

# The political economy of sexual violence in post-apartheid South Africa

by Helen Moffett  
(African Gender Institute, University of Cape Town)

Paper presented at the Harold Wolpe Memorial Trust's Tenth Anniversary Colloquium, "Engaging silences and unresolved issues in the political economy of South Africa", 21-23 September 2006, Cape Town, South Africa

**DRAFT: NOT TO BE QUOTED WITHOUT THE AUTHOR'S PERMISSION**

---

## **Abstract**

*South Africa has the worst known figures for gender-based violence for a country not at war. At least one in three South African women will be raped in their lifetime. The rates of sexual violence against women and children, as well as the signal failure of the criminal justice and health systems to curtail the crisis, suggest an unacknowledged gender civil war. Yet narratives about rape continue to be rewritten as stories about race, rather than gender. This stifles debate, demonizes black men, hardens racial barriers, and greatly hampers both disclosure and educational efforts.*

*As an alternative to racially-inflected explanations, I argue that contemporary sexual violence in South Africa is fuelled by justificatory narratives that are rooted in apartheid practices that legitimated violence by the dominant group against the disempowered, not only in overtly political arenas, but in social, informal and domestic spaces. In South Africa, gender rankings are maintained and women regulated through rape, the most intimate form of violence. Thus in post-apartheid, democratic South Africa, sexual violence has become a socially endorsed punitive project for maintaining patriarchal order. One result has been to constrict and compromise women's experience of citizenship, as the promises of Constitutional equality are countered by the fear of sexual violence. The Zuma trial clearly demonstrated the shortfall between the rights women are guaranteed under the Constitution, and the cultural, political, judicial and social backlash they risk should they lay claim to these rights.*

## **Introduction**

In the decade since South African citizens queued to cast their votes in South Africa's first election based on universal adult franchise, the status of women in this fledging polity has come under increasingly troubled scrutiny. By now, we are all too familiar with the sobering realities of gender-based violence, which is increasingly described as having reached epidemic proportions. Sexual violence in particular has spiralled, with survey after survey suggesting that South Africa has higher levels of rape of women and children than anywhere else in the globe not at war or embroiled in civil conflict. This claim, and the statistics that support it, are often angrily contested, with the result that yet more data is collected and yet more quantitative analysis is undertaken by yet more reputable organizations and institutes. All emerge

with the same grim findings, which are regularly reported in the mainstream media: at least one in three South African women can expect to be raped in her lifetime; and one in four will be beaten by her domestic partner. (One of the most recent of these surveys is a study by the University of Cape Town's Unilever Institute of Strategic Marketing.<sup>1</sup> Others have been conducted by credible organizations, including parastatals such as the Medical Research Council, the Human Sciences Research Council and Statistics South Africa, academic initiatives such as the Centre for the Study of Violence and Reconciliation, and the Groote Schuur Hospital Rape Protocol Project, international monitoring groups such as Human Rights Watch, and private institutions such as the Population Council.<sup>2</sup>) These figures, as well as the failure of South Africa's overburdened criminal justice and health systems to respond appropriately to the crisis, suggest an unacknowledged gender civil war. The high rate of rape in particular is also fuelling South Africa's HIV/Aids pandemic.

This short piece is part of a larger work in progress in which I investigate the complex relation between this gender war and the social and racial legacies of apartheid.<sup>3</sup> Much of the research on sexual violence undertaken in the first ten years of South Africa's democracy has been quantitative;<sup>4</sup> while theoretical work has tended to fall within the ambit of masculinity studies or the field of social anthropology.<sup>5</sup> There is a

---

<sup>1</sup> *Gender: The New Struggle*, which surveyed 3 500 participants, was issued in November 2004.

<sup>2</sup> Some studies have turned up even higher figures than cited here; there was shock when a survey of over 2 000 male Cape Town City Council workers revealed that 48% of them had physically abused a domestic partner at least once. This figure was expected to be significantly lower than the estimated national average, given that the study population were in secure employment. See Naemah Abrahams, Rachel Jewkes and Ria Laubsher, "'I do not believe in democracy in the home': Men's Relationships with and Abuse of Women" (Cape Town: Medical Research Council of South Africa, 1999).

<sup>3</sup> At present, this takes the form of a number of papers and articles: "'These women, they force us to rape them': Rape as a Narrative of Social Control in Post-apartheid South Africa", *Journal of Southern African Studies*, 32, 1, March 2006, pp. 129–144; "Entering the Labyrinth: Coming to Grips with Gender Warzones, using South Africa as a Case Study" in *Partners in Change: Working with Men to end Gender-Based Violence* (Santo Domingo: United Nations INSTRAW, 2002), pp. 53–67; "Speaking the Unspeakable: Narratives surrounding the Rape of Children", presented at the International Conference of the Child Accident Prevention Foundation at the Colleges of Medicine, Cape Town, South Africa, in October 2003; "Stemming the Tide: Countering Public Narratives of Sexual Violence" presented (by Womankind Worldwide) at the Commission on the Status of Women in New York City, February/March 2003; "Constructing Sexual Aggression and Vulnerability: further thoughts on the body politics of rape" (the latter three papers all commissioned by Womankind Worldwide during 2003); "Testing Western theories about rape in the South African context: new models for education and activism" presented at Rape Crisis Cape Town, August 2002; "'Telling stories, telling lies': Erasure and Distortion in Narratives of Rape and Race in popular South African discourse", presented at the University of the Western Cape, July 2002; "The Failure of Rhetoric in Discourses of Rape", presented at the Association for Rhetoric and Communication in Southern Africa Symposium *Rhetoric at the Margins*, Roma, Lesotho, July 2002; "The Grammar of Rape: Mental health implications for society and the survivors of violence" presented at the Dept of Psychiatry and Mental Health at the University of Cape Town Medical School, February 2002; "Monsters and Masks: the Problem of Representing the Rapist in South Africa" presented at the African Gender Institute Associates' Conference, Cape Town, July 2001.

<sup>4</sup> See Katherine Wood, Fidelia Maforah and Rachel Jewkes, "Sex, Violence and Constructions of Love among Xhosa Adolescents: Putting Violence on the Sexuality Education Agenda," Cape Town, Medical Research Council of South Africa, 1996); Katherine Wood and Rachel Jewkes, "'Love is a dangerous thing': Micro-dynamics of Violence in Sexual Relationships of Young People in Umtata" (Cape Town: Medical Research Council of South Africa, 1998); Lynn Denny, *et al.* "Sexual Violence Against Women: A Significant Health Problem" (Findings of the Rape Protocol Project at Groote Schuur Hospital, Cape Town, presented at the South African Colleges of Medicine Annual Symposium on Violence, May 2002.)

<sup>5</sup> See Lloyd Vogelmann, *The Sexual Face of Violence* (Ravan: Johannesburg, 1990); Isak Niehaus, "'Now everyone is doing it': Towards a Social History of Rape in the Southern African Lowveld",

growing body of work on sexualities in Africa that adds useful context to local studies of sexual violence.<sup>6</sup> Analysis of the discourses surrounding gender-based violence and sexual violence in Southern Africa is under way.<sup>7</sup> Meanwhile, sophisticated post-colonial analyses of gender violence are emerging that focus on the siting of women's bodies and sexuality as political and cultural capital whenever nationalist, religious and ethnic agendas are invoked in the process of political transformation.<sup>8</sup> These could be fruitfully applied to the South African context. The links between the global economy (in which women's bodies are increasingly being commodified) and rising rates of sexual violence in developing countries also warrant exploration and application to the post-apartheid scenario.

