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National Sexual Violence
Resource Center

Part 1 - Sexual Violence Against African American Slaves And Its Legacy Today

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👤 Dr. Crystal Feimster



This is the first excerpt of a two-part interview. Be sure to part two [here](#).

Trigger Warning: Discussion of slavery, medical sexual violence, sex trafficking of minors

Note to Readers: The slavery of African Americans in the United States is undeniably one of the most reprehensible parts of American history. The institution of slavery justified, legitimized, and legalized the repeated horrendous abuse against women and children for a century. At NSVRC, we recognize that, as difficult as history may be to learn about, it is our duty to do so. We reached out to Dr. Crystal Feimster for her expertise in the area of sexual violence during the slavery era because we believe her work to be vital to understanding

history and its impact today. Still, we encourage readers to take care of themselves as they engage with this sensitive content.

1. Because literacy was criminalized for Black people during slavery, Black survivors of sexual violence who's testimonies were recorded more often than not were transcribed, edited, and published by white people they may have already had reservations speaking to. With this obstacle, how do you as an educator, researcher, and writer, preserve the integrity of the voice and perspective of these Black survivors?

That's an important question, and a difficult one in the sense that the sources that we have regarding enslaved women's experiences of sexual violence and sexual harassment are very thin. In part, this is because, in most states, the [sexual assault of enslaved women was not considered a crime](#). So, it's very rare to have a Black woman testifying to sexual assault. Even free Black women...it's just very difficult to find women in that time period. Much of the pre-Civil War sources are either the narratives of enslaved people who are recounting their own experiences, the experience of female relatives, or women who were enslaved with them, such as Solomon Northup's [12 Years a Slave](#) or Harriet Jacobs' [Incidents in the Life of a Slave Girl](#). We have to take those sources and read them against the grain because they were texts that were written for abolitionists. They had a particular purpose and intent.

Also, this was a period where it was not deemed to be respectable to talk about such issues publicly. So, you have to see where formerly enslaved people who were narrating their experience in captivity were very careful in how they talked about those experiences. They usually do not talk about them in explicit terms or detailed terms. If they do, they don't really capture the intensity of the violence. More than often, if we read [Incidents in the Life of a Slave Girl](#), we might just merely think she was sexually harassed. I think that is about how far she could write about her experience for a public audience and not be seen as hypersexual or to be blamed for her own victimization. We know that even today, it's difficult for women to speak publicly about sexual assault and sexual harassment without

experiencing the backlash of being deemed as sexually promiscuous or provoking that kind of sexual assault.

You also have things where in reading sources, a lot of what we know actually comes from sources that were not produced by enslaved people. I read diaries of southern white women, as a way to get some insight into what's happening in those households. Again, you have southern white women using coded language or euphemisms to talk about the sexual assault and harassment of enslaved women. When they say, "Oh! They are like prostitutes!" instead of saying that they are being sexually exploited. The way that enslaved women are being treated on the plantations, they use the language of prostitution. That is a way for me to get at Black women's vulnerability.

Other sources that I use can be court records, but there are not usually court cases in which Black women's rapes are prosecuted because it was [not a crime to rape](#) a Black woman. Since it was not a crime to rape a Black woman, Black women were unable to pursue justice for themselves because they were not in the social or legal position to do so. There are court records where, in some states, enslaved people were prosecuted for crimes. The most famous case is [Celia](#), a slave woman who was tried and convicted for murdering her white master. We have the court records of that trial that found her guilty of killing her master. The argument that the defense made on her behalf was that she was fending off sexual violence and that it was an act of self-defense to kill her enslaver. We don't have testimony because she couldn't testify, but we have newspaper reports of what she supposedly said. We have people who gave affidavits or testified in court to what she said. Oftentimes, surprisingly, they're acknowledging her being a victim of sexual assault. So, there's not much reading against the grain there because she told them he was sexually assaulting her and had asked different people to intervene and protect her. Those people had testified, but the trial is not about bringing her justice for sexual assault. It's a criminal case in which she is ultimately hanged for killing her master. They delayed the execution and the hanging because she was pregnant. So, you have cases like that.

It comes out in these narratives, so it's hard to get to them. For me, oftentimes I say, "I have to read Black women's actions and behaviors as a source when I don't have their words." I can read Celia's actions for killing her master as an act of self-defense from sexual violence, even though she's not saying that in the court.

2. In times of great human crises, such as slavery, genocide, war, and disasters, the topic of sexual violence is often disregarded or

ignored. As a professor and researcher of sexual violence experienced by Black people from slavery to the 20th century, how do you stress to others the importance of integrating these facts and stories in our education?

I think I'll pull the thread of thinking about sexual violence in the context of war because that's a moment, particularly for Black women in this country. The [American Civil War](#) is a moment where Black women actually are able to make claims of sexual assault in a court of law through the military criminal justice system. Many state laws at this time still did not recognize rape against Black women as a crime. This is the first time in history where I actually have found the testimony of Black women and charges being brought against the people who raped them.

There are works from people like [Susan Brownmiller](#) which argues that the [Civil War was a "low rape war"](#) if we put it in comparison with other civil wars. Her argument was because it was brothers fighting against brothers, and there's this assumption that white men aren't raping white women because they're their sisters or cousins who live in the south and they're all related. It's not an interracial war or a war between an "other," so people don't have to be demonized or sexually assaulted.

