

***Truth on the Stand:  
Fragmented Consciousness  
& The Credible "Knower"***<sup>1</sup>

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This essay interrogates the nature of fragmented testimony as evidence. I specifically explore cases of witness testimony that fall outside the domain of what is considered, in the mainstream, credible. My analysis begins with a grim fact about the nature of courtroom bias: survivors of trauma—and those who suffer from schizophrenia, bipolar disorder, or associated psychoses—are more likely to produce incoherent testimony and, as a result, are often discredited as sources of knowledge and truth.<sup>2</sup> These particular speakers are attributed, what I term, a 'survivor-credibility-deficit'<sup>3</sup> (a lack of credibility assigned to trauma survivors by those adhering to conventional indicators of epistemic integrity). While I explicitly use the term 'survivor' to refer to one who has suffered a trauma, it also, for the purposes of this essay, includes those who must bear the disorienting and often variable symptoms of mental illness.

The fragmented consciousness raises an epistemic quandary. Dr. Nora Strejilevich (Argentinian writer and survivor of state terror) observes: "Society favors systematizing testimony as a collection of facts... [trauma testimony, however] voices the intimate, subjective, deep dimension of horror. Having witnessed the abyss of atrocity, survivors can no longer rely on knowledge or facts as the basis for thinking."<sup>4</sup> Oral narrations that are non-sequential or fractured (opposite common notions of a "'good' victim account") are often, whether this occurs implicitly or explicitly, de-valued.<sup>5</sup> As such, those who present testimony lacking the usual "credibility markers" (linearity, detail, and coherence)<sup>6</sup> are denied sympathetic engagement and respect as capable knowers. The speaker, it seems, faces a "testimonial injustice"<sup>7</sup> (one I will term "communicative-prejudice"), due to his or her psychological state and the inconsistent articulation of lived experience.

The complexity of our historical moment renders trauma testimony particularly sensitive. Many cultural mythologies, for instance, stand at the intersection of race, gender, and trauma.<sup>8</sup> While this piece examines the nature of truth, it also, more fundamentally, explores the essence of narrative and authorship. An ethnography of trauma testimony entails questions of control, the dichotomy of author and subject, and visibility. Professor Donna Haraway, in her research on primatology,

brilliantly examines power dichotomies in spaces of narrative-formation: knower versus knowledge-object, author versus subject.<sup>9</sup> Oftentimes, the knowledge-object or subject is the “pretext,” or “the site for the construction of others’ discourses,” while the author is the originator.<sup>10</sup> Our politics of credibility is inextricably tied to factors of race, gender, and myths of “otherness.”<sup>11</sup>

In the United States, the “racialization of criminality”<sup>12</sup> has, in part, effected an unparalleled level of mass incarceration. People of color are more likely to face false accusations of crime<sup>13</sup> (e.g., “scapegoating black males”), limited access to competent attorneys, and extreme penalties which undoubtedly cause deep emotional and physical suffering. At the same time, many women—horribly battered, demeaned, and still grappling with trauma—are just discovering their voices and the power of collective speech against previously “untouchable” perpetrators. In many of these instances, innocent persons lose control of the narrative—they become mere “plots” for the inscription of another’s discourse.<sup>14</sup>

Certainly, then, the juncture of race, gender, and trauma raises many important considerations. Throughout history, social and political factors have affected the telling (and perception) of truth. Who may author trauma testimony and what is the role of listener? Should trau-

ma testimony be evaluated and, if so, by what metrics? Who, if anyone, may re-write or re-tell such narratives? How should truth be defined in spaces of fragmented testimony? What this predicament requires, by way of philosophy, is a balanced methodology for the consideration of unconventional testimonies in our current historical moment. In presenting this methodology, I explore loss and reclamation, authorship and control, narrative and truth. The respectful treatment of collective trauma narratives—from the Holocaust, Argentinian genocide, and Guatemalan Civil War—will inform my approach to individual testimony.