While useful, Western aetiological models<sup>9</sup> that highlight the anger, fear and inadequacy of individual men or the monstrosity of patriarchy as central to the "story" of why men rape, fail to provide sufficiently nuanced explanatory or analytical frameworks for the current South African experience of pervasive sexual violence. The present "narratives of normalization" surrounding sexual violence in this and other developing societies are more wide-ranging and complex than those identified in Western feminist discourses of the 1970s and 80s, which did not take fully into account the acute and complex forms of "othering" present in societies with a history of extreme racial/ethnic conflict. It needs to be established whether there is a theoretical relation between South Africa's apartheid narratives, which were based on vigorous, even frantic principles of "othering", and our current climate of sexual violence.

While it is generally recognised that during times of war, civic unrest and open political turmoil, there is a rise in rates of sexual violence, little data has been collected on the correlation between incidences of sexual violence and more benign forms of political transformation; those accompanying national independence, the overthrow of repressive regimes, and so forth.<sup>10</sup> Yet it seems that there is a case for

---

presented at the WISER Sex and Secrecy Conference at the University of the Witwatersrand, 2003; and Deevia Bhana, "Violence and the Gendered Negotiation of Masculinity among Young Black School Boys in South Africa" in Lahoucine Ougzgane and Robert Morrell (eds.) *African Masculinities* (University of KwaZulu-Natal Press and Palgrave Macmillan, 2005).

<sup>6</sup> See, for instance, Signe Arne (ed.), *Re-thinking Sexualities in Africa* (Uppsala, Sweden: Nordic Africa Institute, 2004) and the special issues of *Feminist Africa 5: Sexual Cultures*, December 2005 and *Feminist Africa 6: Subaltern Sexualities*, forthcoming in September 2006.

<sup>7</sup> Much important work in this field is in the form of ongoing and still-unpublished research. Some published pieces include Lisa Vetten, "Roots of a Rape Crisis", *Crime and Conflict* 8, 1997; Tina Sideris, "Rape in War and Peace: Social Context, Gender, Power and Identity" in Sheila Meintjies, Anu Pillay and Meredith Turshen (eds.) *The Aftermath: Women in Post-conflict Transformation* (London: Zed Books, 2001); Deborah Posel, "The scandal of manhood: 'Baby rape' and the politicization of sexual violence in post-apartheid South Africa", *Culture, Health and Sexuality*, 7, 1, January 2005.

<sup>8</sup> See, for instance, the introduction in Kumari Jayawardena and Malathi de Alwis (eds.), *Embodied Violence: Communalising Women's Sexuality in South Asia* (Zed Books: London and New Jersey, 1996); Amina Mama, "Sheroes and Villains: Conceptualizing Colonial and Contemporary Violence Against Women in Africa" in M. J. Alexander and C. T. Mohanty (eds.) *Feminist Genealogies, Colonial Legacies, Democratic Futures* (New York: Routledge, 1997); and December Green, *Gender Violence in Africa* (New York: St Martin's Press, 1999).

<sup>9</sup> See, inter alia, Susan Brownmiller, *Against Our Will: Men, Women and Rape* (New York: Simon & Schuster, 1975); Catherine MacKinnon, *Towards a Feminist Theory of the State* (Cambridge, Massachusetts: Harvard University Press 1989); A. Nicholas Groth, *Men Who Rape: the psychology of the offender* (New York and London: Plenum Press, 1979); Diana Scully, *Understanding Sexual Violence: a study of convicted rapists* (New York: Routledge, 1994); Ann J. Cahill, *Rethinking Rape* (Ithica: Cornell University Press, 2001).

<sup>10</sup> *The Aftermath: Women in Post-conflict Transformation* (supra note 7) serves as a useful introduction to the literature in this field.

arguing that during periods of overt nationalist fervour, political regeneration, emancipation, and other arguably more laudable forms of political restructuring, the rates of sexual violence against women and children also rise alarmingly, often for reasons that have to do with the immediate past. This has certainly been the case in South Africa.

I believe that the pernicious and overtly racially ranked hierarchies endorsed and enforced during South Africa's apartheid regime continue to have profound implications for women and their experience of gender-based and sexual violence, even after these forms of social stratification are apparently dismantled or transformed in line with rights-based principles. I suggest that it is vital to investigate the complex relationship between South Africa's recent history of apartheid, with its emphasis on rigid stratification and abnormal social rankings along racial lines, and the disquieting rise in gender and sexual violence in the years since the institution of democracy.

Has the first decade of democracy simply afforded South Africans the opportunity to observe an already entrenched problem? Unfortunately, while there is no doubt that sexual violence<sup>11</sup> has always been prevalent in South Africa, there is also no avoiding the fact that the first twelve years of the new state have seen a dramatic increase in sexual assaults on women, children and men. Many ask whether improving education on rights, the transformation of the courts and police force, and increased reporting have not contributed to the spiralling of these figures, but while these factors may have been partly responsible for an initial jump post-1994, they do not explain the continuing steep increase. It is also worth noting that in spite of attempts to reform the overburdened and beleaguered criminal justice system, survivors of intimate violence still regularly experience discrimination and inefficiency at the hands of the courts and police, and rape in particular remains hugely under-reported.

I pose the theory that sexual violence in post-1994 South Africa is fuelled by justificatory narratives that are rooted in apartheid discourses at the same time that discourses of race, including accusations of racism, have stifled open scrutiny of the function of rape as a source of patriarchal control. Under apartheid, the dominant group used methods of regulating blacks and reminding them of their subordinate status that permeated not just public and political spaces, but also private and domestic spaces. Today it is gender rankings that are maintained and women that are regulated. This is largely done through sexual violence, in a national project in which it is quite possibly that many men are buying into the notion that in enacting intimate violence on women, they are performing a necessary work of social stabilization. In what follows, I will present various "cameo" scenarios for scrutiny that point to the need to deconstruct our current narratives of both rape and race.

### **Rape narratives**

There are numerous "narratives" concerning rape in South Africa's public discourses. To begin with, I will focus on two cameo examples that demonstrate how demands for gender equality (and in particular, an end to male violence) are undermined, attacked or silenced either by accusations of racism, or backlash from sectors of society that resist holding men responsible for rape.

---

<sup>11</sup> The area of gender-based violence (which might include domestic violence, spousal/partner abuse, abuse of the girl-child, human trafficking, as well as attacks motivated by homophobia) is too broad to scrutinise for purposes of this discussion.

In 1999, with the “new” South Africa only five years old, several NGOs, together with corporate sponsors, put together two short educational broadcasts on gender-based violence, featuring the South-African born Hollywood actress, Charlize Theron. These were shown on terrestrial television channels during advertisement breaks and also at some commercial cinemas. The first time I saw one, I was electrified by Theron’s opening line, which ran: “Hey, all you South African men, here’s a question for you – have you ever raped a woman?” The two-minute “ad” went on to deliver a straightforward message on date and acquaintance rape, but what impressed me was that it was the first time I had ever seen those responsible for the problem acknowledged, much less addressed, in a public information broadcast. Never before in the history of South African educational media campaigns had rapists or potential rapists been directly addressed.<sup>12</sup>

Clearly, I was not the only one struck by this: the short films caused a furore, and within a matter of weeks, the Advertising Bureau of Standards had banned them from airing, based on consumer complaints. The reasons given were that they were offensive to South African men, stereotyping them as “either being involved in rape or being complacent about it”,<sup>13</sup> and script changes were advised. The appeal process overturned the ABS ruling within weeks, but the broadcasts were not screened again.