I argue, "If you look at Black women as legitimate victims, they were a part of the collateral damage of war." In fact, Black women were the most likely targets of [wartime rape during the Civil War](#), and it is during the Civil War that rape actually is defined as a war crime for the first time through [Lincoln's Lieber Codes](#) [🔗](#). It meant that that became the model for the [Geneva Convention](#) and the basis on which [rape becomes an international war crime](#) as we understand it today, and that Black women were really on the frontlines of that history.

Also, Black women testified. For me, it's great because even though someone is transcribing their words, I take it for granted that these are the women's voices. They have reported these crimes. They have testified. What's interesting as a source is that I'm constantly reminded that questions I would have asked aren't the questions being asked, so what I get in terms of their testimony is often limited because they can only speak to the question that is being asked of them. Oftentimes, you see efforts to undermine their virtue, efforts to dismiss them as Black women and not having the right to testify against white men. But in the context of the military law, according to military code, Black women can testify

against white men in a way that, in the civil codes, is not allowed. A lot of white men, in defense of themselves, tried to mobilize state laws to disallow Black women's testimony. The military judge almost always said in the records I have, "She can testify." That's not to say that in some places, they might've said, "She can't testify" and in cases such as these, there are no records because the case is dismissed. It's about who's willing to take the case forward. Which general or officer is willing to stop and engage in a court martial?

For me, it's really important to see that kind of turning point in which Black women are defining rape as a crime in which they believe they are victims and in which they believe they should have justice. I argue that it's going to benefit most women in the south, because the reality is that it's really difficult for women, particularly poor white women in the south, to report rape charges as well. [Class and race](#) often work to maintain patriarchal power and violent power over women. The way that those two things operate means that it's not just Black women who suffer from a failure of justice around this, but poor white women also suffer from that kind of failure of justice.

3. Black women, free and not free, were excluded from rape laws. There was no path for legal recourse in the North or South. This somewhat changed with military laws under Lincoln's Lieber Code, which declared rape a war crime. When a sexual crime has been permitted and justified for so long, what does it take and how long does it take for a society and the people in power within it to embrace progress?

Before the Civil War, in Georgia and in a few other places, you have for the first time this argument in a law in which Black women can pursue legal action for rape, but it's only if the assailant is a Black man. Again, you can already see how the legal system is really set up to protect white patriarchal power. It's not just about bringing Black and poor white women under the umbrella of "protection" in the post-war period, because that umbrella already has a bazillion holes in it! Even for women who are already under that umbrella of protection...the kind of bar of being able to have a successful case is already almost impossible because those laws have actually been written [to protect men](#). They're not to protect female

victims of rape, but to protect men from being “falsely accused” of rape. So when we look at those laws it’s like, “You have to show that you fought back. That you were previously virtuous.” All these things were really written into the law to protect men, and we know that there’s a double standard. It’s not even enough to say, “Well Black women in post-war are brought under this umbrella of protection,” because there’s already a sexist patriarchal legal structure. We add racism to that category, and it is going to be that much harder for Black women to pursue legal action against the person who raped them. Nonetheless, we do. Black women pursuing legal action. White women pursuing legal action. Women continue to pursue legal options and to bring attention to the continued injustice. We continue to do the work to rewrite those laws.

We can start with the post-war period and the age of consent laws. Today, [in most states](#) the age of consent is 16. But in the postwar south, you had age of consent if you were over 10! Some places, as low as nine. In some states, for a Black girl they kept the age of consent to 10 and for a white girl it was 12. Men did not want to raise age of consent laws to 16, because if the age of consent was 16...it doesn’t matter. It doesn’t matter if she was promiscuous. It doesn’t matter if she didn’t fight back. Basically, she’s too young to consent, so any sex with any man over a certain age was rape. For women, we really wanted to move those age of consent laws to a higher age. In those debates around age of consent, you can see where white men are invested in keeping them low for racial reasons and for class reasons. They say, “Any poor woman can bring charges against us, a Black child can bring charges against us, and how do we protect our sons from poor women and Black women?” who they [regularly raped and harassed](#). That meant that they would lose privilege and access to Black and poor women’s bodies.

Continue reading [Part 2 - Sexual Violence Against African American Slaves And Its Legacy Today](#)

This blog post was published in The Resource 2023 online magazine special issue on [Racial Equity in the Movement](#).

About the Author:



*Dr. Crystal N. Feimster, a native of North Carolina, is an Associate Professor in the Departments of African American Studies and History and the Programs of American Studies and Women, Gender, and Sexuality Studies at Yale University. Feimster is the author of [Southern Horrors: Women and the Politics of Rape and Lynching](#) (Harvard, 2009), a history of how black and white women in the US South were affected by and responded to the problems of rape and lynching in the late 19th and early 20th centuries. *Southern Horrors* won the North East Black Studies Association 2010 W.E.B. Du Bois Book Prize and received Honorable Mention for the Organization of American Historians' 2010 Darlene Clark Hine Award. Feimster has published peer-reviewed essays in *The Journal of American History* and *Daedalus*, has co-edited a special issue of *The Journal of the Gilded Age and Progressive Era* on Centennial Anniversary of Woman's Suffrage, and has written numerous book chapters and encyclopedia entries. Her essay "[Keeping a Disorderly House in Civil War Kentucky](#)," in the *Register of the Kentucky Historical Society* was awarded the Kentucky Historical Society Collins Award for best article in 2019. Feimster has also published in the *New York Times*, *The Chronicle of Higher Education*, and *Slate* and has advised and appeared in several documentaries, such as [The Rape of Recy Taylor](#).*
