

## An Acknowledged Failure *Women, Voice, Violence, and the South African Truth and Reconciliation Commission*

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Grandmother pleads to be heard. I have not spoken, she cries. I ask only for a humble silence in which I can be heard. You have said that a woman cannot speak. . . . Can a woman not speak the word that oppresses her heart, grows heavy on her tongue, heavy, pulling her to the ground? I do not speak and my word has grown roots on my tongue filling my mouth. Will my word grow into a tree while I water it every day with silence?

—*Yvonne Vera, Under the Tongue*

In many ways, women's experiences in the political conflicts of the past are not evident in these summaries. . . . We have not been able to do justice to them. This remains unfinished business.

—*Report vol. 7:7*

The fruits of our liberation have not reached many of our women.

—*President Thabo Mbeki, Women's Day speech, August 9, 2006*

The more I look at my life as a woman, the more I take the stance of a startled anthropologist.

—*Susan Griffin, Made from This Earth*

Since the inception of democracy in 1994, South Africa has made considerable progress in securing women's rights. The Gender Commission, constitutionally established, acts as a watchdog over policy; women's organizations scrutinize annual budgets to ensure gender equity; gendered affirmative action and

equal opportunity processes have been established. Yet, notwithstanding the fact that one-third of parliamentarians and some 40 percent of Cabinet members are women, gender inequality and violence against women have been identified as major hindrances to true democracy in South Africa (Mbeki 2006; PCAS 2006). South African media routinely describe violence against women, particularly rape, as being of epidemic proportions.<sup>1</sup> I offer some data on rape here to give a sense of scale, fully aware of the paucity of figures in the face of violence.

Helen Moffett states that "South Africa has higher levels of rape of women and children than anywhere else in the world not at war or embroiled in civil conflict" (2006: 129);<sup>2</sup> at least one in three women will be raped during her lifetime. Most rapes are committed by people known to the victims: trust and betrayal are woven together in the act of violence. At the time of the hearings of South Africa's Truth and Reconciliation Commission, Rape Crisis reported that a woman was raped every thirty-six seconds (cited in Shifman, Madlala-Routledge, and Smith 1997). Approximately 51,500 cases of rape were reported to the police in the period 1995–96 and almost 52,000 in 1997–98 (Rape Crisis 2006).<sup>3</sup> Rates of rape have not decreased since then: according to official police statistics, 55,000 cases of rape were reported in South Africa in 2004–5 (SAPS 2005). Rape Crisis (2006) reports that every day 147 women are raped in South Africa. It is estimated that only one in nine rape victims ever reports the crime, and of these cases, only 7 percent are successfully prosecuted (OneinNinc.org.za 2006). Approximately 40 percent of reported rapes in the late 1990s were committed against children under the age of eighteen (Statistics South Africa 2000:2), usually by people close to them, including family members and teachers.

The trial of South Africa's Deputy President (now President) Jacob Zuma on charges of rape in 2006 focused public attention on sexual violence and women's rights in South Africa in a way that the acclaimed Truth and Reconciliation Commission did not. Despite its rhetoric of "the whole truth" and "national healing," the Commission's human rights violations committee, which collected statements and held public hearings between 1996 and 1998, found it very difficult to access statements about sexual violence. Only 500 of approximately 33,000 cases of human rights violations concerned sexual violence, and only 40 percent of statements where a deponent's gender is given concerned women (Report 1998 vol. 4:295). The Commission recognized that it had been unsuccessful in relation to women's experiences of violence. The Zuma trial,

on the other hand, unleashed considerable public discussion about gendered violence, particularly the stakes of speaking about rape. Here, I explore some of the complexities of silence and speech in relation to sexual violence and questions of justice. Drawing on Zuma's trial, the Commission's work, and Yvonne Vera's novel *Under the Tongue*, I consider their implications for projects that aim to liberate through giving voice to experience.

Late in 2005, almost ten years after the Truth and Reconciliation Commission was signed into law, a young woman accused Jacob Zuma, then Deputy-President of South Africa, Deputy-President of the ANC, leader of the Moral Regeneration Movement, and Chancellor of the University of Zululand, of rape. It was a high-profile case: Zuma was anticipated to be South Africa's next president. The complainant is legally entitled not to be named: identified in the press as Khwezi, she was frequently referred to as "the accuser"; a misnomer that says much about local perceptions of what the trial was actually about. Zuma was a close family friend, known to her since her childhood in exile. He was so close that she regularly confided in him, sought his advice, and called him *umathurhe* (uncle).<sup>4</sup> During the trial, she presented him as a father figure. Categories are confused: friend, father figure, uncle, deputy-president, potential lover, rapist, accused. Friend, daughter figure, niece, activist, potential lover, victim, complainant.