The Theron broadcasts had all the markers of a South African society transformed not only in racial but gender terms, reflecting the Constitutional enshrinement of equality for all. Those who scripted them assumed that this amounted to a socially endorsed and cohesive view that in such a society, women should not be raped, and men should be held responsible for their acts of violence. However, in assuming that the newly democratic society could grapple with the issue of rape as a marker of gender inequality only, the makers of the ad were sadly mistaken. While responsive to the crisis of intimate violence plaguing the infant democracy,<sup>14</sup> they would have done well to attend the conference on Women in Post-War Reconstruction in Johannesburg in 1999, which signalled that something was terribly amiss with Africa’s brand-new and most feted democracy. Activists and scholars noted that “[d]uring the transition from war to peace, or from military dictatorship to democracy, the rhetoric of equality and rights tends to mask the reconstruction of patriarchal power”,<sup>15</sup> the new South African polity was proving to be no exception.

Five years later, against a backdrop of celebrations marking the country’s first ten years of democracy, President Thabo Mbeki publicly attacked anti-rape campaigner Charlene Smith, herself a rape survivor, on the grounds that her efforts to educate South Africans about rape were racist.<sup>16</sup> His rationale for doing so was that Smith

---

<sup>12</sup> Official (police) anti-rape education strategies in South Africa prior to this date contained standard warnings on avoiding the perils of “dark alleys” and “short skirts”; these explicitly addressed potential victims only, not perpetrators.

<sup>13</sup> Walton Johnson, “Are Whites (and Men) Ready for Democracy?”, unpublished paper presented at the Centre for African Studies at the University of Cape Town, 2003, p. 14.

<sup>14</sup> As early as 1995, Human Rights Watch had published a damning report, *Violence against Women in South Africa: State Response to Domestic Violence and Rape*. See in particular Chapter Five, “The Magnitude of the Problem”, pp. 44-59.

<sup>15</sup> *The Aftermath* (*supra* note 7), 2001, p. 4.

<sup>16</sup> At the same time, he denounced a senior UN office-bearer, Kathleen Cravero, claiming that her statement (relating to HIV/Aids) that many African women were unable to negotiate consent, much less condom use, stereotyped African men as “violent sexual predators”. (See “Letter from President Thabo Mbeki”, *ANC Today*, 4, 39, 1–7 October 2004, available at <http://www.anc.org.za/ancdocs/ancoday/2004/at39.htm> and Charlene Smith, “Keeping it in their pants:

had described South Africa as having the worst figures for sexual violence in the world.<sup>17</sup> It was the second time he had publicly denounced her as a racist<sup>18</sup> – for critically addressing the issue of rape – and this time, it caused a public stir, as Smith's tireless and courageous efforts to educate the South African public on rape and its deadly relation to HIV/Aids have earned her considerable public acclaim. Mbeki has not yet retracted any of these accusations, although he has acknowledged that a quotation he had attributed to her (that she had described black men as "rampant sexual beasts ... unable to keep it in [their] pants") was in fact authored by an American academic.<sup>19</sup>

Having established that efforts to critique rape lead to backlash, whether from civil society or the highest elected public official in the land, we begin to see how this might lead to paralysis, even as the problem escalates. Only weeks after the Mbeki-Smith clash (perhaps the starkest example of how a critique of patriarchal violence can be hijacked by anxieties about racism), I attended a reading and discussion group at the home of Professor Njabulo Ndebele and his wife, Mpho. Vice-Chancellor of the University of Cape Town, Ndebele is himself a celebrated writer and astute critic and social commentator. His recent novel, *The Cry of Winnie Mandela*, has been lauded for its remarkable insight into the emotional and political terrain traversed by Southern African women. Those present made up a fair representation of Cape Town's progressive intelligentsia, and included writers, activists, academics, publishers and even theologians. The guest of honour was well-known writer Sindiwe Magona,<sup>20</sup> recently returned to Cape Town after 15 years of an exile of sorts in New York City.

Sindiwe spoke openly and eloquently of her grief and shock at returning home to discover that hers was now a society in which babies were raped on a regular basis. She was particularly outraged to discover nurses at her local clinic instructing mothers to bring in their daughters to receive contraceptive injections as soon as they began menstruating – given the extremely high likelihood that they would be repeatedly raped during their teenage years. She was appalled and bewildered by the fatalism of a society that simply accepted that it was women's lot to be raped, and saw this as a tragic cross to be endured, rather than an illegal and untenable act of violence, especially in the age of HIV/Aids. The subsequent lively discussion focused on possible causes for this tide of sexual violence, with many of the speakers

---

Politicians, men and sexual assault in South Africa", Harold Wolpe Memorial Lecture, Durban, 17 March 2005).

<sup>17</sup> Lisa Vetten of the Centre for the Study of Violence and Reconciliation, in a response in the *Mail & Guardian*, 29 October 2004, argued that neither Smith nor Mbeki had cited the correct figures in enumerating the number of South African women who had been raped. (Mbeki, working naively on the assumption that all rapes were reported to the police, cited reported crime figures only, whereas Smith simply multiplied the number of reported rapes by a "guesstimate" of 20). Vetten nevertheless noted that even the most conservative of the professional surveys (see note 1) reflected exceptionally and disturbingly high figures for rape. Joan van Niekerk, the national co-ordinator of Childline South Africa, also issued an open letter to Mbeki in which she deplored the attack on Smith and debunked the watered-down statistics on rape and child abuse presented by the spokesperson for the National Commissioner of Police in the press. She went on to entreat the President and the police not to stifle efforts to discuss violence against women and children with misleading accusations of racism (posted on the GWSAfrica listserv hosted by the African Gender Institute at the University of Cape Town on 11 October 2004).

<sup>18</sup> See Charlene Smith, *Proud of Me: Speaking out against Sexual Violence and HIV*, Johannesburg: Penguin, 2001, pp. xiv, 268-9.

<sup>19</sup> Smith, "Keeping it in their pants", 2005.

<sup>20</sup> Magona is perhaps best known abroad for *Mother to Mother* (Cape Town: David Philip 1998), her fictional collection of letters between the mothers of murdered Fulbright scholar Amy Biehl and the young South African political activist who struck her down.

detailing the attack on masculinity conveyed by the degradation and humiliation of apartheid, the breakdown of the African family through the system of migrant labour, and so on. Sindiwe became angrier still, eventually crying out, "I'm sick of hearing apartheid used as an excuse! There can be no excuse, no justification for this behaviour!"

Sindiwe is of course correct. Most informal discussions of rape in public and private forums that attempt to link it causally to South Africa's history of apartheid involve several pitfalls: first, they generate discourses that often begin to resemble a series of "excuses"; second, in unproblematically detailing the degradation of masculine pride as the reason for the propensity to rape, such discussion offers no critique of patriarchal frameworks that shape such "pride"; and thirdly, it unwittingly lays the blame for sexual violence at the door of those who were discriminated against under apartheid. Every single contributor to the elite debate described above premised their remarks on the unspoken assumption that rapists were black. Yet my years as a hotline counsellor in the latter half of the 1980s rapidly disabused me of the notion that domestic and sexual violence were the province of poor, black, or ill-educated men. I received distress calls not only from women living in townships or ghettos, but from the wives of professional men living in Cape Town's exclusive suburbs. I listened to woman who had been sexually assaulted or beaten not only by gangsters, illiterates, alcoholics and unemployed men, but by ministers of religion, teetotallers, university professors, doctors and lawyers.<sup>21</sup> Counselling women of all races and religions and classes brought home to me the truisms of sexual violence: rape, like most crimes, is intra-communal (that is, it is usually committed by "insiders", not "outsiders"); women are far more likely than men to be raped; and women are invariably raped by men. In other words, sexual violence is an instrument of gender domination and is rarely driven by a racial agenda.

