

Views from the field

Truth seeking and gender: The Liberian experience

Anu Pillay

Anu Pillay is an international gender and transitional justice specialist. She worked most recently as gender advisor to the Liberian Truth and Reconciliation Commission.

Conflict is highly gendered, that much we know. That men and women experience conflict differently and that women's experience of the conflict is shaped by the status of women in the country prior to the conflict, we also know. However, the question remains: how is truth gendered and how does attention to gender influence truth-seeking in a post-conflict situation?

Following Liberia's intensely violent conflict that ravaged the country for 14 years, the Comprehensive Peace Agreement (CPA) signed in Accra, Ghana, in 2003 made provision for the establishment of a Truth and Reconciliation Commission (TRC). This was an attempt by the negotiators to include an accountability mechanism acceptable to all warring factions. The peace talks had already witnessed thirteen stalled attempts to end the conflict. It is important to note here that Liberian women played a critical role in bringing the warring factions to the negotiation table, as well as in applying pressure during the process for the agreement to be signed. But despite their activism women were nonetheless excluded from the formal peace talks and only a select few participated as observers.

Against this background, the National Transitional Government of Liberia (NTGL) was appointed in 2003 and it in turn created a Commission to begin the process of truth seeking. However, this first Commission did not stand up to public scrutiny for a variety of reasons, not least because there had been no guiding Act or policy to steer its development. The TRC was therefore reconstituted through an official Act passed in June 2005 and was tasked with investigating ‘gross human rights violations and violations of international humanitarian law as well as abuses that occurred, including massacres, sexual violations, murder, extra-judicial killings and economic crimes’ perpetrated between 1979 and 2003 (TRC Act, 2005).¹ The newly constituted TRC was mandated to investigate the causes, nature, patterns and impact of human rights violations, as well as identify the key antecedents to the crisis by examining Liberia’s history prior to the conflict. The Liberian Commission finally began its operations in 2006 and was composed of nine national Commissioners under the chair of Jerome Verdier, a former human rights and civil society activist.

The transitional government, the TRC and finally the new administration under Ellen Johnson-Sirleaf, elected the first female African president in November 2005, were ushered in through a tense and troubled process with real fears of the conflict being re-ignited. This placed a heavy burden on the truth-telling process and the TRC came under intense scrutiny from all stakeholders and interested parties. Understandably, the most war-affected people were fearful of further conflict and consequently were enthusiastic advocates for peace at all costs. However, many perceived the Commission to be a creation for the international community to pretend that something was being done while perpetrators walked free. As a result, many suggested the TRC was in effect a blanket amnesty for the perpetrators of the violence. Conversely, some viewed impunity as such a strong feature of Liberian history, extending back to the arrival of the settlers, that prosecution for war crimes could be the only way to end the cycles of violence. Reflecting these divisions, Liberian civil society debated on the radio, television and in other public fora what was the most necessary transitional justice initiatives to ensure peace and stability.

1 The TRC’s full mandate and report can be accessed at the official website <<https://www.trcofliberia.org>>.

Views from the field: The Liberian Experience

Against this backdrop, the TRC's Commissioners tried to find ways to implement their mandate and satisfy expectations.

From the outset, the Commission adopted a fiercely independent position and decried international 'interference' in its operations. Nonetheless, an international technical advisory committee (ITAC) was established as a forum to consult with international 'experts'. The Commissioners' struggle with interpreting the Commission's very broad mandate was compounded by a number of internal divisions that resulted in the formation of uneasy alliances within the body. The media capitalised on these splits and repeatedly reported the internal squabbles and sometimes public confrontations. This, in turn, led some Commissioners to publicly distance themselves from positions taken by other TRC Commissioners in the media. So, even though the TRC was committed to fulfilling its mandate, issues were often overshadowed by other more melodramatic events.

Liberia's most recent 14-year brutal conflict embroiled the entire West African sub-region and all factions including those employed as peacekeepers were involved in violating and exploiting women. Many women also chose to become combatants or to provide auxiliary support but were still subject to sexual abuse from male combatants, becoming their 'bush wives' or performing sexual favours to ensure their survival. As noted earlier, women also became involved in peace work and were instrumental in bringing the warring factions to the peace table in 2003. However, despite Liberian women's significant involvement during the conflict, they were marginalised during the negotiation process, and their concerns over the terms of the transition remained on the fringes. This view from the field is based on my own personal experience as the gender advisor to the Liberian TRC in 2008 and 2009. I will look at how the Commission dealt with Liberia's gendered past and how their interpretation of gender impacted on attempts at truth seeking.