The trial was controversial. The appellant was accused of seeking to sabotage Zuma's political career. She was subject to public opprobrium. Her lengthy cross-examination, described by Presiding Judge Willem Van der Merwe as "thorough" and "fair" (2006:38), was felt by many critics to be cruel and humiliating. In a controversial legal decision, the judge allowed her sexual and psychiatric past to be made public.<sup>5</sup> Zuma was not asked to testify similarly about his past. At Khwezi's request, her legal counsel did not object to questions posed during cross-examination, explaining that she wanted to get it over as quickly as possible. Many women describe their response to rape the same way. It's horrifying to suspect that the experience of testifying might echo some of the structure of the event in question, and yet this is what women report time and again.<sup>6</sup>

During the trial, age-old stereotypes of women were brought into play: she was presented as a harlot, a crazy woman who cries rape, a saboteur of an innocent man's career. Her representation by the defense came close to character assassination: she was portrayed as temptress, slut, deviant, hysterical, mad, irrational, inconsistent. The public outcry that greeted her claims of having

been raped several times was appalling. She was accused of being a serial accuser, of inviting sex and then calling it rape, of entrapment. Her statement that she had been violated as a child in the ANC camps in exile was greeted by some sections of the public with disbelief, despite regular media reports of child rape.<sup>7</sup> The trial generated enormous public reaction. The media carried daily updates, expert opinion, letters, open radio debates. Supporters on both sides—men and women—ringed the court where the hearing was held. Police were called in to control the crowds. Some of Zuma's supporters carried placards that said, "Kill the bitch."

The trial made it clear that South Africa has made progress in making it possible to speak of sexual violence.<sup>8</sup> As Khwezi noted, "In our mothers' time, they could not just tell about rape. In a case like this, they would have just been quiet. They would not have told. It was just not an option. Who would they have told and what would have been the response?" (Cavanagh and Mabele 2006). Yet it also reveals how dangerous it is to speak of rape: for all the optimism inherent in her evaluation, Khwezi's own situation was and remains precarious. She had found it very difficult to continue with the trial; she was defined and judged by others throughout; she was angered and hurt by the ways in which her life was interpreted by the defense, the media, public opinion, and in the court's judgment. Her home was burgled twice; she received death threats; during and after the trial she was part of a witness protection program. Fearing for her safety, she left South Africa after the trial. She has taken a new identity in another country. We are unlikely to hear from her again. In asserting her voice, her body disappeared. It is as though her life has ended. For her there is indeed an undoing of the world in the aftermath of violence, a literal leave-taking from the familiar, and a symbolic death. Zuma, acquitted in May 2006, has been restored to his former political positions and, despite another court case,<sup>9</sup> has become President of the Republic.

While there are considerable differences between a trial and a truth commission, common to both are the difficulties of finding a language in which to speak of violence. Ten years prior to the Zuma trial, the South African Commission's Human Rights Violations hearings had made use of a "storytelling" methodology (Tutu 1996:7; Report 1998) in which "victims" were encouraged to narrate their experiences of violation. It anticipated that the act of speech would serve two functions: firstly, to restore to "victims" their "civil and human dignity," as the Act that brought the Commission into being describes it; and secondly, to assist in restoring a "proper" chronology, in which the past

would not haunt the present or shadow the future. As one participant at a Commission-related workshop in 1996 put it, the Commission was to be "the full-stop at the end of apartheid."

Women's testimonies before the Commission were generally broader in scope than men's: they were more likely than men to describe the effects of violence on family and community life, and, according to Mark Sanders (2007), to make demands on custom. They were also more likely to testify to the reverberations of suffering through generations and through time. But, much to the Commission's alarm, and despite encouragement, women gave scant account of their own suffering or experiences of violence, least of all of sexual violation (see Goldblatt and Meinjies 1997; Ross 2003a; and Report 1998).<sup>10</sup> This was after the Commission, concerned that it was not gathering 'the whole truth' of women's experiences, instituted several mechanisms to ensure that women testified about their own experiences of harm, including reminding deponents to address their own hurts and hosting special 'Women's hearings' (see Report 1998 vol. 4, ch. 10; Ross 2003a). The Commission's model of truth was such that it assumed that women bore a special responsibility for talking about sexual violence. It expected that women could and should testify about it, and that they would do so under certain conditions, notably the provision of a 'safe space' within which to speak.

Volume 4, chapter 10 of the Commission's (1998) Report deals with 'women,' and volume 5 offers a set of findings about women's experiences. No similar findings are offered for men. The Commission found 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 the threat 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. (Report 1998 vol. 5:256)

While important, the finding is problematic. It naturalizes violence in gendered terms, implying that the violence described is applicable only to women,

whereas many men experienced similar abuses. It makes no mention of the ways structures of masculine power shape and reinforce social and material inequalities that endure.<sup>11</sup> It also does not discuss the fact that sexual violence was and remains widespread and is not confined merely to detention or camps but was and remains part of the social fabric of daily life for many.

Volume 7 of the Report acknowledges that the Commission failed in relation to women's experiences of violence, especially sexual violence:

In many ways, women's experiences in the political conflicts of the past are not evident in these summaries. Males dominate as victims within the narrow mandate of violations examined by the Commission—killings, torture, abduction, and severe ill treatment. . . .

Violations involving sexual torture are also inadequately documented in these summaries. Despite the fact that rape formed part of the fabric of political conflict in the East Rand townships and in the bloody battles in KwaZulu Natal during the early nineties, it was infrequently reported in HRV statements to the Commission. (Report 2004 vol. 7:7)

The Commission did not offer the kind of gendered perspective on violence that might have contributed to an understanding of the causes of gender violence, its patterning under apartheid, or the silences that so often accompany it. It acknowledged that women's "personal truths" could not easily be verified and that the process of social truth telling was fraught with complexities of gender, but it does not explain why its process, particularly the internationally lauded public human rights violations hearings, were so opaque to women's experiences of harm.