In brief, if we look at the Theron and Mbeki-Smith incidents and others like them as markers of the kinds of rape narrative tolerated or disrupted in the new South Africa, we begin to see that racial accusations and assumptions like these prevent the unmasking of patriarchal violence. It is clear that the makers of the Theron ads were naïve in assuming that South African society could stomach any discourse on rape that located responsibility for sexual violence with the perpetrators: men. Five years later, luminaries from the President himself to the cream of South Africa's writers and academics assume all too readily that any discussion of rape is predicated on a rapist who is always black. Therefore, certainly according to Thabo Mbeki, any critical investigation or denunciation of rape is an attack on black men; QED, such talk of rape is racist. Obviously, this makes it very difficult to debate the aetiology or purpose of rape.<sup>22</sup>

These common discursive responses to rape reveal alarming trends about the post-apartheid South African society and its inability to discuss openly issues of gender: any discussion of rape is invariably subsumed in narratives about race or class, not gender; these assumptions concerning rape, race and class are held at the highest

---

<sup>21</sup> I am aware that data gleaned from crisis organizations is not usually statistically useful, given the cultural disparities and practical barriers that inform whether or not a woman is able to call a helpline. Such disparities doubtlessly explain why so many of my callers were middle-class, educated women. Nevertheless, the point remains that they were not being abused or violated by impoverished strangers, but usually by their equally middle-class and educated partners.

<sup>22</sup> This is not necessarily indicative of obtuseness; it reflects perhaps the anxieties found within a post-apartheid society facing not only with the same endemic racial tensions that occur in any racially or ethnically diverse society, but also battling the demons of a recent past of institutionalised racism.

political and intellectual levels; and the aetiology of sexual violence, while a serious concern, is almost never directly addressed.

South Africans of all races, it seems, assume that perpetrators of sexual violence are black men, no doubt because of apartheid narratives they have internalized. This leaves us without an adequate framework for critique. The truth is that the majority of rapists in South Africa are black only because the majority of the South African population is black. Ten years of transformation have nevertheless failed to deconstruct the old apartheid narratives of sexual violence that demonise black men as incontinent savages, lusting after forbidden white flesh, with the result that open discussion of a major problem is at a standstill. I have written elsewhere about how rape narratives inscribe the rapist as simultaneously black and monstrous, noting:

It's clear that by using monster narratives that literally "paint it black", the standard stories of rape in South Africa confirm everyone's worst fears. White women fear every man that does not belong within their community ... white men buy guns to protect their families from the threat of the heart of darkness beyond the garden gate. Black men are outraged and humiliated at being categorized as violent, sex-crazed maniacs preying on white woman; black women are kept from reporting the violence they experience for fear of being disloyal.

The irony is that as a result, the great majority of rapes (between peer members of the same community) can never be addressed or discussed, and so the real problem of sexual violence flourishes in the dark. Meanwhile, the worst kind of racial stereotyping is kept alive, and barriers between communities harden.<sup>23</sup>

Neither is this new. Angela Davis first laid out the way rape narratives can be used to inflame racial attitudes over 20 years ago.<sup>24</sup> It is clear that in a newly democratic society, the "racing of rape" serves as a counter-transformative narrative, one that maintains and nurtures fear and suspicion in communities that are already historically or culturally divided, or prompts a return to conservative values and traditions. Public and private responses to the "story" of rape that features a depraved black perpetrator include gloomy prognostications of the eventual collapse of the state and failure of the democratic project under black majority rule;<sup>25</sup> they also include an array of prescriptive "antidotes" that run counter to transformative values: re-embracing hierarchical family structures that locate men as "heads of households" and advocate the subordination of women (a common response seen in some religious groupings), or the enthusiastic endorsement of cultural and "tribal" rituals such as virginity testing – often couched in terms that are explicitly sexist and homophobic. Moreover, as shown above, such anxieties and assumptions about race are both stifling open discussion of sexual violence and avoiding any confrontation with the perpetrators.

Although I have explained elsewhere that there are no logical barriers to women raping men,<sup>26</sup> rapists are invariably male, which places any discussion of rape

---

<sup>23</sup> *Partners in Change* (*supra* note 3), p. 60.

<sup>24</sup> *Rape, Racism and the Myth of the Black Rapist* (New York: Vintage Books, 1983).

<sup>25</sup> It is not just locally that I encounter the assumption that my work must necessarily highlight the "barbarism" of black men. During a visit to the US in 2000, after I had assured an American academic at a respectable college that black South African men were not hell-bent on punitively raping white women (an impression he seemed to have gleaned from reading J. M. Coetzee's novel *Disgrace*), he responded, "You mean they do this to their own kind?"

<sup>26</sup> In "The Body Politics of Rape" (*supra* note 3), I argue that rape is easily simulated: all that is required is the means of immobilising the intended victim and a penetrative or blunt instrument. It goes

squarely within discourses of violent gender and patriarchal domination. Nevertheless, South African men and women find this almost impossible to contemplate. In a society battling to shake off the legacy of institutionalised racism, it may seem a bridge too far to acknowledge that gender is at the heart of this acute social problem. Instead, one hears repeatedly that apartheid and its ills (such as the migrant labour system) “emasculated” black men, left them “impotent” and experiencing a “crisis of masculinity”,<sup>27</sup> and although these remarks are problematically embedded in unquestioned patriarchal discourses, they carry a grain of truth. But these explanations explicitly exclude white men, thus implying – however unwittingly – that they do not rape.

Even those who recognise that the assumption that all rapists are black is outrageous and offensive to black men nevertheless continue to insist that poverty and joblessness are key to the aetiology of sexual violence without acknowledging that such claims might be also be degrading and offensive to the poor and unemployed (if only through the demonstrably false corollary that middle-class men in secure employment do not commit rape). Yet aetiological theories about substance abuse and alcohol, dysfunctional families, childhood traumas, conservative religious or cultural traditions, and so on, continue to proliferate. There is no doubt that factors such as alcohol and substance abuse, unemployment, entrenched poverty, lack of infrastructure in rural areas, the hopelessness born of lack of opportunity and joblessness, the threat of HIV/Aids, prior history of abuse, post-traumatic stress syndrome, oppressive cultural and religious mores, gang membership, peer pressure and breakdown of the family and clan structures all exacerbate the problem of sexual violence – as they do almost any social ill.

Some of these factors are certainly more relevant in shaping the scourge of sexual violence than others in the South African context, and indeed their impact will differ within communities according to geographical, religious, ethnic, economic, linguistic or still more specific local factors: for example, young men in impoverished urban ghettos “learn how to be a man” from crime lords and drug dealers, with group rape is a common initiation ritual in gangs. As Elaine Salo explains, “While all men are capable of rape, the reasons why they rape are diverse, and informed by whom they rape, as well their own and their victims’ structural location in society.”<sup>28</sup> Anne Mager’s account of how masculinity was constructed in a geographically and historically bounded space (the Eastern Cape between 1945 and 1960), in which she notes that “to be masculine was to assert male control over females in violent ways, to extract feminine obedience literally through sticks” indicates how closely local cultural conventions and historical events shape patterns of gender violence.<sup>29</sup>

---

without saying that I do not advocate that women “try this out at home” (simply presenting this information evokes revulsion and shock from my audiences); rather, my intention is to separate the choreography of rape from the biology of penetrative sexual intercourse. Too many people assume that only those able to produce an erect penis are able to “perform” rape, whereas a small but significant number of rape survivors report that their attackers could not sustain erections, and therefore resorted to using their hands or other instruments.