Interpreting Gender

When the Liberian TRC launched its operations in June 2006, each of the nine Commissioners was allotted a variety of thematic, programmatic and county-specific oversight roles. Drawing from the dictates of their mandate and the

particular context of the conflict, Commissioners identified several thematic areas of focus – including children, economic crimes and gender. The gender focus area was formed in response to provisions in the TRC Act which were seen as ‘gender-sensitive’. Not only did the Act make clear provision for the inclusion of women as Commissioners, it also made nine provisions for dealing with gender issues. However, in every articulation the concept of gender was linked explicitly to women and children. For example:

Article IV Section 4(e): *The objectives/purpose of the Commission shall be to promote national peace, security, unity and reconciliation by...Adopting specific mechanisms and procedures to address the experiences of women, children and vulnerable groups, paying particular attention to gender-based violations, as well as to the issue of child soldiers²*

Article VI Section 24: *The TRC shall consider and be sensitive to issues of human rights violations, gender and gender-based violence... [so] that gender mainstreaming characterizes its work, operations and functions, thus ensuring that women are fully represented and staffed at all levels of the TRC and that special mechanisms are employed to handle women and children victims and perpetrators...*

Article VII Section 26 (f): *Its functions and powers shall include...Helping restore the human dignity..., giving special attention to the issues of sexual and gender-based violence and particularly to the experiences of children and women during armed conflicts in Liberia...*

This articulation of gender in the TRC Act identified a broad term which inferred a commitment and sensitivity to women’s rights and needs, along with the rights and needs of children. While the mandate did provide a strong impetus to the TRC to reach out to women and encourage their participation, it was not initially interpreted to go beyond a women and children’s affairs portfolio and was not linked to gender equality as the overarching goal. Gender thus developed into work with women or for women: a gender committee was established to design and undertake projects that focused exclusively on engaging women in the TRC

2 The full mandate is available at <https://www.trcofliberia.org/about/trc-mandate>.

Views from the field: The Liberian Experience

process; and the mainstreaming of women, women's experiences, and women's roles in other core functions of the TRC focused primarily on women as victims, particularly of sexual violence. But neglecting gender as an analytical tool meant overlooking the reasons why women were targeted for particular violations and how notions of masculinity and femininity had shaped the way that the women and men had behaved during the conflict. As such the Commission failed to provide deeper understanding as to why the violations against women and girls spanned age groups from babies to grandmothers over 80 years old, and what underpinned the waiver of cultural checks that made such and other behaviours taboo in peacetime.

The Gender Committee and Gender Policy

The TRC's Gender Committee was first established in late 2006, as the TRC was preparing to undertake an outreach programme targeted at Liberian women. Prior to the constitution of the Committee, work on gender had been led principally by individual Commissioners, particularly former journalist, Massa Washington. In part, because funding had not been secured for the TRC's full operations during its preparatory period, the TRC began without a fully staffed or functional Secretariat. Without the oversight of an Executive Secretary or Programme Director, early programmes advanced independently of one another. This initial autonomy of programming, coupled with the fierce independence of personalities involved created the dynamics through which gender programming was carried out in the TRC. Gender programmes were implemented with exclusive focus on the 'women' issue and efforts centred on women's involvement in the statement-taking and public hearing processes.

The Gender Committee was only understood to be advising and assisting the TRC in its work specifically targeting women. The Committee was therefore constituted by organisations that had a specific mandate or expertise in working with women and female survivors of sexual violence. These included UNIFEM, the Women's NGO Secretariat, the Liberian Women Media Action Committee, Voice of the Voiceless and the International Centre for Transitional Justice's (ICTJ) gender focal person amongst others. The Committee did not engage with

the TRC's other core operations and made no attempt to mainstream gender into the Commission's operations. Instead, it was convened on an *ad hoc* basis to support outreach efforts directed at women, including workshops to encourage traditional women leaders and male relatives to support female participation in the TRC. Once the Commission was underway, thematic public hearings on the role of women during the conflict were held and a national consultation with women on the TRC recommendations was organised. These projects largely had independent funding, separate from the TRC's principal budget lines, and were not coordinated with other TRC units. In addition to these women-focused projects, the Gender Committee helped the TRC to craft a gender policy.