The Commission consistently underestimated two features of violence. Firstly, some forms of violence articulated with and were exacerbated by apartheid but have longer histories. Sexual violence is one such.<sup>12</sup> The Commission's temporal ambit (1960–94) precluded adequate assessment of the *longue durée* of certain forms of violence, such as sexual violence. As a result, it was unable to contextualize sexual violence within historical patterns of gendered relations or to identify the specific configurations of that relationship under apartheid.<sup>13</sup> The consequence was that it was unable to locate individual narratives of harm within historical accounts of patriarchies' changing forms. Understanding harm in terms of gross violations of human rights, the Commission misidentifies oppression as individual injury. Women experienced the violences of colonialism, capitalism, and apartheid and their aftermaths

differently from men, but when they spoke in forms that the Commission was not legally enabled to hear, it assumed that women had not spoken, had not offered of their experience, had failed as witnesses, or had not been as affected by apartheid's violence as had men. A closer focus on the effects of colonialism and apartheid on everyday life might have offered a more credible account, one that identifies differential gender implications and outcomes and frames these in such a way that masculine experience is not offered as the norm against which women are measured. Doing so would enable a careful tracing of the systemic violence of apartheid that inscribed itself in different ways on men and women, old and young, black and white, and on the kinds of relationships and opportunities that they were able to forge from the prevailing conditions of possibility. Rather than a simple numeric accounting of gross violations of human rights and a broad description of apartheid, we would then have an historically informed assessment of gender relations over time, a record of the ways that sexual violence is embedded in changing economic and political relationships and regimes. In other words, the Commission might have offered a gender theory about apartheid violence that would have given grounds for ongoing debate and discussion and effective implementation of social and economic transformation.

Secondly, the Commission underestimated the dangers to women of testifying in public. Drawing from a model that holds that speech is cathartic and that persons are autonomous individuals with the capacity to choose freely how to engage in institutional processes, it read the absence of women's testimony of direct harm as silence caused by reticence, propriety, or lack of education about rights. It was therefore unable to deal with silences or gaps that emerged in its own historical record, even as it noted them. The remainder of the chapter deals with these aspects.

### Speaking of Harm

In the discussion that follows, I take as given the positive effects of speaking about violence for those who receive adequate support. Yet, as we have seen from the Zuma trial, it is not an easy matter to speak of sexual violence, and the stakes are higher than the Commission and courts admit. One of the risks lies in the risk of fixing identities. While it has taken considerable effort by gender activists and trauma experts to make the power of rape and its traumatic effects known and to call for support and care, rape is anticipated to be the most significant feature of a life, and those who experience it are often

defined thereafter entirely in its terms—the victim or survivor. There is a tendency in current discourses to assume that rape and sexual violence are limitless experiences, that there is no life (or no life worthy of being called lived) beyond them (see Sunder Rajan 1993; Mulla 2005). Most writing about rape, including the Commission's Report, treats victims as though frozen in time at the event of violence, as though they cannot move beyond it. The event of rape is presented as an ending that inaugurates a new persona. It is a reductive model that assumes a direct congruence between a particular aspect of one's experience and one's identity. The effect is to dehistoricize violence and to reify the subject.

I have explored one example of this in detail elsewhere (see Ross 2003a: 77–102; Ross 2005); here I offer a summary to illustrate. Yvonne Khutwane testified before the human rights violations hearings in Worcester in 1996. Involved in anti-apartheid activism from the 1960s, she had been arrested by the police in 1985 and held in detention, where she was assaulted and sexually abused. She fell ill with meningitis while in detention, but medical treatment was withheld for a long time before she was treated. She was released on bail, and eventually charges were dropped. Meanwhile, in her community, rumor circulated that she had betrayed others while in detention. Relationships with her political peers and community members soured, culminating in an arson attack on her home. She asked the Commission to investigate the reason for the attack, her degradation, and the reason that she had been ostracized. She later told me that she had not intended to speak of sexual violation at the hearings but was relieved that she had, and had initially received much support from her friends and neighbors for her disclosure.

Despite the fact that she asked for an investigation into communal relations, the Commission focused on the event of sexual violation as the defining feature of her testimony, and media reports on the hearings retain that framing. She was repositioned as a victim of sexual abuse, a framing that has remained constant in most of the representations of her testimony (see Ross 2003a:89–93), including in the Commission's summary of her case (Report 2004 vol. 7:204), despite the fact that she has been successful in remaining in her community since the trial in 1987, has managed to repair many relationships damaged at the time, and is an active member of her political organization, working alongside some of those who had earlier accused her of betrayal, and even running (unsuccessfully) for office in local elections.

Another example will suffice to make my point. Zanele Zingxondo testified in Beaufort West. As a young woman, she had been involved in anti-apartheid activism. At the age of nineteen, she was arrested on suspicion of having been involved in a “necklacing” murder. While in detention she was subjected to violent abuse, including sexual torture, and was threatened with rape. She told the Commission that her mother had died never truly believing her innocence, and asked for an investigation that would clear her name. The Commission's focus during the hearings was on sexual torture, and in its 1998 Report (vol. 2:192; vol. 3:446), extracts of her testimony describing sexual violence are cited. There is no discussion of the broader aspects of her case in the summary offered in volume 7 (2004:897), and no finding regarding her involvement or otherwise in the murder.

In both the case studies I've offered here, while the women described events of sexual abuse at the hands of security personnel (i.e., people outside their immediate community),<sup>14</sup> both requested the Commission to address issues related to their lives in community; to clear their names, to give them the grounds to reestablish legitimacy in familial, communal, or local political relationships. In other words, both were concerned with how to live their lives in the aftermath of various events of violence.