<sup>27</sup> These are the very terms used in almost every public discussion of the topic; the Harold Wolpe Forum debate in Cape Town, 23 March 2005, on “Gender-based violence and sexuality in South Africa” being a case in point. (Summary notes of the discussion from the floor were kindly provided by Tracey Bailey of the Harold Wolpe Memorial Trust; [www.wolpetrust.org.za](http://www.wolpetrust.org.za).)

<sup>28</sup> “Gangs and Sexuality on the Cape Flats”, African Gender Institute Newsletter, 7, December 2000. At <http://web.uct.ac.za/org/agi/pubs/newsletters/vol7/elaine.htm>.

<sup>29</sup> “Youth Organizations and the Construction of Masculine Identities in the Ciskei and Transkei, 1945-1960”, *Journal of Southern Africa Studies*, 24, 4 (December 1998), p. 663.

Neither is it as easy to tease out the entangled categories of gender, race and class in South Africa as I have perhaps suggested, in the interests of clarity. Race, gender, class and sexuality continually inflect each other, and are often subsumed into one another, not just as a result of apartheid (which merged the categories of race and class), but also centuries of patriarchal colonialism which made strenuous efforts to monitor and control the category of gender along racial and ethnic lines. However, none of the factors listed above – all of which might amplify sexual violence – supply an authentic aetiology; none *cause* rape.<sup>30</sup> Neither do they fully explain the prevalence of sexual violence across every sector of South African society, including the wealthy, privileged, educated and employed classes. It is almost as if South Africans need to attribute male sexual violence to a legacy of apartheid repression or depressed economic conditions, because to see it as a product of gender ideologies and identities means acknowledging that gender equality has by no means been achieved yet, especially not in the private arena.

Like most feminists, I believe the cause of sexual violence lies in the construction of dominant masculinities found in all patriarchal social systems.<sup>31</sup> Nevertheless, I believe that questions about the relation between apartheid's legacy and the current scenario of unchecked sexual violence must be framed – but in such a way that they do not focus exclusively on black men. This means that any discussion of the relation between the history of apartheid and the current crisis of gender-based violence requires new paradigms to be framed – paradigms that acknowledge that there are men in every stratum of South African society who enact sexual violence. There is indeed a link between South Africa's recent history, and the failure of its citizens under democracy to respect women's rights to bodily autonomy and integrity.

### **Rape and the anxiety inherited from apartheid**

We have already established that this area is fraught with racialised assumptions, in which rape narratives are endorsed and circulated when they feature a barbaric Other, invariably inscribed as “darker” (literally, morally and figuratively) than the victim. Secondly, there is the problem that arises when women, rather being seen as the potential victims of a demonised Other, become the Other themselves. For over 50 years, South African society operated on the explicit principle that the Other was unstable, potentially extremely powerful and therefore dangerous, and needed to be kept in its place by regular and excessive shows of force.<sup>32</sup> Women – the current subclass – are also seen as having significant agency and therefore they pose a potential threat to the uncertain status quo. Today, as under apartheid, there is considerable social anxiety about a powerful, unstable subclass that *must be kept in its place*. In the words of sociologist John Moland:

Both systems, the patriarchy and the race-caste system rest upon a relationship in which the dominant or superordinate has made the dominated or subordinate “an instrument of the dominant's will and

---

<sup>30</sup> In a nutshell, women who experience identical pressures and deprivations may respond in a multitude of maladaptive ways – but they do not resort to sexual violence.

<sup>31</sup> The UCT Unilever study noted that “conflict or violence happened mostly when a chauvinistic male was in a relationship with a woman with a liberated mind” (*Cape Times*, 15 November 2004).

<sup>32</sup> And of course, nearly five decades of apartheid rule were preceded by centuries of colonial rule and enslavement.

*refuses to recognize the subordinate's independent subjectivity" [my italics].*<sup>33</sup>

Many sexually violent men justify their behaviour in terms of the discourse that women "ask for it". However, closer scrutiny of the local context would suggest that this differs from Western constructions concerning supposedly provocative behaviour or dress, and is implicitly related to the project of not only refusing to "recognize [women's] independent subjectivity", but actively punishing such "independent subjectivity".

A cameo that sheds revealing light on this issue was presented in a ground-breaking televised interview that was screened at about the same time as the Theron anti-rape broadcasts were banned. A taxi-driver openly described how he and his friends would cruise around at weekends, looking for a likely victim to abduct and "gang-bang". His story was unselfconscious and undefended: he showed no awareness that he was describing rape, much less criminal behaviour. When the interviewer pointed out that his actions constituted rape, he was visibly astonished. What was most striking was his spontaneous and indignant response: "But these women, they force us to rape them!" He followed this astonishing disavowal of male agency by explaining that he and his friends picked only those women who "asked for it". When asked to define what this meant, he said "It's the cheeky ones – the ones that walk around like they own the place, and look you in the eye."

This reflects a disturbing pattern in which a woman is described as "asking for it" because she has asserted her own will, answered back, moved around on her own, and so on. So it would appear that in some cases, men are "forced" to rape women because the latter dare to practice freedom of movement, adopt a confident posture or gait, make eye contact, speak out for themselves: in other words, when women visibly demonstrate a degree of autonomy or self-worth that men find unacceptable, they are perceived as sufficiently subversive and threatening as to compel men to "discipline" them through sexual violence. What is more, if rape is believed to be deserved – if a woman is simply being "corrected", or "taught a lesson", it is somehow not considered to be a criminal activity.

This rationale for rape – as a handy shorthand means of teaching a "cheeky" woman a lesson – is deeply familiar to anyone who grew up under apartheid. This is the same script that was used during five decades of apartheid rule to justify everyday white-on-black violence as a socially approved and necessary means of "showing the 'darkies' their place". This is not so much a script of flat-out racial or gender rejection, as one that is violently punitive towards those members of a subclass that reveal (through body language, visible signs of self-respect, freedom of movement) that they do not recognise or accept their subordinate status in society.

As a child growing up in a conservative farming area in the Western Cape, I heard again and again, "I love the blacks, I get along fine with my workers, I'm like a father to them – but what I won't tolerate is the cheeky ones, the troublemakers." Even as a very young child, I knew exactly how this "cheekiness" was shown or "performed" – very often in no more than a bold stare, an upright posture ("walking tall"), or a refusal to demonstrate sufficiently grovelling gratitude for the weekly tot of wine – and how it was punished; usually with beatings, occasionally severe enough to result serious injury or even death.

---

<sup>33</sup> "Social Change, Social Inequality, and Intergroup Tensions", *Social Forces*, December 1996, p. 404. Cited in Johnson, "Are Whites (and Men) ready for democracy?" (*supra* note 13), p. 14.

This kind of behaviour followed a social and political pattern of “keeping the blacks in line”, reminding them who was “master”. “Subversives” or “agitators” were singled out for humiliating or brutal treatment as a means of threatening their peers, reminding them what fate awaited them should they step out of line. These acts of violence were generally random and spontaneous, and sometimes fairly low-key, aimed not necessarily at causing life-threatening harm, but shaming and humiliating the target. In other words, these acts, while not necessarily public spectacles in the way lynchings were, nevertheless served a useful didactic and warning function to others.<sup>34</sup> Such shows were necessary under an apartheid state that gave whites unparalleled power and relegated black citizens to a subordinate status because the latter were in the majority. Whenever a small group attempts to dominate a large group, fear becomes an important strategic weapon.