The gender policy emphasised the references made to gender in the TRC Act, stressing that a common understanding of gender equality and equity was critical to a thorough investigation into the truth about Liberia's past. It also encouraged working towards transforming traditional gender biases and roles and laid out a detailed plan with clear recommendations. It strongly recommended that a gender expert be employed immediately to implement the plan. It was also suggested the plan should be reviewed periodically by the Gender Committee. Unfortunately, this comprehensive policy and plan, which would have gone a long way to ensuring that the women-specific activities were tied to an overall gender equality strategy, were delayed. The gender policy itself took months to be finalised and my position of gender advisor was not put in place until the final year of the TRC's operations. This was a result of delays over funding and difficulties with finding someone with the necessary expertise who was available for the required length of time. By the time of my recruitment in early 2008, most of the women-centred activities had been rolled out with the assistance of a local gender officer.

During my time as gender advisor, the Gender Committee was revitalised and efforts were made to bring in a gender-equality component to the work of the Commission. I lobbied the Commissioners to integrate gender into the TRC final report and persuaded them that there was more to the women question than just women. The Commissioners were quick to understand the need to shift towards this incorporation so that when the report writing team was being constituted, they included me in the process.

Liberian Women in Core TRC Programming

As the Commission undertook its work and the Gender Committee focused on enabling women's participation in the process, women were also being engaged in the TRC's core operations: statement-taking, public hearings, and research and investigation. Although the TRC's activities suffered from a variety of challenges, and have received widespread criticism both locally and internationally, they succeeded in encouraging more female participation than many truth commissions in the past. Overall, the figures for women's participation in statement-taking are relatively high. Of the total 18 000 statements collected by September 2008, 51 percent came from women. Women also widely participated in the TRC's public hearings. Elsewhere in the world, women giving testimony before truth commissions were often reluctant to speak about their own experiences and came forward only to recount experiences of family members, particularly male family members. Women in Liberia, however, seemed more willing to talk about themselves, perhaps due to better preparation and pre-hearing support. Meanwhile, the Inquiry Unit established 'the role of women and children' as one of its main thematic areas for investigation and research. Some research was carried out by staff members and a concerted effort was made by the unit to follow up on gross human rights violations involving women and children.

The interpretation of 'gender' as participation and inclusion of women and children imposed a tendency to focus on victimhood, especially sexual and physical violations. Although there was recognition of women as combatants and supporters of the war, these identities were seldom explored and the full spectrum of women's involvement and their multiple identities did not fully emerge from the hearings. It also did not bring into focus any underlying androcentric cultural norms or patriarchal ideologies that may have worked together to create the gender dynamics that viciously played themselves out in the conflict. Had the TRC a wider interpretation of gender, they might have included many more 'why' questions in the hearings and tried to dig deeper into understanding exactly what men and women believed about their societal roles

and positions which led them to behave in particular ways. For example, eight percent of rapes reported were committed on men but this was not explored.

The late appointment of a gender advisor, coupled with the many logistical and operational challenges of the TRC and its perceived need to retain ownership and control of the process made it extremely difficult for external support and advice to be harnessed. Time and funding constraints resulted in the Gender Committee often rubber-stamping activities rather than interrogating them, and any input that may have helped shift the approach to include an overall gender equality goal diminished over time.

Truth and Gender

After a difficult start, which was compounded by logistical and operational challenges, the Liberian TRC must be commended for their achievements in ensuring the participation and inclusion of women at every level of operation and execution of its mandate. This was a profound shift towards confronting the gender disparities that plague Liberian society. However, the first report issued by the TRC in December 2008 was largely gender-blind and adopted a strong legalistic approach in its description of its work. Gender featured ineffectively and women were portrayed primarily as victims of sexual violence. This report essentially reflected the TRC process, during which most accounts of the conflict perpetuated this stereotype.