The discipline of phenomenology (specifically, the writings of Edmund Husserl) has prompted my re-valuation of testimony that is “broken,” that “leaves some aspects in the dark,” or that is “altogether wrong in the end.”<sup>15</sup> The aim of this piece is three-fold: (1) to describe communicative prejudice as a second legitimate form of testimonial injustice (the first form, identity-prejudice, is noted below); (2) to develop a phenomenological epistemology in consideration of unconventional testimonies; and (3) to imagine, or carve out, a valued epistemic space for the fragmented consciousness, which is often discredited or entirely dismissed in judicial proceedings.

In her book *Epistemic Injustice: Power & Ethics of*

*Knowing*, philosopher Miranda Fricker notes “identity-prejudice” as a major (if not main) source of testimonial injustice.<sup>16</sup> It is evident, however, that the scope of testimonial injustice is broader. The witness who offers fragmented testimony (perhaps an individual who suffers from PTSD or schizophrenia) may also be attacked in his or her “capacity as knower,” due to factors unrelated to ethnicity or gender.<sup>17</sup> He or she is denied a valued, epistemic position in authoring truth. Thus, it is not sufficient to describe testimonial injustice solely as bias against the *subject* authoring testimony (e.g., due to his or her race, gender, class, etc.). In addition to identity biases that target the individual, it is also necessary to evaluate biases against the subject’s *communication/speech* (which, in the context of this paper, target the speaker’s processes of recollection and articulation). Accordingly, I give specific critical consideration to those instances in which the capable knower, due to mental illness or other psychological circumstances, is unable to render coherent testimony.

The epistemic position of the trauma survivor as witness is unique. There is often a momentary disconnect, “a point between witness and testimony that can be seen as a moment of trauma” and which indicates “a distance between [the experience of] trauma and the language [used to describe] trauma.”<sup>18</sup> This momentary disconnect is, more often than not, visible in

“the shrugged shoulders, the wincing, the tears, and the silences that punctuate [these] oral testimonies.”<sup>19</sup> Similarly, many have classified the testimony of the individual who suffers from schizophrenia as specifically “anti-narrative.”<sup>20</sup> One who experiences psychosis is prone to depersonalization, hallucinations and delusion, as well as “disorders in the realms of perception, sensation, cognition, and emotion.”<sup>21</sup> These factors render the sufferer’s experiences complex, “messy,” and generally inimical to coherent narrative.<sup>22</sup>

The consequences of offering “broken” testimony (i.e., testimony that does not meet the traditional “credibility markers” of linearity and coherence) are significant.<sup>23</sup> Louise Ellison and Vanessa Munro state that:

Traumatized victims will see their allegations unfairly dismissed on the basis of a misinterpretation of common trauma reactions and those who struggle to provide a coherent, organized account will be more likely to withdraw from the criminal process for fear of being deemed an unreliable witness.

For those who reach trial, moreover, the risk of their trauma being misconstrued to the detriment of their perceived credibility is arguably more pronounced, given the...tendency of defense advocates to portray common trauma reactions as abnormal or sus-

picious.<sup>24</sup>

There is, however, another profound reason why trauma survivors and those who suffer from psychosis encounter communicative prejudice. As described above, there is often a noticeable divide between the traumatic event, as experienced, and the language, if any at all, capable of conveying such trauma. It seems, then, that this is a prime example of what Fricker terms “situated hermeneutical inequality”: “[a] concrete situation [in which] the subject is rendered unable to make communicatively intelligible something which it is particularly in his or her interests to be able to render intelligible.”<sup>25</sup> As Dr. Claudia Welz said of Holocaust testimonials, “ordinary language proves to be inadequate... ‘no one can describe it’ and ‘no one can understand it’ are typical statements.”<sup>26</sup> As a result, the trauma survivor suffers a similar fate to the witness who is discredited due to his or her ethnic or gender identity—a “prejudicial exclusion from participation in the spread of knowledge.”<sup>27</sup>

The principal question that emerges, then, is whether truth may still be detected in the non-linear or disjointed narrative. In other words, can the fragmented consciousness serve as credible knower? The short answer is yes. The endeavor herein is not to identify an infallible mechanism to detect truthful testimony; rather, it is to identify what is fundamentally required