Here the parallels between blacks under apartheid and women in South Africa today become more compelling; women, in the well-known saying by Gloria Steinem, are “a majority that are treated like a minority”. Although women’s numerical majority is marginal, there is no doubt that as a group, women are sufficiently numerous (compared to men) to make “control” problematic. It could be argued that sexual violence in South Africa has thus become a form of “witch-ducking or burning”; an ordeal visited on women in order to keep them and their peers compliant with social “norms” determined by hegemonic, powerful, yet threatened patriarchal structures.<sup>35</sup> The useful thing about this particular hypothesis is that it incorporates the fallout of apartheid across race groups.

Of course, this is not to suggest that women in pre-apartheid or even pre-colonial South Africa were not policed or controlled, or lived free of the fear of patriarchal violence. But the legacy of apartheid has contributed two critical problems: our subsequent focus on race still tends to repress open scrutiny of gender issues; and the tendency of apartheid to drive violence into intimate and domestic spaces continues to fuel the epidemic of sexual violence.

In South Africa, then, some men believe that by resorting to sexual violence, they are participating in a socially approved project to keep women within certain boundaries and categories (as well as a state of continuous but necessary fear). After all, the “Other” has historically been seen as powerful, subversive, potentially unstable, needing to be policed (even if this meant torture, detentions and murder) not only “for their own good”, but also for the “greater good” of society. This kind of hierarchical thinking (and anxiety about how to keep certain groups stable and bounded within socially prescribed and limited domains) does not disappear simply as the result of a democratic election.

---

<sup>34</sup> It must be stressed that although the kinds of “controlling” narratives of violence under scrutiny here were enacted by whites (or their representatives) upon blacks, they would have been internalized to varying degrees by all South Africans living under apartheid, regardless of race, class or gender.

<sup>35</sup> Readers of this paper who live outside of South Africa have queried whether all South African women do indeed live in fear of rape. This is impossible to prove statistically, and of course, the degree of such fear is determined by the widely variant risks and resources presented to women (whether they travel to work by public transport or after dark, whether they can afford burglar bars and alarms, and so on). Nevertheless, visitors are often shocked by the extent to which many South African women self-regulate their movements and adopt guarded patterns of living. I regularly interact with visiting North American and European students, and am invariably struck by the untrammelled sense of freedom with which many of these young women move around and conduct themselves socially, in sharp contrast to the cautious demeanour of my female South African students. At present, Simidele Dosekun of the African Gender Institute is conducting research on the extent to which fear of rape dominates the social habits of young women who have not been raped.

This kind of “rationalized” intimate violence is also often used as a “control mechanism” when the group believed to be inferior is absolutely necessary to the continued comfort and survival of those in power, and an integral part of the latter’s daily lives: when they are needed not only to provide conventional labour, but domestic chores and child-raising as well. The vast majority of white South Africans who vocally and enthusiastically supported apartheid entrusted the cooking of their meals and the care of their children to black servants. These and similar domestic duties involve a considerable measure of trust and exposure, and point to the paradoxical vulnerability of the dominant class being serviced.<sup>36</sup>

Something else hard to convey to those who have never lived in a society where unskilled domestic labour is cheap and plentiful is the degree of practical helplessness of many white and/or middle-class South Africans.<sup>37</sup> Similarly, it is entirely possible that a great many violent men in this country are genuinely unable to calculate a grocery budget, prepare a nourishing meal, or sort the laundry – and therefore dependent on female partners or relatives to perform these chores for them. But this form of dependency generates anxiety and a need to regularly display authority to sustain the services of the oppressed, thus inflaming the propensity for violence, particularly in the intimate sphere. South Africans of all races remain familiar with social strategies that combine intimate and ongoing proximity with ongoing enactments of extreme repression.

Moreover, the complex blend of peer and societal pressures men experience regarding the need to “police” feminine subversion exists against a backdrop that tells them that rape is a “safe” crime to commit (and perhaps not a real crime after all);<sup>38</sup> there are unlikely to be legal consequences; and that any shame attached to the act will adhere to the victim, not themselves. In short, many men rape not because they want to or are “tempted”, but *because society tells them they can (and in some cases, should) do so with impunity.*

The parallels with low-level, continuous “punishment” meted out by white South Africans to black South Africans under apartheid are compelling: for instance, black workers who might be beaten by their white employers (or a black “boss boy” authorized by his “masters” to implement white social control) had little or no redress. While a range of violent behaviours, from assault to murder, were crimes according to apartheid statute books, there was once again a tacit social understanding that certain kinds of white-on-black violence were “necessary” as a kind of oil that kept apartheid hierarchies running smoothly. It was certainly extremely difficult for blacks to institute criminal proceedings against whites (or the lackeys of the dominant group) who used violence against them. Both forms of violence – men’s sexual attacks on women, and racist attacks shaped by apartheid ideology – reveal the anxiety of the perpetrator class about possible loss of their dominance.

---

<sup>36</sup> Servants are of course privy to a great deal of sensitive and intimate information about their employers: digestive disorders, sexual habits, menstrual cycles, drinking patterns, parenting problems, family conflicts, and so on. This is a well-trodden path within the field of Marxist feminism and slavery studies.

<sup>37</sup> This “learned helplessness” is being passed on to middle-class blacks, now the largest group in Southern Africa employing domestic workers, chargs, childminders and gardeners.

<sup>38</sup> In Vogelmann’s study (the only one so far on South African rapists), the researcher’s study population comprised rapists who had evaded the criminal justice system (the cases against them had been dismissed for technical reasons, their victims had been unable to face the courts, etc.). Some of these subjects expressed indignation that an act as normative as rape should be criminalized.

Conversations with local researchers investigating gender and the construction of identity (national, racial, ethnic, cultural and linguistic) are beginning to point to the possibility that South African women are policed and immobilised by fear of rape by the “Other/Outsider” at the same time that they are punished for attempts to break out of subordinate roles and rigidly enforced cultural or ethnic communities by covertly “legitimised” sexual violence that takes place *within* recognised social structures: families, co-religionists, tribes, villages or neighbourhoods, and so on.<sup>39</sup> Acts of violence are therefore seen as necessary, not only to keep the unstable subclass of women in their ordained places, as discussed above, but to confirm and remind them of their membership in a specific community.

As a tool of social control, sexual violence is especially effective, as it combines the unpleasantness of physical violence with deep shame and self-blame on the part of the victim, which leads to self-punitive and self-monitoring behavioural changes by the victim (who is extremely unlikely to report her attacker or seek legal redress, particularly if he is part of her immediate circle, and who may instead become withdrawn, submissive, fearful, restricted in her movements, and so on.) Such changes on the part of women who might otherwise display autonomy possibly serve orthodox and conservative community “needs” in the short-term.

### **Rape and gender equality**

Having established that appalling levels of sexual violence in South Africa are directly shaped by the legacy of apartheid, the question arises as to why, in a post-1994 society, such violent forms of social control are still being imposed on South African women.

South Africa’s new Constitution enshrined the rights of all groups in society. It had to. The spectre of apartheid – social structuring and discrimination on the grounds of the precise shade of one’s skin, ancestry and so-called tribal identity, and the suffering this caused – haunted the 1996 Constitution; and one of its chief aims, therefore, was to enshrine the right to equality for everyone. Like many “peace treaties”, it was driven by a sense of “never again”. The recent history of legislated inequality was so abhorrent that rights were endorsed and guaranteed across the spectrum of race, gender, class, ethnicity, religion, language, level of ability, sexual orientation or preference. The battle for women’s political rights in particular, which gathered momentum during the last two decades of the twentieth century, was particularly visible, as were the efforts to enshrine the legal rights of lesbians and gays.<sup>40</sup>

The ruling African National Congress responded to these imperatives with an admirable programme of female representation: what amounts to one of the most radical affirmative action programmes in favour of women in the world, with a stated commitment to placing women in one-third of political spaces by 2009.<sup>41</sup> The path to what might seem an unusually bold strategy was smoothed by a liberation struggle that had co-opted and honoured women in roles beyond the usual undervalued and

---

<sup>39</sup> The relationship between construction of identity and sexual violence is an area that requires closer scrutiny than is possible here.