The TRC Commissioner tasked with the gender oversight and I later realised that this needed to change and we encouraged civil society groups to conduct dialogues with women throughout the country – around participating in transitional justice and peace building processes, beginning the move away from the focus on sexual violence. A series of regional dialogues were convened around the country to engage over 600 women in dialogues about the TRC process, reparations and other transitional justice processes. Careful analysis and deeper discussions with women revealed that women were less concerned with redress and reparations for sexual violence, but were rather concerned with the loss of their livelihoods and the day to day struggle they were currently facing including lack of safe water, housing, health care and education. A significant outcome

Views from the field: The Liberian Experience

of this outreach was a comprehensive set of recommendations to address the specific needs of women and to advance gender equality in Liberia. These and other recommendations elicited throughout the gender programming of the TRC were collated and included in the TRC final report released in July 2009.

Conclusion

Conceptual confusions around gender and the conflation of gender with women can ultimately result in a perpetuation of stereotypical notions of women, leaving harmful practices against both women and men unchallenged by transitional justice mechanisms. This in turn, impedes the ability of these initiatives to promote substantive gender equality. The interpretation of gender in Liberia's Truth Commission's mandate as solely promoting women's participation was done at a cost. At the practical level, even though space was created for women to participate, there has not been a significant change in social thinking, attitudes or behaviour. In the Liberian context, the best one can hope for now is that the recommendations that women made through the truth-seeking process will work towards significant reform in the months and years to come.

‘Gendered truth’? Legacies of the South African Truth and Reconciliation Commission

Sheila Meintjes

Professor Sheila Meintjes lectures in Political Studies at the University of the Witwatersrand, South Africa. She teaches African politics, political theory and feminist theory and politics. She was a full-time Commissioner in the Commission on Gender Equality between May 2001 and March 2004.

Introduction

This article reflects on the influence and legacy for gender justice of the ways in which gender-based human rights violations are raised in truth commissions in Africa, with specific reference to the impact of the South African Truth and Reconciliation Commission (TRC). It provides a brief background to how the issues were placed on the agenda of the TRC, and tackles the practical outcomes of these interventions. I interrogate the gender approach and analysis that became a model for the form and practice of transitional situations elsewhere and its implications for gender justice.

A gender analysis of recent transitional justice initiatives is critically important as it shows how the context, history and nature of gender and other intersecting relations of power in society influence and shape the justice and reconciliation outcomes. It is not so much a matter of attributing the failure to achieve gender justice to truth-seeking processes as such, but rather one of understanding the politics of how these processes unfolded. In the South African case, the way in which the issues of gender were addressed during its transition became a limiting factor in how the gendered nature of the past came to be understood and how gender crimes were dealt with. That gender crimes did not find their way into the

amnesty process was because neither victims nor perpetrators identified their experiences as such. This does not mean that we should not apply our minds to how gender justice might be better served in TRC processes. In this regard, I refer to some of the improvements made in the TRC processes influenced by the shortcomings of the South African model.

Gender and South Africa's truth and reconciliation process

When South Africa's TRC was set up in the aftermath of the constitutional settlement that was the outcome of the negotiations that brought the apartheid regime to an end, women activists, academics and lawyers challenged its terms of reference. The first discussions were initiated at a meeting organised by a feminist lawyer, Ilse Olckers, in an organisation called Lawyers for Human Rights in Cape Town in December 1995. The question at the centre of debate was 'Does Truth have a Gender?' The discussion argued that an approach that simply took gender relations for granted and was gender neutral, would miss the specificity of how apartheid structured identities not simply along the fault lines of race, but also along those of gender.¹ Further discussions ensued in Johannesburg the following year, which engaged at the same time with the newly appointed TRC Commissioners. There followed what seemed to be a very constructive interaction between the TRC and civil society around both the gendering of apartheid and the gendered aspects of the experience of human rights abuse during the apartheid period.

However, in the debate, the protagonists tended to speak past one another in how they understood gender. While the gender activists spoke about 'gender' as a relational construction, the TRC tended to construct gender as the experience of women, rather than understanding it as a term that would enable a more careful understanding of how differently women and men experienced life under the apartheid system, including how gross human rights abuses impacted differently as well. It was this critical gender approach that would address the significant 'gendered' experiences of both men and women that the feminist lobby tried to insert into the TRC's work.

1 See Olckers 1996.

Views from the field: 'Gendered truth'?