Such concerns may become still more pressing when the event of violence is perpetrated by members of one's community. For example, two young women testifying before the Commission's hearings in KwaZulu-Natal (October 1996) reported on having been raped by neighbors who were members of opposition political organizations. The Commission reports

In two of the three rape cases heard (at this hearing), the women had never spoken about their experiences before. In one of these instances, a woman was gang-raped by some ANC youths over a period of a month and conceived a child. She reported that one of the men who raped her began visiting her home regularly and claimed parenthood of the child, which she was finding very difficult. (Report 1998 vol. 1:419)

Here, violence is afforded legitimacy by kinship's claims. A child conceived in violence becomes the grounds through which a patrilineal order is legitimated, and the violence of the act of conception—and of the claims made on its basis—is occluded. The young woman concerned must quite literally live with the past—both in the form of her child and the presence and persistence of the

man who claims paternity. Her complaint reveals that the value of a woman and that of a child are weighed differently; in accord with local custom, the father has rights to incorporate the child into a patrilineal kinship order, but at the cost of the emotional experiences and wishes of the child's mother. While the case is doubtless more complex than presented in the Report, the point remains: kinship is allowed to exert a claim that absorbs violence into the social and the everyday. It transforms the problem to be solved from one of rape to one of paternity; from one of violence to one of legitimacy; from an illegitimate act to a socially legitimate outcome valorized by patrilineal custom and patriarchal ideal.

These findings should give us some pause in relation to contemporary emphases on vernacular forms of "restorative justice." For example, during the Zuma rape trial, the defense gave evidence that after the event in question, traditional marriage negotiations had been initiated, thus implying that sexual relations had been consensual. Khwezi's supporters saw this as an attempt to legitimate rape through appeals to tradition. Similarly, two women with whom I have worked describe being forcibly abducted and held against their wills in locked rooms, without food, until they went through with what they described as "traditional" marriage ritual abduction procedures. Both were clearly disoriented and deeply distressed by the events, even in their narration many years later. Here, socially sanctioned relations mask coercion and violence.

Part of what is at stake is the question of how to live with others in the present. Sexual violence may undermine trust in the social institutions of everyday life. Each case described here is concerned with questions of trust and betrayal and the ways that these shape the possibilities of everyday life. Yvonne Khutwane describes the betrayal in an (admittedly corrupt) state institution's failure to protect her; the betrayal of which her comrades accused her; the betrayal by what she felt to be her political community and the consequent attack on her home. Zanele Zingxondo speaks similarly of prison and of the ways in which her mother's fears betrayed the ideal relationship between mother and child. There is too the betrayal of death: her mother died before the distrust between them could be resolved, leaving behind unfinished business that she alone must bear, and which the Commission did not ameliorate. In effect, notwithstanding her call on the Commission, her case does not rest before the dead. Khwezi describes betrayal by a respected figure; the attempt to transform the event into a sanctioned form speaks to the ways that culture might betray one. The women describing how their comrades or political foes

raped them are commenting on the fragility of neighborliness and local codes of dignity and respect. Their bodies become the ongoing sites of contestation over power and meaning; a feature common to rape in all war situations, and a feature that many feminists argue underpins nationalism.

### Trust and Betrayal

Given this layering of betrayal, speaking of violence calls for trust of various kinds: trust in the capacity to attend to suffering, in institutions anticipated to assist, in social relations and potential support networks, in the discretion of another. It is clear that trust is easily betrayed or undermined. It cannot be taken for granted. Words are not received into a vacuum; language is shared and is molded by existing forms of power that shift over time. The power that shapes social worlds is not always easily put into words, particularly where women are held responsible for the actions of others. When it is, the result implicates many of the taken-for-granted structures of everyday life and the ways that language folds into ongoing relationships.

This is a difficulty that novelist Yvonne Vera grapples with in her book *Under the Tongue*, the most evocative and delicate account of violence, voice, and silence I have ever read. The protagonist, a young woman named Zhizha, wrestles with the fact of a father's intimate violence, which has initiated her into the puzzle of language's limitations in the face of suffering, and thence into silences common to womanhood. *Under the Tongue* is set during the Chimurenga, Zimbabwe's War of Liberation, and is centrally concerned with voice, its erosion, and with the need to restore language to life in the aftermath of (intimate) violence. Zhizha's mother has joined the freedom fighters, an act that receives no sanction from her family or community. She has left Zhizha to live with her grandparents and father. Sexually abused by her father, Zhizha must learn to speak the betrayal that lies like a stone under her tongue. It is compounded by the silence her family maintains about her mother's whereabouts, her activities, and even her name. Zhizha is surrounded by that which has not been said, which may not be named. Through her grandmother, an ally, she learns of the layering of silence in the face of the violence, sometimes indefinable, that shapes women's lives.

In an evocative passage Zhizha's grandmother compares women to trees. Unlike trees, which have many branches with which to carry the experience they cannot utter, people have tongues. And yet she wonders, "Perhaps it is better to have many arms to carry your pain and no tongue with which to

speak it" (1996:52). The quandary of what to do with experience here takes form: to speak it, and in so doing to share it, or to carry it, silent and alone? In contexts of violence, speech may be dangerous, especially when what could be spoken would be a description of masculine violence that undermines familial propriety and the myth of masculine care on which certain versions of the family—and, one might add, the nation—are constructed. ("This is apparent too in Khezezi's accusation against her *'malume*, then Deputy President of the ruling party and of the Republic.) Indeed, Zhizha's grandmother comments that some talk is so dangerous that "only the departed can speak our sorrow and survive" (p. 42); it is only through the voices of the dead that experience can be given expression and thence a home in language.<sup>15</sup> But she also asks: "Why must we be silent? . . . We have tongues with which to dream." Zhizha knows that "the best words are those that are shared and embraced, those that give birth to other words more fruitful than themselves, stronger than themselves" (p. 16). And, right at the end of the novel, she notes, "A word does not rot unless it is carried in the mouth too long, under the tongue."