<sup>40</sup> For a useful account of the way the women’s movement has interacted with the state in the last 25 years, see Shireen Hassim’s *Women’s Organizations and Democracy in South Africa: Contesting Authority* (Wisconsin University Press, 2005). Neville Hoad, Karen Martin and Graeme Reid (eds.) chart the story of how sexual equality came to be included in the new Constitution in *Sex and Politics in South Africa* (Cape Town: Doublestorey Books, 2005).

<sup>41</sup> A. Mama, “Editorial”, *Feminist Africa: National Politricks*, 3 (2004), pp. 2–3.

feminised ones of supplying food, shelter, nursing care and so on (although women undertook these duties too); their contributions as political strategists, leaders and guerrilla fighters were acknowledged and at times encouraged.

Nevertheless, these rights were crafted in a country contending not only with a legacy of racism, but one of manifest sexism, homophobia and xenophobia. In the areas of gender and sexuality, the emergent South African nation was arguably not ready for full equality; neither did it popularly endorse such equality. To paraphrase a conclusion from one of the gender-based violence surveys, "Violence arises when a chauvinistic citizenry is in a relationship with a liberated Constitution."<sup>42</sup>

It can thus be argued that political space (on all sides of the spectrum) for women in South Africa has invariably been carved out in ways that do not undermine the variety of interlocking patriarchies in society. In the process, the tension between validating women's rights to full citizenship and political participation without revising their social subordination has created a new variation on the disjuncture between the private and the public realms typical of capitalist patriarchal systems. This theme is perhaps best illustrated anecdotally. Pregs Govender, former African National Congress MP, recounts the story of a senior male member of government who was extremely supportive of her work as Chair of the Joint Standing Committee on the Improvement of Quality of Life and Status of Women, a body that made Herculean efforts to translate the equality principles of the constitution into substantive legislation. He saw no contradiction between his enthusiastic endorsement of women's active participation in politics and his repeated insistence that at home, he was the master: "Democracy stops at my front door."<sup>43</sup>

Even if this kind of splitting between the public and domestic realms is not typical of all South African men (or women), it is nevertheless openly and informally reflected in social interaction. It is perhaps best summed up in the near-identical phrase, taken from an interview with a married man, cited in the title of a report on domestic violence: "I do not believe in democracy in the home."<sup>44</sup> It is a requirement of participation in the new South African state that one "believe" in democracy "outside the home"; with the exceptions of a few lunatic fringe groups, no credible political grouping in South Africa is likely to call for the withdrawal of universal adult franchise or drive women out of political structures. However, the substantial divergence between the ways in men and women are understood to inhabit public and private spaces means that the flattened and transparent structures associated with democratic practice are eschewed in the domestic, and even more so, the sexual realms.

So it would seem that it is important that South African women are frequently reminded that their equality in the public domain does not translate into equality in the private domain, an arena that remains highly stratified and hierarchically structured.

So we witness the uneasy and convoluted relation between violence and rights wrought by ten years of democracy. The women's movement in South Africa had done much to position women on centre stage at the moment of transition to democracy, but it had arguably failed to deconstruct the multiple overlapping and entrenched forms of patriarchy that had flourished under apartheid. Given that much of this patriarchal heritage remains intact, the newly democratic South African state

---

<sup>42</sup> *Supra* note 31.

<sup>43</sup> Personal communication to the author, July 2004.

<sup>44</sup> *Supra* note 2.

can be suspected of trying to site women as holding equality only some of the time and in certain spaces. So a devil's bargain has been struck; women are widely accepted as having equal political status, even within structures like Parliament, as long they remain subordinate in the private and domestic realms.<sup>45</sup> It is entirely possible that rape covertly performs the function of policing this fault line.

### **Citizenship and the Zuma rape trial**

Nowhere was this more clearly seen in the recent rape trial of the ANC's deputy-president, Jacob Zuma. Zuma was charged with raping a woman half his age while she was an overnight guest in his home. As the daughter of one of his valued struggle comrades, he was in the position of an honorary father to her; throughout the trial, she referred to him as "uncle". Zuma's claim was that the woman, who is openly HIV-positive and a lesbian, had approached him and aggressively insisted on sex, leaving him little choice but to comply. His bizarre explanation, that in his (Zulu) culture, it was necessary to satisfy an aroused woman, otherwise she would make a rape accusation, provoked perplexity and outrage – even though in the final analysis, the white male judge accepted this explanation. Zuma did not use a condom, and infamously showered after the encounter to try and avoid infection.

Zuma was entitled to a vigorous defence, and he received one. In the end, he was found not guilty – the judge found that the sex had been "consensual" and that "Kwezi" (the accuser's *nom de plume*) had lied. Gallons of printer's ink have been split over the theatre of the trial itself (in which Zuma supporters chanted, danced, threatened women from anti-rape organisations, attacked and stoned a woman rumoured to be the accuser, and burnt the accuser in effigy), the inexplicable weakness of the prosecution, the inherent sexism of the judgement, and its implications. The fact that the accuser's sexual history (including her history of prior rapes as a child) was exhaustively uncovered and used to discredit her testimony dismayed many, as did Zuma's apparent lack of remorse at having (at the very least) acted recklessly and irresponsibly in having sex without a condom, not to mention the impropriety of the sexual contact (even if consensual) itself. Zulu *sangomas* and cultural commentators have observed that his behaviour constitutes a form of social incest taboo in the culture he vigorously appropriated to support his behaviour; indeed, if he was the "100% Zuluboy" he claimed to be during the trial, he was required to undergo cleansing rituals and pay damages.<sup>46</sup>

Space does not permit a full discussion of the fallout of the trial, or detailed analysis of the discourse thereof. However, what is important for purposes of my debate is that the Zuma trial blew wide open many debates at the heart of South Africa's plague of sexual violence. The kind of rape mythologies embedded in social and intimate relations mimicking the hierarchies of apartheid were overtly present in the "text" and "performance" of the trial – not only in the strategy of the defence and in the judgment issued by the judge, but even in the discourse of the prosecution.

Among the most alarming implications of the judge's decisions during the trial and his findings was the legal blurring together of the accuser's sexual history and her history of sexual violence. These were collapsed, with Kwezi's history as a survivor of child

---

<sup>45</sup> When heterosexual women do enjoy equality in the family and other domestic spaces, the general perception is that they are "permitted" to do so by a liberal partner, rather than entitled to do so.

<sup>46</sup> See, for example, Nomboniso Gasas's presentation to the Centre for the Conflict Resolution at the University of Cape Town immediately after the verdict. Gasas is a struggle veteran, academic and trained *sangoma*.

rape used to suggest that she was unstable, emotional and disturbed – and therefore could not be trusted. The hoary old stereotypes of hysteria and neurosis were flagrantly invoked. It was clear that Kwezi had suffered profound trauma – but this was used to emphasize the “unreliability” of her testimony.

Given that thousands of women following the progress of the trial were themselves rape survivors, this was chilling. Rape hotlines reported that they were inundated with calls from survivors re-traumatized by the case – and terribly afraid that should they be raped again (unfortunately a by no means uncommon occurrence), this would be held against them in a court of law. Not only did the discourse and narrative of the trial underline the mental fragility of rape survivors; there was also an explicit element of “once is unlucky, twice is careless – more than that, and you have to be lying”. Given that many women in this country experience multiple rapes, the implications are deeply disturbing.