The answer to the question 'Does Truth have a Gender' is contentious in that in situations of oppression, whole communities of the oppressed, men, women and children, suffer – so why should one try to disaggregate this experience? Can oppression be disaggregated? All indigenous people were oppressed in colonial societies in the nineteenth and twentieth centuries, all Jews under Nazi rule in the Second World War in Europe and all black people (African, Coloured and Indian) under apartheid. The objective of the apartheid system was to establish and maintain a cheap labour system, to limit the conditions of possibility for self-actualisation of black people and, above all, to ensure the hegemony and power of Afrikaner nationalism by means of an exclusive system of white privilege and white rule that implicated all people who were defined as white under the system. But if we do not analyse the differentiated impact of the highly controlled pecking order of access to jobs, land, housing, health and education which limited opportunities for all black people, albeit in different ways, then we will not understand the way the system operated to divide people at the same time. The racial ordering of Indian, Coloured and African people gave limited privileges to some and not to others. But the system was also gendered.

The economic imperatives of ensuring the continuous reproduction of a black working class and a reserve army of labour put control over biological reproduction at the centre of the system. Labour streams were treated differently: a large pool of African migrant labourers whose families and homesteads in the countryside maintained and reproduced their households, were housed in ethnically segregated mining compounds, while migrant women were housed in hostels on the edge of townships and mines. Racially segregated townships and suburbs developed during the 1960s after extensive forced removals and racial reordering among the four groups classified by race. White, Indian, Coloured and African were the labels given to different race groups, and all were segregated in their own urban and rural spaces. African people were differentiated not only by race but also by ethnicity and by geography. Rural birth limited the rights of some, and excluded them from permanent urban settlement. Migrant families were split up, and women remained with old men and children in the rural areas, the 'homelands', where they were visited annually by their husbands. Migrant families were legally forbidden to live in the townships, which were reserved for

the settled population of secondary citizens permitted to live there. Urban rights provided a broader spectrum of opportunities in education, health, municipal services and commerce for so-called permanent urban dwellers under Section 10 of the Urban Areas Act. Migrants, both men and women by the 1960s, were confined to less skilled jobs in factories, mines and domestic labour. Urban controls were rigidly imposed to separate racial groups from one another.

After the 1950s, rural homelands were unable to reproduce themselves from farming, so homesteads relied largely for subsistence on remittances from migrant labour with the addition of some subsistence agriculture. The purpose of the apartheid system, while corralling people into ghetto-like townships and suburbs, was to enhance the particularity of racial, ethnic and cultural identity. The strategy was, then, to create institutional and political mechanisms to 'divide and rule'. For the apartheid regime, the townships on the edge of every town were potentially dangerous melting pots which could foster inter-racial solidarity and new identities. Thus the regime deployed a sophisticated version of the imperial/colonial divide and rule strategy – where the ideas of separate identity and separate development, the promotion of a plethora of ethno-nationalisms and cultural and religious differences, were deployed in order to try and suppress a unitary national identity among the oppressed from emerging. It was the latter that was ruthlessly suppressed. The institutions of control, euphemistically called the state security apparatus, were constituted of a huge network of informers and police control.

The apartheid system, while clearly advantaging all whites, sustained a hierarchy of privilege among the oppressed as well, which meant that benefits accrued to many across the racial divide. Protection of whites and control of blacks were the hallmarks of the system. Despite the efforts of the state, however, it was impossible to prevent the emergence of a different kind of vision for South Africa, one that would allow everyone in society to benefit from the opportunities that the mines, industry and commerce would have to offer to all. In 1955, Kliptown, an old African freehold township outside Johannesburg, was host to the Congress of the People, comprised of organisations across the racial divide opposed to apartheid. The Congress Movement drew up the Freedom Charter to enunciate a great vision for a non-racial future, in which 'the people' would

govern. In its efforts to limit this national vision from succeeding, the apartheid state banned all opposition movements that suggested such a future. A rigid edifice of legislation, which banned opposition political organisations wedded to the Freedom Charter and permitted extended detention and repressive policing, emerged in the 1960s. The repressive apartheid regime tortured, killed and exiled opponents. Both women and men were its object and its victims.

How was apartheid's repression and subordination gendered?