Central to the novel is the problem of language in the face of suffering and remaking the world after violence. "A word is like a wound that has dried," says Zhizha's grandmother (p. 53). "Dried," note, not "healed." Zhizha's story offers the paradox: language is insufficient to experience, and yet certain words may offer new beginnings. The problem is to find the forms that can acknowledge experience and that hold potential for the future. Naming experience would undermine the world as Zhizha and others know it. The horror of her experience is that her father's power takes its form not only through the conventions of patrilineal societies and the ways that these are shaped in support of patriarchal power, but also through betrayal of an intimate kind. There is a quadrupling of power here: that of men over women, of elders over youth, of fathers over families, and of violence sexually enacted. If Zhizha describes her father's violence, she undermines the principles of patriarchy and a particular social form premised on it, yet by not speaking, terror remains rooted in her life, and a particular form of masculine power remains embedded as the principle on which social life is formed. This is precisely the quandary that faced Khezezi and the women who might have testified before the Commission. To name the betrayal is to pull at the foundations of power. This is why feminists have long espoused finding a voice and speaking of experience. But the ease of this rhetoric belies the complexities of the process and the moral

decision making that is involved in "speaking out"—aspects that are only too clear in the work of the Truth Commission and the events of the Zuma trial.

In contexts in which women are often blamed for the harm they experience, especially when that harm is sexual, it ought not be surprising that many would prefer not to speak, or find themselves unable to do so, particularly when doing so incriminates not just another individual, but a set of cultural assumptions and the social forms that they shape. It takes courage both to speak of harms done and to be silent in their face and aftermath. Part of the stakes of talking about rape is the undoing of familiarity. It is not just specific relationships—between oneself and a rapist—that are implicated. To speak about rape is to speak about larger systems of power that are at the base of the world one inhabits.

The stakes of naming sexual violence are greater than simply acknowledging one's singular experience of harm: sexual violence is always about power and betrayal. It implicates more than just individuals. Its horrifying irony is that it often forces the sufferer into the position of betrayal too.

At the opening of the Commission's Women's Hearings on July 28, 1997 in Johannesburg, Thenjwe Mtintso, head of the Gender Commission, former Commander of uMkhonto weSizwe, the ANC's armed wing, commented on this directly, saying,

When today they [testifiers] make their sobs, they must know there's a flood of tears from those who did not even dare to come here today . . . because we are not yet ready to make those outward sighs of pain. As they try to free themselves today of the burden, they must know that they are freeing some of us who are not yet ready, Chairperson. I speak as one of those . . . I could not sleep last night, because I sat with myself, I sat with my conscience. I sat with the refusal to open those wounds. (cited in Ross 2003a:24)

Speaking about not-speaking, Mtintso struggles with the implications of testimony. By speaking, she would betray her comrades and the values of the struggle; by keeping silent, she would be refusing solidarity with other women. Either way, her decision implicated others, structures of power, relationships, and values. It is clear that conscience and morality are at stake and that one may be caught between conflicting desires—to free oneself of a burden, to refuse to open wounds; to reveal, to conceal. Her comment hints at the complexities of

silence and the costs of being called to speak of personal experience. And her comment that other women speak for those who are unable draws our attention to the weight of responsibility.

### When Dangerous Words Are Uttered

The Commission assumed that catharsis of some kind followed on speech, that speaking directly of sufferings sustained in the past might offer healing. It also anticipated that breaking silences would end repression and inaugurate freedom—personal, social, and political. This is an important cultural model, shaped largely by the principles of psychotherapy. It is not necessarily a universal or transhistorical model and does not take account of the diversity of ways in which experience is articulated or otherwise made known and addressed.<sup>16</sup> Human rights and feminist calls to speak directly demand that a language of “less hurt”—a linguistic form that protects individuals from experience—is translated into an often cruel realist discourse anticipated to heal. For example, human rights workers involved in collecting statements for the Commission on Historical Clarification in Guatemala told me with frustration that they frequently had to reformulate the opaque speech of peasant women who reported the deaths of kin by saying, “He went away,” or their own experiences of sexual violence as “I was hurt” into the coarser objectivist discourse of legal language: “He was abducted/ murdered/ disappeared”; “He raped me.” In each instance, two acts of translation are performed: one that locates a locus of blame, and the other that distills tentativeness into certainty.

There are dangers to what I call “straight-talk.” Circumlocution enables people to say what might otherwise be too dangerous to say. Its negative effect is to protect the perpetrator and blame the victim. Straight-talk directly exposes the power relations in violence, but at the cost of uncertainty—a person who has disappeared may yet reappear; one who has been murdered will not. It may be that in speaking elliptically, women protect themselves from the finality that straight talk creates.