(and what is offered by way of philosophy) in justifying trauma narratives. A phenomenological epistemology, which focuses on justifying first-hand lived experience, proves particularly useful. The aim is not to “ensure that we know everything or that all our justification is infallible,”<sup>28</sup> but, rather, to answer whether “my belief is justified, and, if so, what acts justify it and what gives these acts their justificatory force?”<sup>29</sup>

The work of Husserl proves particularly suited to this endeavor. Dr. Ülker Öktem notes that while for Descartes evidence meant seeing something with absolute certainty, the concept of evidence for Husserl was not so defined. According to Husserl, evidence did not have “a single meaning,” “an absolute or apodictic nature.”<sup>30</sup> Rather, “[evidence] is not decisive in character; it is variable, bears the nature of suspicion, depends on some other experiences, does not have a harmonious nature (bears unclear aspects), and emerges with unclear results.”<sup>31</sup> For Husserl, evidence is inextricable from experience—that is, from consciousness (whether fragmented or not).<sup>32</sup> As such, evidence (i.e., our experiences) may have “varying degrees or grades of adequacy.”<sup>33</sup> Most critically, “evidences... are relative... not certain, allowing for doubt one way or the other.” In order to find truth in what is purportedly “broken,” then, is to find the “same, permanent essence in all acts of consciousness.”<sup>34</sup> In other words, truthful testimonials will

not constitute apodictic “data.”<sup>35</sup> Evidence is the “consistent perception of truth,” no matter how fragmented an individual’s testimony may be. Husserl recognizes that, although there may be several variations of a phenomenon (e.g., event, memory, etc.), a “unified synthesis of essences”<sup>36</sup> is still possible. Disjointed memories may constitute “fragments of complete acts.”<sup>37</sup> Then, while the content of distinct memories may vary, it is still possible to discern the “same object.”<sup>38</sup> As Strejilevich says, the aim is to “piece together the fragments, the ruins of spared recollections in order to produce some meaning.”<sup>39</sup>

In his noetics, Husserl provides for a critical flexibility (or a sliding scale) in our credibility judgments. As Dr. Biagio G. Tassone explains, “different experiences can differ in the degree of justification they provide because they can differ in their respective phenomenology.”<sup>40</sup> Experiences may differ, that is, in their degree of “clearness,” distinctiveness, or “self-givenness.”<sup>41</sup> The more lucid and distinct the experience, the greater justificatory power the act or memory holds. Optimistically construed, this rule does not necessitate that memories of trauma and truth be mutually exclusive.

Professors Ellison and Munro describe trauma memories as a compilation of “hotspot moments often recalled out of sequence.”<sup>42</sup> As psychiatrist and psycho-

analyst Dori Laub (who herself survived the Holocaust as a child) confirms, these are moments of “minute” and “explicit” detail—instances that are a “general source of amazement...in their accuracy and general comprehension.”<sup>43</sup> It is not that these testimonies must be told start-to-finish in chronological fashion but that the same essence, or phenomenological content, must be detected. Indeed, it was Husserl who described the PTSD sufferer’s experience of memory as “nonserially ... [embedded] within consciousness.”<sup>44</sup> In other words, trauma memories are not sequential “flows” but “whirlpools.”<sup>45</sup> Moments of unprecedented specificity, “seared” in the mind, may be anchoring points from which to further corroborate the actuality of events.<sup>46</sup> Spoken testimony, true to the narrator’s subjective experience, forms one part of a “whole text.”<sup>47</sup> Rather than constituting an objective certainty, the trauma testimony helps to form the basis of our understanding of individual experience.

In addition to denying that evidence inhabits one particular form, Husserl’s transcendental phenomenology offers another promising approach to the present enquiry. By way of the *epoché*, holding the reality of things in suspension,<sup>48</sup> Husserl proposes a “bracketing” of the objective, scientific world.<sup>49</sup> The purpose of “parenthesizing” the noumenal world is to “do away [with] our own biases and prejudices about the world around us.”<sup>50</sup> In

doing so, we “free ourselves from the unquestioned acceptance of the everyday world.”<sup>51</sup> Bracketing ensures that our “previous understandings ... and assumptions about the phenomenon of interest” do not interfere with the subject before us.<sup>52</sup> By this account, it is possible to shed ourselves of the prevailing criteria applied to personal trauma narratives. By re-envisioning what constitutes credible narrative organization, it is possible to limit (or eliminate) the degree of communicative prejudice suffered by trauma witnesses or those who experience mental illness. As Strejilevich states, “a truthful way of giving testimony should allow for disruptive memories, discontinuities, blanks, silences and ambiguities.”<sup>53</sup>

