

Human Rights & Human Welfare

Volume 4 | Issue 1

Article 15

2004

Appreciating Silence

Ronald C. Slye
Seattle University

Follow this and additional works at: <https://digitalcommons.du.edu/hrhw>

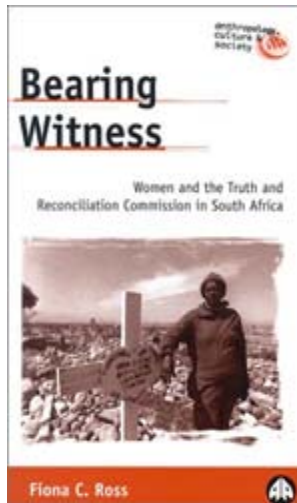


Part of the [African Studies Commons](#), [Social Justice Commons](#), and the [Women's Studies Commons](#)

Recommended Citation

Slye, Ronald C. (2004) "Appreciating Silence," *Human Rights & Human Welfare*: Vol. 4 : Iss. 1 , Article 15.
Available at: <https://digitalcommons.du.edu/hrhw/vol4/iss1/15>

This Review Essays is brought to you for free and open access by the Josef Korbel School of International Studies at Digital Commons @ DU. It has been accepted for inclusion in Human Rights & Human Welfare by an authorized editor of Digital Commons @ DU. For more information, please contact jennifer.cox@du.edu, dig-commons@du.edu.



Appreciating Silence

By Ronald C. Slye

Bearing Witness: Women and the Truth and Reconciliation Commission in South Africa by Fiona C. Ross. London: Pluto Press, 2003. 240pp.

In October 1998 Archbishop Desmond Tutu presented the “final report”¹ of the South African Truth and Reconciliation Commission (TRC) to Nelson Mandela. This long-awaited event was preceded by two lawsuits, one of which had already resulted in the removal of an entire page from the report, and the other of which threatened to result in the temporary removal of the entire report from public view. The first, successful, suit was brought by FW De Klerk, the last apartheid-era President of South Africa, who succeeded in having a page of the final report removed which linked him to the government-sponsored-bombing of a labor union office building. The second suit which threatened to derail the release of the report was brought, ironically, by the African National Congress—the party that fought for the end of apartheid and that was the driving force behind the creation of the TRC. The ANC sued claiming that the TRC in its final report equated the apartheid-era government and its abuses with the liberation movement—a charge that the text of the report did not support.

As these lawsuits suggest, the TRC has developed a mixed legacy in South Africa. The disinterest—bordering at times on hostility—of the ANC government has most recently manifested itself in the government’s passage, after five years, of legislation to provide reparations to victims identified by the TRC. To the dismay of the vast majority of those individuals who took the time to share their stories of pain with the nation, the legislated amount of reparations falls far short of the amount recommended by the Commission in its final report. Criticisms of the reparations policy are rightly aimed at the government and its refusal to adopt the more generous recommendations of the TRC, although some have criticized the Commission for not engaging in more political work to ensure that their recommendations would be accepted by the government. Others have criticized the TRC on its incomplete—and, in some cases, faulty—findings concerning apartheid-era human rights violations (Jeffery 1999). While some of these criticisms are based more on partisan rhetoric than considered reflection, there is no question that the TRC was only able to commence a process of

¹ While the TRC was supposed to finish its work and issue its final report by October 1998, the unexpected volume of amnesty applications resulted in the Commission taking until 2001 to finish all of its work. In October 1998 the TRC handed over the first five volumes of its final report, which was later supplemented by two additional volumes in 2001.

truth seeking and justice, rather than produce a complete record of the past. The TRC could not be expected to do more than this. Like any attempt to understand history it is inevitably partial and selective—a fact that the 1998 Report acknowledges in its first pages.

The TRC did succeed in initiating a process of historical inquiry concerning human rights abuses and resistance during the apartheid era and initiating a legal and political process of responsibility and accountability for gross violations of human rights committed during that period. The end of the formal life of the TRC did not end this process. A growing body of scholarship is retelling the story of the TRC, critically analyzing its operations and findings, and supplementing the body of knowledge collected by the TRC.