Let me give another example, this one drawn from the South African instance. A complaint about the Commission’s human rights violations hearings offered by people I interviewed early in its process was that in insisting that suffering be explicitly articulated, the proceedings were undignified and rendered sufferers vulnerable to the bare assessments of others. The comment is predicated on an understanding that language encodes ideal patterns of respect and avoidance that are central premises of social life in Southern Africa

For speakers of Nguni and Sotho languages, this takes linguistic form in *ukhuluphiha*, which calls for delicacy and circumspection in speech and behavior. Its codes are status-, age-, and gender-specific; different modes of address are used depending on audience and relationship (Kunene 1958; Finlayson 1984). Matters of sex and violence are, in customary ideal, encoded in metaphor and elliptical speech—alluded to, rather than named directly. Utilizing a direct language of suffering sometimes contravened these ideals, leaving sufferers denuded of the shelter that less-direct but widely understood forms of expression might offer. And, as the Commission’s translators made clear (Krog 1998), when people did use these forms of speech, it was often difficult for them to remold them into bare speech.

The assumption that truth is neutral belies the complex processes of interpretation and contextualization that go on in real life (Ross 2003a and b; Gready 2003). Notwithstanding evidence that demonstrates very clearly that women’s safety cannot be secured when certain kinds of experience are made public (I am thinking here particularly of the horrifying violence sometimes visited on women who publicly disclose their HIV-positive status), there is still a normative assumption that silence is intrinsically damaging, and speech healing. But the disclosure of painful experience is difficult, not least because it opens one to the assessment of others. And, as feminists have long known, and as the events that unfolded during the Zuma rape trial illustrated, there is far more to being heard than simply speaking.

For young women in particular the costs of public speech may be high. Very few young women gave statements to the Commission or testified about their experiences of violence.<sup>17</sup> None of the ten young women with whom I worked closely between 1996 and 1999 (see Ross 2003a) spoke publicly, and those few who did make statements to the Commission did so with some reluctance, usually after prompting by senior women in the community or by their families. The women were afraid that their deeply hurtful experiences might become public and thereby expose them to judgment and censure. A few young women who did testify elsewhere told me that they had been humiliated to speak of “intimate” matters publicly.

Finding a voice in which to speak and a linguistic form that might do justice to experience is thus not simple. The matter is compounded by the fact that people inhabit multiple speech communities and that speech acts offered in one site may circulate in a variety of sites where they carry different cadences and are subject to diverse interpretations over time. There is as yet little



examination of the social lives of testimonies and the consequences of their circulation for women who speak outside of conventional or normative modes. As Khwezi commented after Zuma had been found not guilty of rape, "It was weird to read about yourself and your life and these processes as understood and written by others" (Cavanagh and Mabele 2006). The Commission assumed that the public space of human rights violations was neutral and that the interpretations offered in the hearings would necessarily and naturally be the same as those that circulated elsewhere. It also assumed that the weight and value given to experience couched in terms of human rights in that setting would be sufficient to secure the narrative and interpretive framework outside of the hearings. Courts frequently operate with the same expectation, that words offered in that context will be given similar interpretations and values outside of it. In fact, accounts that exonerate or explain experience in one context may undermine it in another, as different interpretations are brought to bear. Some women were shocked to realize the weight of convention that worked against them outside that setting and that obviated the invitation. Some found unexpected support and relief in testifying or in hearing the testimony of others that reflected their experience. For others, testifying publicly—whether before the Commission or a court—may precipitate an annihilation of the world or a dismembering of the self rather than a cathartic experience, even if the law offers (limited) redress. This was glaringly obvious in the Zuma rape trial, where Khwezi's sexual identity, her HIV-positive status, and the claim that she had been raped several times (including once as a small child in exile) were subject to widespread disbelief, both by the defense and large sectors of the general public.<sup>18</sup> The fact that Khwezi no longer resides in South Africa reveals that it is naïve to assume that speaking truth necessarily indemnifies one from negative consequences: the consequences may be life-threatening.

My work on testimonies offered before the Commission (Ross 2003a and b) shows that testimonies were reinterpreted in the light of local knowledge and gendered codes of conduct. Some people who testified before the Commission's human rights violations hearings found it disturbing that their testimonies were widely circulated in the mass media (see Ross 2003b). Reinterpretations were often less than generous and were sometimes cruel, especially for women whose activities stood outside the registers of local conventions of girl-ship or womanly propriety. Thus young women who had been actively involved in political resistance to the state, or who had borne children out of wedlock,

or who had been detained, raped, or tortured were particularly vulnerable to accusations of impropriety; and, unless they were widely acknowledged to have been leaders in the struggle against apartheid, they tended not to speak of their own activities in the past lest it invite negative assessments. They had learned from prior experience that gender stereotypes often hold more weight than actual relationships and events. For example, one man, a trusted comrade of women I worked with, asked me why I was working with women when their roles in struggle had been minimal and limited to being convenient levers—this despite the fact that the same women to whom he referred had been instrumental in establishing a variety of organizations that opposed apartheid, creating links with underground liberation movements, and keeping secret from the police and even their families the whereabouts of the men in question. The women with whom I worked did not—and do not—reveal secrets, either about their activities in struggle or about inequitable gender relations between comrades at the time. Although it is rumored that some among them had been raped, none has ever acknowledged this. Some withstood severe physical torture and solitary confinement without betraying their comrades. They trusted one another with intimate knowledge and did not betray that trust. Yet still the stereotype endures. Given the weight and power of general forms of gendered stereotyping explicit in his comment and reinforced in the events of the Zuma trial, it is not surprising that people may prefer to keep silent about painful experience.