The next step toward a comprehensive analysis of trauma testimony is to situate one’s personal lived experience within the constellation of evidence. It is to wed clinical, linguistic, and legal analysis to create a complete and truthful profile of events. For example, a study comparing linguistic coherence in those with PTSD to those without indicated that the former often “focus attention on themselves and subsequently use more first-person singular pronouns.”<sup>54</sup> In addition, those enduring emotional pain often use fewer conjunctions and cognitive words (e.g., ‘think,’ ‘believe,’ ‘know’).<sup>55</sup> In these oral testimonies, “narrative *disorganization*” is actually a reliable indication of trauma (a fact affirmed by

Husserl).<sup>56</sup> From a clinical standpoint, it is important to perform a “trauma-informed [evaluation]” that respects the idiosyncrasies of one’s history and symptomology. During the legal proceeding, “determinable” or “documented” facts/records play a crucial role in contextualizing and/or contesting a witness’s testimony.<sup>57</sup>

A phenomenological epistemology is also applicable outside of the courtroom. This is especially true in the writings of Welz, who studies the processes of recollection and articulation specific to Holocaust survivors. Welz’s research cites the therapeutic value of an individual who is given the chance to deliver a personal oral history, a moment facilitated by endowing the survivor with a certain epistemic respect:

Before any content of a testimony can be told, one needs to participate in a relationship with someone who will listen. The Yale project of recording Holocaust testimonies has proved therapeutic: the testimonial process in the presence of a listener who accompanies the survivors on their journey back into the past not only takes them back to the pain, horror, and sadness that is associated with that past; rather it also engages them ‘in claiming a story of their own which holds together the fragments of their memory.’<sup>58</sup>

The “Yale project” to which Welz refers is the Fortunoff Archive for Holocaust Testimonies, a collection of 4,400 survivor and witness testimonials containing 12,000 hours of recorded video, deposited at Yale University.<sup>59</sup> In this case, Welz claims, parting from traditional norms of narrative structure not only permits one’s story to come to the fore—unhampered by rigid, preconceived standards—but also unveils history’s true essence: “It is rarely possible to include Holocaust trauma in a neat, coherent historical account of what has happened...’ but, even if it were feasible, such an account would ‘in its neatness, empty history of its horror and trivialize the problems of witnessing the Shoah.’”<sup>60</sup> In other words, not only do established “credibility markers”<sup>61</sup> label the individual who attempts to articulate a trauma narrative inferior, but these markers also detract from the true essence of the individual’s lived experience. The norms of narrative structure force the survivor and his or her personal history into a shape that is both rigid and unfamiliar. This communicates to the individual that he or she is less important than preserving *mainstream* perceptions of credibility. To bracket these accepted conventions for trauma narratives and to re-focus on the true essence of an individual’s personal history as articulated (even, and especially, if fragmented) is to recognize “the legitimacy of a certain form of knowledge.”<sup>62</sup>

To correct for automatic prejudices against an individual’s testimony—whether identity-based or communicative—is to cultivate (or regain) a “critical social awareness.”<sup>63</sup> As Fricker states: “The hearer must factor into his net credibility judgement the likely impact on his spontaneous perception—and if possible, the impact on the speaker’s actual performance too—of the relation of... power that mediates between himself and the speaker.”<sup>64</sup> To do so is to internalize and act on a powerful tenet of Husserl’s phenomenology. His transcendental phenomenology is alternatively called “transformative/transformational phenomenology” to emphasize it most fundamentally as a path toward “self-awareness, reflection, and ... change.”<sup>65</sup> While Fricker speaks specifically of identity-based prejudice, her point is equally applicable to communicative prejudice. Testimonial injustice, in its myriad forms, requires high vigilance, a shedding of credibility assumptions in order to gain access to the essence of the speaker’s lived experience. This process is required in order to avoid “missing out on truths offered by the interlocutor *and*... doing them an injustice in their capacity as knower.”<sup>66</sup>