In order to answer this question, the group of anti-apartheid gender activists, scholars and lawyers who came together in late 1995, sought ways to 'engender' both the understanding of apartheid as a gender system and the methodologies used by the TRC. The TRC itself was the outcome of a negotiated settlement to end apartheid. Negotiations for a peaceful transition to democracy embraced the question of amnesty for those who had violated human rights during the thirty years prior to 1990, a period that can be characterised as a 'thirty years war'. In order to begin negotiations in South Africa, some amnesty agreements had to be entered into to enable the different liberation movements to deploy their cadres to return from 'underground' or from exile. In order to begin negotiations, the ANC and other organisations had been granted temporary indemnity on the basis of full disclosure by their negotiating team of any 'unlawful' acts committed in the past. This was expressed in the 1990 Indemnity Act, and covered both ANC and state operatives. In 1992, negotiations in fact broke down over an attack on people in the township of Boipatong in the Vaal Triangle and the perpetuation of violence by a 'third force'. A further issue was the fact that a number of key ANC leaders remained in prison. Amnesty almost became a sticking point when it came to finalising the interim constitution. The National Party sought a blanket amnesty, but the ANC refused to countenance amnesty without full disclosure of human rights abuses by perpetrators. The resolution of this deadlock was an agreement in the interim constitution that amnesty would be granted to perpetrators, with the details of the mechanisms to be worked out later (Van der Merwe, Dewhirst and Hamber 1999:56).

It took some time for the new structure to reach legislative form. The elections occurred in April 1994. The new Government of National Unity introduced the Promotion of National Unity and Reconciliation Bill in November 1994, which was only passed into law in 1995. The Bill reached Parliament after the Department of Justice, under the ANC Minister Justice Dullah Omar had consulted very broadly with organisations in civil society. Amongst these were two organisations which had considerable influence on the process. The first, Justice in Transition, was set up in order specifically to pursue a process of reconciliation with justice under the direction of Dr Alex Boraine, a former opposition Member of Parliament and subsequently director of the Institute for a Democratic South Africa (IDASA). The other was the Centre for the Study of Violence and Reconciliation (CSV), initially attached to the University of the Witwatersrand, which had earlier been set up to do research and begin to explain the violence that that erupted in South Africa at the end of the 1980s.

The drafters of the Act were a group of experts contracted by Justice in Transition to do so, with funds raised overseas. But the process was a broadly consultative one, in which key individuals with human rights, political and legal backgrounds participated, along with a range of non-governmental organisations (NGOs) working in the arena of peace, counselling and human rights (Van der Merwe, Dewhirst and Hamber 1999:57). It was a new experience for organisations involved in the peace movement and human rights arena to be involved in the legislative process and for many it was the first time they had engaged the state in a cooperative manner. The experience created an awareness of the need to develop new skills and capacity, and to professionalise their activities. It also generated considerable tensions.

While it is clear that the new Government of National Unity (GNU), essentially led by the ANC, attempted to create a space for civil society to engage in shaping the scope of the TRC legislation, the GNU was at the same time part of a strategy to ensure that all political parties, especially the National Party, would be part of the outcome. The process needed to be seen as driven by the needs of civil society to deal with the past. Submissions to the parliamentary Committee on Justice focused on the importance of education, trauma counselling services for staff and deponents alike, training in statement-taking, issues of mediation

Views from the field: 'Gendered truth'?

between victims and perpetrators, issues of amnesty, punishment and victim's rights to reparations. The Justice Portfolio Committee held public hearings, and dealt with public submissions on the draft bill. The Bill probably caused more debate and time spent on it than any other bill presented to the Committee. To say it was bitterly contested is to minimise the importance attached to it. In particular, attempts by the National Party to ensure in camera hearings were hotly debated. Debate also occurred around how the Commissioners should be chosen. Although nominations were allowed by civil society organisations and individuals, the State President was given the right to appoint Commissioners. While civil society may have contributed to the initial scope of the legislation and to some of the issues, the multi-party Justice Committee shaped the detail. The process of making the law was intensely political.