### Silence

While contemporary belief generally holds that silence is damaging, the historian Theodore Zeldin notes that silence was valued above speech in many peasant societies. He quotes a Finnish proverb: "One word is enough to make a lot of trouble" (1998:32); and he notes that "there are many reasons for not speaking, above all the fear of making a fool of oneself" (*ibid.*), and, I would add, the fear of upsetting the status quo, rendering oneself vulnerable to accusation or to unsympathetic assessment. The conundrum is of course that silence may offer legitimacy to violence. Those who wish to expose their experiences of sexual violation stand uncomfortably between these two positions. Many women do not speak out because they are afraid: of retribution, further violence, judgment, pulling at power's foundations, rendering their worlds uninhabitable. Some are silent out of a kind of perverse hope: that the event was an aberration, not to be repeated, unique. This silence is a product of the

way that violence individualizes: social patterns of disregard for women and historical patterns of violence against women are obscured in the immediacy of damage inflicted on the body. (Indeed, it is partly because the Commission focused on *events* of violence, rather than on historical processes, that its findings on causes of violence are so limited.)

There is a temporal dimension to the expression and reception of harsh experience; it may take time for events to settle in such a way that they can be narrated. Alan Feldman notes in his study of violence in Northern Ireland, "The event is not what happens. The event is that which can be narrated" (1991:14).<sup>19</sup> Silence may point to the limitations of particular discursive forms; some things simply cannot be articulated within the sanctioned languages and social spaces currently available to experience. It may take time for changing discursive possibilities to sediment in such a way that they become accepted. In the absence of such, certain kinds of experience slip from the record or seep into silence.

This poses challenges to transitional justice processes predicated on the disclosure of experience. Priscilla Hayner warns that Commissions need to pay attention to addressing women's experiences, lest they "remain largely shrouded in silence and hidden from the history books" (2001:79). Michel-Rolph Trouillot argues that "silence enters the process of historical production at four crucial moments: the moment of fact creation (the making of *sources*), the moment of fact assembly (the making of *archives*), the moment of fact retrieval (the making of *narratives*), and the moment of retrospective significance (the making of *history* in the final instance)" (1995:26, emphasis original). The silencing of women's experiences at each of these stages is apparent in the Commission's work: in the use of a definition of suffering (gross violations of human rights) that prioritizes the forms of violence men experience and undervalues the systemic and gendered dimensions of oppression inherent in apartheid; in the elision of women's experiences from the assemblage of materials that comprise the Commission's Report; in the ways in which women testified and the analyses of testimonies in the Report, and in the "truth" to which it has given rise, in which women are represented as an appendage of largely male experience.

Writing of silences in literature, feminist scholar Tillie Olsen (1980:5–21 and 142–51) distinguishes between natural and unnatural silences. Natural silences are "that necessary time for renewal, lying fallow, gestation, in the natural cycle of creation"; "a receptive waiting" (p. 14). These kinds of silence

are fecund, unlike unnatural silences—"the unnatural thwarting of that which struggles to come into being, but cannot" (p. 6). Olsen identifies varieties of silence within the latter: those of the marginal and marginalized, those imposed by censorship or by political activism, absences that register as silences, premature silencers that, to paraphrase her, ravage and obliterate the capacity for speech (p. 149), and silences that arise because experience is not recognized (p. 10).

Each of these forms of silence has a counterpart in the Commission's work. Women's experiences were marginalized by the emphasis on gross violations of human rights, the kinds of language and the spaces within which testimonies could be offered. They are set off from men's experiences, offered as separate. One might argue that the paucity of contemporary forms to recognize and acknowledge diverse experience constitutes a form of symbolic violence that curtails creativity and freedom—Olsen's premature silencers. For example, the emphasis on spectacular events of violence—abduction, torture, killing, and severe ill-treatment—forecloses an understanding of the subtleties of oppression and the diverse ways in which apartheid affected different categories of people. An emphasis on individual gross violations of human rights generates a biased accounting of the past that holds experiences that were mainly masculine to be the norm, prematurely silencing the expression of women's experiences.

This operates also as a kind of censorship or filtering device that admits only some kinds of experience as valid, while discounting others. For example, the Commission's account of violence in Zwelethemba, the small town in which I worked between 1996 and 1999, offers a litany of male death and damage, to the exclusion of women's activities, the harms they suffered, and the ways in which people tried to create meaningful lives for themselves and others. The Report on the area (1998 vol. 3:427–29) clearly holds the state responsible for much of the violence experienced in Zwelethemba in the 1980s. The account is largely concerned with male death: only one woman is included in the events, and that because during the incident her brother-in-law was killed. Many of the women with whom I worked in Zwelethemba had participated in struggle activities and were present, some injured, during the events described in the Report (see Ross 2003a:77–161). Many had been involved as activists in the struggle against apartheid and oppression since the 1950s. Young people were involved in protest against Afrikaans as a medium of instruction since 1976, and protests against Bantu education were sustained in the area. Yet

none of this is included in the Report. There is scant account of the brutality of a range of different police, military, and paramilitary interventions. By 1985, most of the senior leadership of local struggle activities—trade unionists, members of the United Democratic Front, underground ANC operatives—had been jailed. The mantle of leadership fell on the youth. Pamela Reynolds (2005) has documented the extraordinary scale of that responsibility and the seriousness with which the young people of the time accepted it and its consequences, many of which were devastating for the individuals concerned and their kin, and the effects of which continue to reverberate through everyday activities. The Commission's Report does not describe the tensions that existed between residents of Zwelethemba or the betrayals of some by others, the effects of which endure into the present and shape everyday interpersonal relations (see Reynolds 2005; Ross and Reynolds 2004). There is no record of the bravery of the young or the complex work of making and remaking everyday life that is so often undertaken by women. We are offered only an account of gross violations of human rights, with no consideration of the broader social context or understanding of the relations between men and women, young and old.