Moving beyond this process, how might we imagine, or carve out, a valued epistemic space for one who might otherwise suffer from communicative prejudice? It begins, as previously mentioned, with a critical self-awareness. For Husserl, meaning must be unsullied by the in-

terpreter's own agenda or view of the world. Truth likely will not arise as a bold declaration but will only surface after continual engagement and dialogue with the traumatized witness. From a phenomenological perspective, it is necessary to be as "open and presuppositionless as possible."<sup>67</sup> The act of articulating a trauma narrative, in and of itself, justifies a baseline epistemic respect for the author of such testimony: "Everyone knows that perception, memory, and expectation deceive, and yet they justify not the absolute certainty of the existence of the matters of fact perceived, remembered, expected, but the reasonable assumption, nevertheless."<sup>68</sup> In other words, granting epistemic respect to all who testify to trauma does not require *veracity* of testimony as a prerequisite. Once traditional credibility assumptions have been re-negotiated and the speaker respectfully engaged, it is appropriate to consider what, in the unique context of the individual's history and narrative, provides justificatory thrust to his or her words. In the case of personal trauma allegations, this process requires one to anchor the individual's testimony, aided by critical "hotspot" moments, within the broader web of evidence.<sup>69</sup> The evaluator(s) must be at once wary of his or her own propensity toward "credibility discounting" and a persistent advocate of the truth.<sup>70</sup> He or she must collect and re-piece a framework of meaning with what was said and what remains uncaptured by spoken language. The evaluation process is immersive:

one must orient oneself within the consciousness of the witness—stretch oneself to understand how the events the witness testifies to "have altered the fabric of [his or her] world."<sup>71</sup>

This process forces one to reconcile a longstanding binary in the discourses on bio- and gender politics: the binary of emotion and rationalism. In order to ensure that an individual who testifies to trauma is accorded epistemic respect during trial, the evaluator(s) must be both empathetic and analytic. The evaluator(s) of trauma testimonies, to reach ultimate understanding, must absolve artificially construed divides—between empathy and objectivity, feeling and reason, and narrative and truth. In a way, then, I propose a new judicial politics—one more patient with the sensitive information at hand and willing to discern how the pieces fit together in the uncertain terrain between fact and fiction. A methodology, that is, eager to discern the subtext—buried in the gaps, silences, and shrugs—of trauma testimony; one that is ready to substitute traditional credibility markers in the rigorous pursuit of truth. The intersection of race and gender in our current historical moment renders trauma testimonies particularly complex cases. I am hopeful that the toolkit of a phenomenological epistemology—one that weds respect for individual experience and the ultimate truth—may provide a modest philosophical source of resolution.

## Notes

1. In thinking of the title for this piece, I almost decided on “The Trauma Survivor as Credible ‘Knower.’” It soon became evident, however, that many individuals—not just trauma survivors, but also those who suffer from schizophrenia or bipolar disorder, for instance—experience a “fragmented consciousness” in which memories become hazy or distorted, and outsiders increasingly likely to derogate the speaker’s credibility. As such, I chose a title that I feel better embodies this injustice—and the myriad forms that it can take. See Miranda Fricker, *Epistemic Injustice: Power & the Ethics of Knowing* (Oxford University Press, 2007), 16.
2. Ellison, Louise and Munro, Vanessa E., “Taking Trauma Seriously: Critical Reflections on the Criminal Justice Process,” *International Journal of Evidence and Proof* (May 2016): 25.
3. This phrase is inspired by what Miranda Fricker originally termed ‘identity-prejudicial credibility deficit’ in order to refer to the personal affront on the credibility of one’s testimony owing to his or her race, gender, etc.
4. Strejilevich, Nora. “Testimony: Beyond the Language of Truth.” *Human Rights Quarterly* 28, no. 3 (August 2006): 701–13.
5. Ellison, Louise and Munro, Vanessa E., “Taking Trauma Seriously: Critical Reflections on the Criminal Justice Process,” *International Journal of Evidence and Proof* (May 2016): 20–21.
6. *Ibid.*, 20–21.
7. Fricker, *Epistemic Injustice*, 17.
8. Patton, Tracey Owens, and Julie Snyder-Yuly. “Any Four Black Men Will Do: Rape, Race, and the Ultimate Scapegoat.” *Journal of Black Studies* 37, no. 6 (2007): 872. Accessed July 28, 2020. [www.jstor.org/stable/40034959](http://www.jstor.org/stable/40034959).

