour, race and sex. But they are also the less tangible consequences of centuries of dehumanising devaluation of 'non-Europeans', 'non-whites' and 'non-males'" (vol 1, ch 5, para 25). The Report also recognises, in discussing reconciliation at community level, that human rights violations damaged social relations and that within communities conflicts emerged between various social groups, including men and women (vol 1, ch5, para 17). Unfortunately, this is not explored.

In the same chapter, the report talks about the nature of a crime against humanity. It says: "-it relates to the political structures which result in sections of the society being seen as less than fully human. It condemns the identified group to suffering and violence as a matter of birth, over which the individual concerned has no influence, control or escape. It excludes a section of the population from the rights afforded to others. It denies that same group participation in the selection of government and in government itself. It facilitates the promotion of extra-legal actions by the dominant group further to suppress those judged to be the 'enemy'- whether Jews, slaves or blacks. Finally, it promotes moral decline within the dominant group and the loss of a sense of what is just and fair" (Vol 1, ch 5, para 104). This extract describes apartheid or systematic racial discrimination but could just as well be describing patriarchy or the systematic oppression of women in society. The focus on race discrimination means that other social inequalities were brushed over. The intersection between different forms of oppression were not examined. Since patriarchy exists in all societies of the world, there may have seemed nothing special about it to the TRC. Our argument, however is that the separation of one set of rights violations from another diminished the ability of the TRC to challenge injustice and create the basis for a society founded on fundamental human rights and freedoms. This argument is based on the view that violence and discrimination against women are violations of human rights.

Another problem with the report is that its chronology of apartheid legislation (Vol 1, ch 13) omits to mention a number of the pieces of legislation that affected black women in particular, such as aspects of the Black Administration Act dealing with the Minority status of women married under customary law, the position of customary marriage and the separate courts for black divorces.

The Report is not entirely gender blind however. It refers to the consequences of gross violations of human rights in specifying the disruptions to family life (Vol 5, ch 4, paras 73-133). This small section contains important analysis. It notes that "apartheid generated a crisis in South African family life. Group areas legislation and forced removals have both been linked to disruptions in healthy family functioning, and the migrant labour system also deprived people of family life. Children were denied fatherly guidance and support during their formative years and the fact that

women were obliged to take on domestic work meant that children were denied the care of their mothers...many fathers were away from their children for long periods, and perhaps more seriously in a patriarchal society, separated mothers from their children for long stretches." (Para 74-5). This is an important acknowledgement of the gendered impact of apartheid.

The problem with presenting the experience of apartheid as that of individual actors, despite valiant attempts at social and political contextualising, is that it does two things. First it presents the struggle against apartheid as a sum of individual actors, and misses the organisational and social aspects of opposition. Secondly it tends to 'victimise' those who experienced human rights violations. This divorces them from their role as agents shaping the nature of apartheid's response.

What is missing is both the contextual background and the description and evidence of the myriad of individual cases is exactly how gender structured the way in which state agents and activist opponents were involved in this struggle. It is to a critique of this aspect of the report that we now turn.

Women as Secondary Subjects

The particular manner in which the Report defines the experience of women shapes the understanding of women's role during the struggle. Women in particular are portrayed as victims of a secondary type, erasing the nature of their own agency, and in fact reconstructing women in this image. The problem with the lack of a gender sensitive approach is that it simply creates an image of women as sexual objects and secondary victims, and only indirect participants in the struggle against apartheid. Such a view provides the context for the recreation of a female secondary status, and a redefinition of secondary political citizenship in the present.

One example of this is in the discussion of the emergence of Total Strategy. Women on both sides of the political divide became involved and were affected by the broadening of the politico-military struggle. When the people became the enemy, and the notion of a People's war gained currency in the 1980s, so whole communities became targets, but also became active opponents. It is only with a gendered lens that we can begin to comprehend the nature of opposition on the one hand, and on the other of attacks on women and men during this period. Another example, for instance, is in a discussion of Koevoet's bounty 'scoring' system in the war in Angola, where there is mention of the way in which civilians were intimidated. The Report mentions excesses 'such as rape' (Vol 2, Ch 1, para75). Such widespread use of rape as a technique for intimidating people is not self-explanatory. That women of eighty and children as young as four were raped requires more than mere mention. Was this simply the behaviour of a few bestial soldiers, or was this a general practice? The question was not raised.

The Report is clear that racism was a socialising and organising principle which underlay the whole system. (Vol 2, Ch 1, para 15) But it was not simply a question of the structural nature of apartheid within which racism was a first principle. It was also that it was embedded in the consciousness of society and the individuals who made up that society. What the report completely ignores in its discussion and characterisation of the system, is the inherent patriarchal nature of the society, which was equally embedded in society. The way in which

race created secondary subjects needs to be understood alongside the way gender served to differentiate the subjectivity of men and women. Women were different secondary subjects from men of their race and class. South Africa is made up of a 'patchwork of patriarchies', to use Belinda Bozzoli's characterisation, which determine the way in which women have participated in social activities historically. Employment opportunities, the migrant labour system, production and reproduction are limited and determined by gender. The TRC report ignores this, and instead presents a descriptive narrative that simply presents women as sexual victims (of rape, for instance) or as people who during the course of the TRC itself, serve up the experience of men as secondary victims. Whilst the narrative of individual cases includes a few women, the vast majority are those of men, even if narrated by women.