Gender activists were particularly concerned that the process should take account of the gendered nature of the experience of human rights abuses under apartheid. For a workshop hosted by the Centre for Applied Legal Studies (CALS) Gender Research Group at the University of the Witwatersrand after the law was passed, Beth Goldblatt and Sheila Meintjes² drew up a briefing document that laid out some of the key questions and issues that might frame 'a gendered truth' (Goldblatt and Meintjes 1996). We were concerned to open discussion about the periodisation of the forms of gender-based human rights violations during the apartheid period, the sites of violence and what these signified in understanding the gendered experience of apartheid and in particular what a gendered experience of human rights violations comprised. Our subsequent research for a submission to the TRC (the CALS submission) drew on the published accounts of political incarceration of men and women as well as on the individual experience of selected respondents. Our findings showed how sexual torture was used to undermine and attack the identity of men and women.

2 Beth Goldblatt was a researcher in the Centre for Applied Legal Studies Gender Research Project and co-hosted the Gender and the TRC Workshop in March 1996 with Sheila Meintjes who lectured in Political Studies, both at the University of the Witwatersrand in Johannesburg.

While our focus in the formal submission was on women rather than men, our argument was that in order for the TRC to fully understand the effects of apartheid on different groups, it would be imperative to explore that experience using a gender lens. We argued that it was also necessary to move away from the idea that under apartheid all black people were victims. We argued that even oppressed people, including slaves, have agency. So in South Africa, people acted – some opposed the system; others simply lived their lives as best they could; others were complicit in the system, finding ways of co-operating with the system. The important point was to explore how and why opposition, complicity and complacency operate in conditions of subordination and oppression. These were controversial issues to raise and our research did not go far enough in exploring them. In gender terms, we focused on the experiences of women at the hands of men – including comrades in arms. Our view was that there is continuity in the experience of patriarchal subordination and the oppression of women under the conditions of apartheid, which after 1960 could be defined as a civil war situation. In our view, the more important issue was the systemic aspect of the gendered and gender-ordering nature of apartheid as a system. This meant that apartheid itself could be defined as a crime against humanity. Then there were the actual acts of human rights abuse perpetrated by individual agents of the system, who in the service of apartheid could have made a different kind of choice. The kind of abuse needed to be understood as well. Thus the gendered form of the violence, the sites and the gender of both victim and perpetrator were significant. The gender of victims, survivors and perpetrators mattered, and how this intersected with race, ethnicity, class and religion was critical to understanding South Africa's past.

One key problem with the TRC was that the terms of reference in the Act that brought it into being made it difficult to contextualise these fundamental issues. The Act was framed in terms of individual acts of human rights abuse and individual effects so that individual perpetrators could be identified in the amnesty process and individual victims who would be eligible for reparations could be identified. The submission we made on behalf of CALS on the other hand, pointed to the systemic and gendered nature of apartheid. Its purpose was to provide a set of concepts and practices that would enable the TRC to draw out

Views from the field: ‘Gendered truth’?

the specificity of the differential experience of men and women under apartheid. Although much of our empirical focus was on women, the theoretical issues we raised offered a methodological approach to develop a set of gender tools with which to understand the gendered nature of the systematic oppression of apartheid.

Indeed, the TRC took very serious account of our submission – we met all the Commissioners for an extended presentation of our arguments. The TRC then held a national consultative workshop which included a wide range of NGOs working on different aspects of gender oppression and women’s issues. The CALS submission became the basis for a formal submission to the TRC which substantively influenced the way the TRC dealt with the ‘gendered nature of apartheid’. More widely, the submission was used in other transitional situations as a framework for thinking about gender – as in East Timor and in the Sierra Leonean and Liberian Truth and Reconciliation processes.

In South Africa, this intervention was a key factor in influencing the TRC to hold separate hearings for women which allowed them to present evidence in a ‘safe space’ and which would in theory focus on women-specific human rights abuses. Indeed, we also presented expert evidence at the separate women’s hearings. Our submission also led the TRC to change some of the questions in the depositions used to identify the nature and experience of human rights abuse under apartheid. Specific questions about sexual abuse were then included. One of our key recommendations was that the issue of gender should not simply be a question of women’s experience under apartheid. The point of identifying the differential experience of men and women was to show that apartheid created specific kinds of subjects. The system operated to limit the opportunities for all those oppressed by racial classification and subjected to discrimination – but it did so in different ways for women and men. However, the TRC did not deploy the concept of gender in this way, and was thus unable to provide an appropriate analysis of apartheid. In part this was because the researchers and investigators employed by the TRC were not drawn into the discussions that were held at the various workshops on the gender submission. The CALS researchers were not invited to present their research to the TRC researchers, nor to assist in training the researchers and statement-takers and others involved in framing the final

report on what a gender lens would mean. Although the CALS submission carefully and forcefully argued for the integration of gender instruments and gender analysis in every aspect of the TRC's analysis, the final report instead devoted a single chapter to women. For the activists involved in the process, this was a great disappointment and we considered the outcome a failure.