I belong to an Africa-wide listserve that connects feminist and gender scholars and activists throughout the continent. The day after the “not guilty” verdict, the tone of the South African postings on the listserve was not one of indignation, but fear bordering on terror. Black lesbians in particular felt that they had been marked out as “fair game”; that rape had been legitimised. It is possible (although in my opinion, highly unlikely) that Kwezi and Jacob Zuma enjoyed consensual sex on the night in question; nevertheless, the shape of the trial made it quite clear that in order to be perceived and treated as a credible witness by the criminal justice system, any woman who lays a charge of rape must be articulate and preferably educated; if not virginal, then clearly morally beyond reproach;<sup>47</sup> and possessed of impeccable mental health (the trial transcripts clearly indicate that seeking any kind of counselling or indeed experiencing any kind of trauma rendered one disturbed and unreliable for trial purposes).<sup>48</sup> Above all, this paragon needs not to have been raped before. This eliminates, for many women, the possibility of laying charges of rape, regardless of their Constitutional rights to equality and dignity before the law.

The new South Africa has led many women to believe that they have the right to justice, a comprehensive justice that cannot be denied them on the basis of race, class, gender, health status or history. But the Zuma trial showed the extent of the backlash: the full ire of civil society was invoked against an HIV-positive young lesbian who had dared to lay a charge against the second-most powerful citizen in the country. One pro-Zuma supporter outside the court said, “How dare she? Who does she think she is?” Whatever Kwezi’s thinking, she clearly believed she was a citizen who was free to press charges – and she paid a high price for doing so. Commentators from elsewhere in the developing world have observed, correctly, that this trial would never even have been able to take place in most of the rest of the African continent;<sup>49</sup> and in that respect, South Africa’s Constitution and judiciary still

---

<sup>47</sup> I’ve written at length elsewhere about how standard rape “scripts” in this country make it nearly impossible for most rapes to be acknowledged as such in South Africa. For example, rape survivors are considered credible only when their rapist is a stranger, or when the rape takes place during the commission of an additional crime (housebreaking, hijacking, etc), or when severe physical violence over and above the rape itself occurs. Of course, the most credible rape victim is the one who is murdered by her assailants.

<sup>48</sup> This sets up a classic Catch-22 scenario: the chances of a South African woman escaping any kind of trauma during her lifetime is extremely slim. But if she does experience trauma, her legal standing as a potential rape victim is permanently compromised.

<sup>49</sup> Amina Mama, Chair of UCT’s African Gender Studies (who hails from Nigeria) and Rhoda Reddock, Chair of Gender Studies at the University of the West Indies, both made this point at the CCR workshop.

hold out the promise of equality before the law, even in matters of sexual violence. However, as the trial showed us, although women's rights as equal citizens may be guaranteed by the letter of the law, powerful elements within civil society, political organisations, government institutions and the independent judiciary mitigate against gender equality in such cases.

## **Conclusions**

This piece does not prove my claims; instead, it posits an explanatory framework as to why rape in the new democratic South Africa is so extraordinarily widespread. I believe that this framework could be useful for future research on the causes and extent of rape in South Africa. Future research that applies this model will undoubtedly provide new insights into sexual violence in South Africa, as well as in the field of gender-based violence.

Like Sindiwe Magona, South African women are sick of hearing that apartheid is to blame for the brutality that men mete out to them. Nevertheless, we must examine how the legacy of apartheid intersects with justificatory narratives of rape, and the use of sexual violence as a tool of social control and intimate terrorism. But in doing so, we must learn to confront and deconstruct the knee-jerk response that in scrutinizing the sources and purposes of rape, we are engaging in a racist project. Rape is about many things, including the toxic after-effects of apartheid; but it is probably one of the few burning social issues in South Africa that is fuelled not by narratives about race, but rather by vitriolic patriarchal imperatives.

There are already signs of change in civil society discourse. In the four years since I began this project, there has been a shift in the popular tendency to pigeonhole sexual violence as a "woman's problem". (The growing rate at which men and small children of both sexes are also becoming rape victims has also jolted the public into taking a broader view of the problem.) In spite of the danger that efforts to scrutinize men as perpetrators will be deemed racist, there are shifts towards holding men accountable for what is, after all, a problem of their making; and indeed there have been energetic efforts by men and male-aligned NGOs and social institutions to tackle the problem of male violence, especially against women and children.<sup>50</sup> Unfortunately, many are still wrestling with patriarchal baggage. Given that the nascent "Men's Movement" has roots in faith-based organizations, it is disheartening, but not surprising that the Anglican Archbishop headed a Men's March on National Women's day in 2003 alongside placards announcing "Hands Off Our Women", or that he was quoted as saying "...real men don't rape women and children ... we want our women, our wives, sisters and daughters to walk freely in our streets".<sup>51</sup> Apart from the entirely unproblematised identification of women as property, this kind of discourse reflects that South African men are still posed mostly patriarchal solutions to the problem of their own violence: if they are not to be predators, they are urged to be protectors.

Meanwhile, the escalation of particularly brutal rapes, including the spate of baby rapes in recent years, has shamed the nation into asking, "What is wrong with our

---

<sup>50</sup> For an overview of these efforts, see Robert Morrell's "Men, Movements and Gender Transformation" in Morrell and Ouzgane (eds.), *African Masculinities* (*supra* note 5).

<sup>51</sup> "Real men don't rape women and children", SAPA, 17 November 2003; cited in Karisa Butler-Wall, "The Regulation of White Women's Sexuality", unpublished dissertation, School for International Training, Cape Town, 2004, p. 43.

men?"<sup>52</sup> But we cannot answer this question, or join hands with men in combating the scourge of sexual violence, until we have debunked the distracting and dangerous myths arising from our past that continue to hijack the debate on rape.

In the mammoth task that lies ahead – nothing less than the dismantling of patriarchies on a global scale – perhaps a helpful starting point is Cathi Albertyn's point that freedom and autonomy might be more useful goals for women in South Africa's transformation process than political equality.<sup>53</sup> Certainly, political equality alone is unfortunately insufficient to establish women as full, free and rights-bearing members of a democratic polity.

The last idealistic words belong to Kopane Ratele, a male lecturer at the University of the Western Cape, and are taken from a public letter in support of Charlene Smith, after she had written about her experience of being raped in the *Mail & Guardian* weekly newspaper:

... if the liberation struggle was meant to free us from oppression, it must have been to free us all from all kinds of oppression. If the struggle was truly for liberation, it was for all kinds of liberation.

Liberation has no plural. Being an indivisible whole, liberation cannot be partitioned. It is radical. To opt for anything else is to endanger it.<sup>54</sup>

This serves both as a prompt for broaden the scope of the liberatory project, and a reminder of how far the South Africa project of democratisation has yet to go. It is up to the men and women of this country to ensure that sexual violence does not continue to deny women the freedom enshrined in our brave new Constitution.<sup>55</sup>

---

<sup>52</sup> At the Women in Post-War Reconstruction conference in 1999, discussion groups reconstructed this question as follows: "What do men lack that makes them inflict violence on women [and children]?" Anu Pillay, "Violence Against Women in the Aftermath", *The Aftermath*, p. 43.

<sup>53</sup> Unpublished project, "Gender Equality: Can it still work for Women in South Africa?", Centre for Applied Legal Studies, University of the Witwatersrand, 2004.

<sup>54</sup> Cited in Smith, *Proud of Me*, 2001 (*supra* note 18) p. 211.

<sup>55</sup> I am grateful to Amina Mama, Jane Bennett, Elaine Salo and other members of the African Gender Institute at the University of Cape Town for their unstinting infrastructural and collegial support.