Many thousands of pages into the TRC Report, in volume four of five volumes, in the last chapter (ten) of the volume, one finds a short chapter entitled "Special Hearing: Women". The chapter is the product of a process instigated by NGOs. Also, much is drawn from research by NGOs and academics. Although this chapter summarises much of the information and interpretations provided by the women's hearings and our submission, it fails to integrate the methodology in the body of the report. A key point that we were making in our submission was that the gender question should not be relegated to a chapter at the end. Women's experience becomes into a chapter. This manner of packaging women's experience serves to create a ghettoised female subjectivity, and is blind to the gendered nature of 'the social'.

That more women than men gave statements to the TRC (55.3% women, 44.7% men) is an interesting fact. Significant because most of the testimony presented by these women was about men. (Vol 1, Ch 6, para 23). In the examination undertaken by Commissioners of these women's experience, little came out about their own harassment. Most women spoke about the experience of others, particularly men, many of whom had died and to whom the women were related. In contrast, most men talked about themselves and their own experiences (para 24 and 29). The three small hearings held to explore the experiences of women did not and could not address the problem. Nor did the issue of these hearings lead to any substantive exploration of the implications of separating out the experience of women for the way in which this history would be written.

The finding on women in the concluding volume is wholly inadequate. It contains one paragraph on women as a category which reads as follows:

> Many of the statements made to the Commission by women detail the violations inflicted on others - children, husbands, siblings and parents - rather than what they themselves suffered. Undoubtedly the violation of family members had significant consequences for women. However, women too suffered direct gross violations of human rights, many of which were gender specific in their exploitative and humiliating nature. The Commission finds that:
> The state was responsible for the severe ill-treatment of women in custody in the form of harassment and the deliberate withholding of medical attention, food and water.
>
> Women were abused by the security forces in ways which specifically exploited their vulnerabilities as women, for example rape or threats of rape and other forms of sexual abuse, threats against family and children, removal of children from their care, false stories

about illness and/or death of family members and children, and humiliation and abuse around biological functions such as menstruation and childbirth.

Women in exile, particularly those in camps, were subjected to various forms of sexual abuse and harassment including rape.

Why women suffer abuse in this way is not problematised. A gender perspective would have raised questions about the link between identity, power and sexuality in differing contexts. It was not only women and children who were made vulnerable and abused. Yet the way in which violations were reported suggests that men were the primary and real subjects of this history. To illustrate this point, in a search of references to women in the report, a large number occur in sentences such as "a number of people were killed, including women and children". Women become the appendages, those who are the victims. That they might have played an active role is not contemplated in the way the Report is written. This manner of dealing with gender colludes in creating a secondary class of victims. The summary of the already inadequate presentation of women's experience in the single chapter on women was both unreflective and inane. Its focus on sexual violence and women in detention parodies the position of women, and constructs women as sexual objects and mothers. In this way it perpetuates particular gender stereotypes and the construction of a particular kind of female subjectivity. Much of what happened to women happened to men too. Genital torture, withholding of food, water and medical supplies were experienced by men. By citing these experiences as particular to women, women are rendered as weaker and more vulnerable than men.

Sexual Violence unexplained

Sexual violence against women is referred to twice in Archbishop Tutu's foreword as an example of the worst type of violation possible. For instance, he uses the example of a woman killing her rapist to argue that certain uses of force are morally and legally acceptable (Vol 1, Ch1, para 53). Further on, he speaks of the psychological difficulties experienced by TRC staff in having to translate and register murderous actions by perpetrators or the awful torture of women in the first person. Tutu expressed the abhorrence and anguish of society to the evidence of such gross human rights violations as the following: "They undressed me and opened a drawer and shoved my breast into the drawer which they then slammed shut on my nipple". The example tacitly confirms the censure of society against sexual violence against women. But it is significant that Tutu does not attempt to explain the action. Lack of a methodological approach which places gender into the analysis and conceptual framework *ab initio*, means that we cannot begin to understand why women's bodies and sexuality were used in the way they were by their torturers. Sexual violence was a method of torture in which women's sexuality and womanhood was used to undermine women's identity and their commitment.

The fact that women found it so difficult to speak about their experiences of sexual assault, whether the site of the experience was in detention, in exile camps or in communities is itself a point which needed to be explored. The strategy of attacking the sexual identity of women and men was predicated upon the silence that would follow the experience. The report fails to note the point that women and men in our society find it extremely difficult to talk about sexual violence openly. For this reason very little evidence came out about sexual violations as human rights violations. But even where it does come out, there is a resounding failure of analysis. This,

despite the fact that the TRC was itself responsive to the advocacy of NGOs and academics in favour of women's hearings. Indeed these few hearings in major centres provided the only platforms where women felt at liberty to speak of sexual torture.