The implication of the failure to address gender systematically in the TRC's approach was to ignore gender as a constitutive element of human agency that creates 'men' and 'women', the roles that they play, the power and authority that they wield and how they interrelate in society. How gender constitutes social life, how it frames power in society, who does what and how, and how this shapes experience and life itself is fundamental. Gender relations are of course intersected by race, class, culture, ethnicity, religion and other aspects of social life – but leaving it out is to skew the kind of history that is written and to blind us to a reading of history that is inclusive of women's active agency in relation to men's. Without a gender lens, women's power, authority and role in history is erased. Thus gender has to be systematically and methodologically part of how we address the past.

So the profundity of that failure is reflected in the way the report dealt with gender – in a chapter on women. In some ways, the CALS submission may have had something to do with this – because our focus was primarily on the experience of women. In the submission, the focus of the discussion was on women, in order to show that both the agency and the victimisation experienced by women was different from that experienced by men. The nature and effect of sexualised violence was different for men and women. Men traditionally saw their role in society as protectors of the family, and women as a reflection of their honour, the progenitors of their family. The body became an important signifier of this difference – and attacks upon the bodies of men and women thus had different effects on each of them. The rape of a man by another man 'feminised' the victim, and undermined his masculinity – though not necessarily his honour. It might have long-term psychological effects, however. The rape of a woman, while an attack on her person, did not necessarily undermine her 'femininity' in the same way. But for men, the rape of their wives and daughters was a deep disgrace, a dishonour. The term 'defilement', a term used in other

Views from the field: ‘Gendered truth’?

contexts such as Uganda and Kenya, captures the humiliation experienced by the family of a raped woman. To fully understand the way that men and women experienced torture at the hands of the apartheid regime – especially sexual torture – would thus also enable a fuller understanding of the status and roles accorded to men and women. And it would also help us to understand why women often keep silent about the kind of violation that they experience. In the testimony of women survivors, very few spoke about their own experience. Rather, they spoke about what happened to their loved ones, and of the pain of their loss. Seldom did they speak of the abuse that they themselves experienced at the hands of the police or other agents of the apartheid state.

The CALS submission to the TRC rejected the idea of ‘triple oppression’ to explain women’s experience, particularly that of black women. Instead, it argued for an overlapping, intersecting construction of racialised and gendered subjects in South Africa. But this view did not find a place in the TRC’s final report. Interestingly, the Sierra Leone TRC faced similar pressures.

Conclusion

Despite the pressure put on TRCs from gender activists and gender consultants in every case, a single chapter has been devoted to delineating the experience of gender. Gender thus continues to be used as a synonym for women. The single chapter on women reproduces a flawed view that gender is simply the experience of women. So the most important recommendation of the CALS submission to the TRC – that the final report should not end up with a chapter on women as a gesture towards some kind of gendered understanding of the systemic nature of the way gender power in society constructs women as secondary subjects, as ‘by nature’ the carers and ‘mothers of the nation’ – was ignored. The consequence of this outcome was that the real nature of ‘truth’, the gendered truth, was elided and collapsed into women’s experience alone. So – in truth – we miss the way life under apartheid, or under any other kind of patriarchal regime, was systematically gendered.

Sources referred to

- Goldblatt, Beth and Sheila Meintjes 1996. Gender and the Truth and Reconciliation Commission: a submission to the Truth and Reconciliation Commission. Department of Political Studies and the Gender Research Project, Centre for Applied Legal Studies, University of the Witwatersrand. Johannesburg.
- Olckers, Ilse 1996. Gender-neutral truth – A reality shamefully distorted. *Agenda*, 31, pp. 61–67.
- Van der Merwe, Hugo, Polly Dewhirst and Brandon Hamber 1999. Non-governmental organisations and the Truth and Reconciliation Commission: An impact assessment. *Politikon*, 26 (1), pp. 55–79.