9. Haraway, Donna Jeanne. *Primate Visions: Gender, Race, and Nature in the World of Modern Science*. London: Routledge, 2015.
10. *Ibid.*
11. *Ibid.*
12. The case of the Scottsboro Boys is just one example of “the racialization of criminality” (see also the Groveland Four). On March 25, 1931, a group of nine young black men and boys boarded a Southern Railway train in search of work in Memphis, Tennessee. As the train passed through Alabama, a fight broke out between the black men and a group of white youths. On board at the time were Victoria Price (21 years old) and Ruby Bates (17 years old). Fearful of penalization due to their failure to purchase a train ticket, the young women accused the black men of rape. On March 30th, the group of men were charged with rape by an all-white jury. Archives specialist for the National Archive Jay Bellamy states, “the prosecution’s case ... rested heavily on the testimony of Victoria Price, who was often evasive in her answers, pretended not to understand the question, or flat-out lied [about definitive facts like her occupation].” Other evidence included the testimony of Doctor Bridges, who reported that no blood was found on either Ms. Price or Ms. Bates and neither sustained internal damage consistent with rape. When Bates, after a period of absence, returned to testify for the defense, she conceded that there had been no rape and it was Price’s idea to accuse the defendants of a crime in order to evade being arrested themselves. On November 22, 2013, the Alabama Board of Pardons and Paroles posthumously pardoned the last three of the nine men who were convicted 82 years pri-

- or. See Bellamy, Jay. "The Scottsboro Boys: Injustice in Alabama." *National Archives*, 2014. For more information on racial injustice pre- and post-Civil War, see "Reports." Equal Justice Initiative, n.d. <https://eji.org/reports/>.
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16. Fricker, *Epistemic Injustice*, 28.
17. Ibid., 1.
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19. Ibid., 2.
20. Ibid., 2.
21. Woods, Angela. "Rethinking 'Patient Testimony' in the Medical Humanities: The Case of Schizophrenia Bulletin's First-Person Accounts," *The Journal of Literature and Science*, (2014): 1.
22. Ibid., 2.
23. Ellison, Louise and Munro, Vanessa E., "Taking Trauma Seriously: Critical Reflections on the Criminal Justice Process," *International Journal of Evidence and Proof* (May 2016).
24. Ibid.

25. Fricker, *Epistemic Injustice*, 162.
26. Welz, Claudia. "Trauma, Memory, Testimony: Phenomenological, Psychological, and Ethical Perspectives," *Scripta Instituti Donneriani Aboensis* 27 (January 1970): 105.
27. Fricker, *Epistemic Injustice*, 162.
28. Berghofer, Philipp. Husserl's Noetics—Towards a Phenomenological Epistemology, *Journal of the British Society for Phenomenology*, 50: 2 (2019): 151. DOI: 10.1080/00071773.2018.1525798.
29. Ibid., 151.
30. Öktem, Ülker. "Husserl's Evidence Problem," *Indo-Pacific Journal of Phenomenology* 9 (May 2009): 3.
31. Ibid., 2.
32. Ibid., 3.
33. Ibid., 3.
34. Ibid., 3.
35. Ibid., 3.
36. Ibid., 8.
37. Ellison, Louise and Munro, Vanessa E., "Taking Trauma Seriously: Critical Reflections on the Criminal Justice Process," *International Journal of Evidence and Proof* (May 2016): 24.
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41. *Ibid.*, 61-62.
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58. *Ibid.*, 121.
59. Ellison, Louise and Munro, Vanessa E., "Taking Trauma Seriously: Critical Reflections on the Criminal Justice Process," *International Journal of Evidence and Proof* (May 2016): 20-21.
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