The TRC recognised a wide variety of forms of sexual abuse as constituting torture, severe ill-treatment and associated violations (Vol 5, ch 1, appendix 1). These included threats of rape, touching, nakedness, sexual comments or insults, deprivation of sanitary napkins during menstruation, and other forms of sexual harassment. Many of these examples emerged from the special women's hearings and would not have emerged in the ordinary course of investigations, either because they are subjects not easily spoken about or because they were not considered by victims as serious or worthy of mention. It has been clear from our work in this field that many women activists had stayed away from the TRC because they felt what happened to them was either not serious enough, or too embarrassing to speak about.

There is a quote from Thenjiwe Mtintso at the Johannesburg Women's Hearing about the wounds of women that have been opened and left open without assistance or support (Vol 5, ch 9, para 18). There is also reference to testimony of sexual abuse which emerged in a hearing and which had not been mentioned in the statement (para 10 and 11). This means that many people who made statements but were not chosen to speak at hearings may still be bottling up their experiences out of shame and embarrassment. Mtintso attempted to explain the high levels of abuse in South African society, both historically and in the present. She says the problem of violence against women and children results partly from the war that has gone on in South Africa and partly as a result of patriarchy. She says that democracy, reconciliation and nation-building is under threat if this violence cannot be prevented.

As the Report explains, this may be because "constant exposure to violence may lead to desensitisation, a situation where a person may deny his or her feelings. Responding to conflict with violence became a typical, rather than an isolated, phenomenon. Violence in South African society is also reflected in domestic violence such as wife and child abuse" (Vol 5, ch 4, para 77). It is not however acknowledged that such violence against women occurs not only in the domestic context but is prevalent in all spheres of society. The causes of violence against women are not examined - while violence does beget violence, why is it women who are most often the victims? This issue is not adequately explored nor is the impact of such high levels of violence against women on our society today. This problem is seen as somehow separate from the other legacies of apartheid. It is also not seen in human rights terms due to its location within the private sphere and because it is only very recently that the rights of women are beginning to be framed within a human rights discourse (Copelon, 1994, 116). The report links domestic violence to social strain and disintegration, but unfortunately makes no recommendation regarding violence against women when setting out rehabilitation and reparation measures (Vol 5, ch 5, para 132). Other issues such as mental health services, family therapy, education and housing are listed.

The Report seems to recognise that gender inequality is a human rights issue and is part of the process of healing and reconciling our society. But when it comes to making a finding, the TRC is either unable or not prepared to go out on a limb and link political violence to current levels of gender violence. A particular silence in this regard is its silence about constructions of masculinity in the gender equation.

Masculinity remains a mystery

In the chapter dealing with 'Causes, Motives and Perspectives of Perpetrators '(Vol 5, ch 7), the report examines how social identity contributed towards violence. Masculinity in particular was mentioned as a causative factor (para 110-114). The report notes that few women perpetrated violence - the overwhelming number of perpetrators were men. The report says that patriarchy, "the ideology of male domination... is a significant explanation of the male's apparent propensity towards violence but patriarchy as ideology itself requires explanation". It goes on to say that "it is beyond the scope of this report to explore the issue fully, but it remains an important part of the understanding of violence... its significance as a contributing factor should not be undermined". In the earliest stages of the process, in March 1996, the workshop on 'Gender and the TRC' suggested the importance of exploring gender as a relationship and factor in understanding the nature of violence against women and men. Yet no submissions were called for on this topic. This lacuna has important theoretical and practical implications for the way in which we understand the use of sexual torture, for instance, or the construction of political power and political identity. There is ample evidence in the report of men's particular experience of human rights violations. The examination of witnesses, however, could have been better conducted had more sensitivity been given to the issues of gender and sexuality

As alluded to previously in this paper, issues of identity and masculinity are important in providing some understanding of how patriarchal power has operated under apartheid, and in the new transforming environment. Perpetrators of human rights abuses have been construed by the former government to have been 'renegade' policemen acting with criminal intent (Vol 2, ch 3, para 214). The TRC has said, however, that torture 'was practised systematically'. The creation of a supportive male environment which condoned this behaviour was germane to the success of the system. The same may be said for the use of rape as a 'weapon' of torture and personal disintegration. Because the Commission did not attempt to understand and focus upon patriarchy and masculinity as an aspect and even as an explanation for the use of sexual torture, it will require a much more systematic and rigorous analysis of the evidence both in the report and in the archives of the TRC before we will be able to say anything authoritative either about the masculinities of apartheid or of the sexual dynamics of torture.

Conclusion

The Report is a reflection of the TRC process which failed to adopt a gendered analytical framework to guide its work. The TRC itself is a product of society in that sense - women's experiences are ghettoised and marginalised. The report did not take our recommendations seriously into account. Women have been treated as a separate category, and a single chapter has been devoted to the experience of women. The problem with this approach is that it creates a disjuncture in explaining and understanding both women and men's experience of violence. The call for gender sensitivity in the course of investigation, and the setting up of special hearings for women, was important and commendable. However, in simply providing a descriptive account of what women experienced and in recounting some of these experiences, the TRC has failed to provide any analysis of the political and social context of the specific nature of the gendered experience of women and men. The implications of this failure for the way in which our history is recorded is that we will have a very partial and androcentric view of the apartheid experience.

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