Women's experiences register an absence in the historical record that the Commission created—in part, I have argued elsewhere (Ross 2003a), because insufficient attention is paid to the subtle content of women's speech that describes the undoing of everyday life that apartheid wrought, the hardships of creating and maintaining social relationships in fraught conditions, and the ways in which grief and social repair are folded into everyday activities. And I have already shown how women testifiers were faced with the prospect of betraying either their cause or a population in deciding whether to testify: cast into a position of self-censorship, they faced the prospect of betrayal at many levels.

Silence is complex. It may be a response to fear, a wish not to attract (further) violence, a physiological response to danger. These aspects of silence complicate simplistic understandings of responses to sexual violence both at the time of an event of violence and in its aftermath. For example, Khwezi stated that she did not scream when Zuma approached her or during intercourse. The defense made much of this, arguing that her silence was evidence of consent and that therefore there was no rape. There was no acknowledgment of the context and the ways in which propriety—deeply ingrained social conventions—might have shaped her responses. Faced with the nakedness of a man one

respects, one may avert the gaze and still the voice. Faced with the threat of violent incursion, one's body may freeze. That one's voice and body are not responsive to one's will in such circumstances is well documented. It is not just to call this kind of silence "consent." The point was made by Merle Friedmann, a psychologist called to witness for the complainant, who noted that "freeze, flight, fight, fright, faint provides a more complete description of the human acute stress response sequence than current descriptions" (cited in Maughan, Gordin, and Gifford 2006:1). And even in cross-examination we have a strange inversion of the legal processes that attend to other crimes: the complainant rather than the defendant is forced to defend herself and her actions.<sup>20</sup> Here, the event takes second place, is (temporarily) silenced in the focus on the complainant, her sexual past, and her physical responses.

Where particular experiences are considered to be defiling or polluting, as violence, incarceration, and death often are,<sup>21</sup> silence may be a means to protect the self and others, holding experience at bay or within so that its harm cannot ramify outward. In such cases, stillness may be an act of bravery, not of cowardice or of an inability to confront experience. Sometimes the voice flees from experience. At several human rights violations hearings, witnesses simply wept or were unable to complete their testimonies. Sometimes they were able to recover sufficiently to continue testifying; at other times their stumbling demanded careful attention. Silence may also point to the ways in which some experience is discounted or diminished. It may be a refusal to speak in terms that do not do justice to the self. And, as is evident in Vera's sympathetic account of Zhizha's coming to voice in *Under the Tongue*, it is not always possible to speak directly or easily of certain kinds of violence—to do so would be to render the remaining world so unstable as to be uninhabitable, both for oneself and for others who are equally vulnerable. We do not yet know what the individual costs of such silence may be, but we can anticipate that they are great indeed.

Veena Das (2000, 2007) has shown that much of the way that women rebuild social worlds in the aftermath of violence rests on determined efforts not to speak, not to subject others to the horror of one's experience or to render them responsible for one's well-being. Silence here is a courageous act, one that sets aside personal well-being in the interests of the greater community. Yet, as Lester Olsen (1997:65) notes, "Silence may be more decorous than a scream, but silence is unlikely to secure necessary support, assistance and care from concerned communities, or to bring about social or political change."

There is, then, as Das notes, an ethical charge: to attend to the suffering of others, even when, especially when, this cannot be articulated. Silence calls for empathic engagement and an assessment of the subtleties of the unspoken in everyday life. In other words, what appears to be silence or absence may actually indicate a failure of recognition and of empathy, an institutional incapacity to attend to suffering.

### Listening and Attentiveness

One consequence of women's silences is that they are often read as individual moral failures rather than as institutional failures. In other words, "women" are considered to be the problem, rather than the institutions and processes that do not admit different experiences, that protect power from direct speech, or that do not admit the complexity of speech and silence as acts that have bearings and consequences in social worlds.

An early submission on gender to the Commission (Goldblatt and Minnjes 1997) proposed that the Commission create "safe spaces" in which women might speak of violence. My work suggests that while important, such spaces are unlikely to be sufficient to the task of revealing harm. The unfolding of words, silence, and experience in the sites I've selected points to the ways in which certain kinds of violence are folded into everyday life. They indicate the enormous difficulty of shaping everyday language to admit certain kinds of experience, and the recalcitrance of attentiveness in the face of power, pain, and betrayal. They hint at the complexity of finding voice, articulating experience, and transforming existing gender relations. It is here, at the intersection of words and silence, that attentiveness is called forth.

Das argues that failure to recognize an affirmation of pain is to participate in and perpetuate violence (1996:88). This suggests a responsibility to recognize silence: ideally, it calls for (th) an ethical obligation. Too often, however, hearing is shaped by preconceived ideas about the other, and silence may precipitate a turning away, a refusal of the gesture of listening attentively. Das notes that this is not a failing of the intellect, but one of the spirit (1996:88).

The argument I've put forward here challenges conventional understandings of transitional justice and of ordinary legal procedures. I hope to have shown that a hospitable model of justice cannot rest on documentation of gross violations of human rights alone. It needs to take account of historical continuities in violence and suffering, the complexities of language in relation

to pain, and the different ways in which our understandings of the intersections of violence, silence, and voice affect knowledge production and its uses. It needs to insist on a relation among justice, attentiveness, and responsibility. It needs also to be aware of the implicit violence of failures of attention and responsibility, erasures of experience, and infelicities of spirit.