Fiona Ross' Bearing Witness: Women and the Truth and Reconciliation Commission in South Africa makes an important contribution to the post-TRC search for truth, justice, and understanding in South Africa, as well as to contemporary global debates over the wisdom of adopting truth commission-style processes to advance a society's transition to a human rights protective democracy. Ross not only raises some important critiques and highlights important limitations of the South African TRC, she also combines her own primary field work with the work of the TRC to enhance our knowledge of the criminal effects of apartheid and the strategies adopted, particularly by women, to resist it. Ross' focus is on the role of women in the resistance to apartheid, and the treatment of women by the TRC. Her criticism of the latter also points to more general limitations of efforts to address adequately a historical legacy of systematic atrocities.

Ross' book provides useful material for those interested in evaluating the work of the South African TRC, as well as those interested more generally in transitional and restorative justice, social healing, and nation-building. She claims to undertake "an exploration of the Commission's assumptions and work, a consideration of women's roles and experiences under apartheid, a probing of the cadences of language and silence in relation to suffering and agency, and a critical assessment of ideas about harm and recovery" (5). She largely succeeds in accomplishing these four goals, although she is most interesting and provocative with respect to the last two: her evaluation of silence and discussion about strategies for achieving recovery from harm. She anchors her exploration of these issues by focusing on a small group of women from the community of Zwelethemba—a township² located in the fertile fruit growing region of the Boland in the Western Cape.

For those interested in evaluating the South African TRC, Ross discusses why certain women chose to testify before it, why they testified the way they did, and why some chose not to testify. She also provides an analysis of the community of Zwelethemba through years of interviews that provide raw material for critically analyzing the "truth" produced by the TRC. More provocatively, Ross raises challenging questions about whether public testimony necessarily contributes to individual healing. It is generally accepted in the existing literature that, while not perfect, truth commissions do a better job than criminal trials of providing a more nurturing and healing experience for victims. Ross does not follow in the footsteps of, among others, Martha Minow (1998) and Mark Osiel (1997) who contribute to this discussion through a comparative examination

² A "township" is a community limited to one of the subordinate racial groups under apartheid, and denied all but the most basic services by the government.

of trials and commissions. While Priscilla Hayner (2002)³ touches upon some of these issues in her comprehensive study of truth commissions, Ross focuses on one commission, and thus is able to engage more deeply and subtly in our assumptions about what truth commissions are and what they accomplish.



Advocates for truth commissions argue that such commissions are better at addressing the immediate needs of victims and thus, by extension, better at establishing the conditions for reconciliation and nation-building in a society emerging from a period of systematic gross violations of human rights. They also argue that such commissions are better than trials at establishing the truth of a history of systematic violations. Unlike criminal trials, truth commissions are more victim-centered. Commissions provide a public space in which the focus is on those whose rights were violated, whereas criminal trials provide a public space in which the focus is on those suspected of being responsible for those violations. The difference is one of emphasis and focus. Both are concerned with establishing the truth of those who committed and those who suffered atrocities. Criminal trials explore truth by focusing on the culpability of perpetrators, while commissions explore truth by focusing on, among other things, the resistance provided by and violations suffered by victims and survivors.⁴ In reality—as the cases of South Africa and Sierra Leone illustrate—both processes are needed to address a history of systematic and widespread gross violations of human rights.⁵

Many have argued that the “victim-focus” of truth commissions makes them well-suited to meet the needs of those who suffered under a system of oppression. By encouraging reconciliation, such commissions are most useful for facilitating the transition to a more human rights friendly society (Minow 1998). One of the important contributions Ross makes to the literature on truth commissions is a critical examination of this assumption through an analysis of the testimony of women before the TRC, supplemented with interviews she conducted with the community of Zwelethemba before, during, and after the hearings. Her criticism is much more sophisticated and useful than those who merely point out inconsistencies and gaps in the Commission’s report (of which there are an unfortunately large amount). Through a detailed analysis of testimony before the TRC, the text of the Commission’s final report, interviews with testifiers and TRC staff, and other sources, Ross highlights the dynamic social construction of truth. Ross engages in a detailed exploration of what the Commission in their final report refers to very briefly as “dialogic truth.”

³ An essay covering Hayner’s *Unspeakable Truths: Confronting State Terror and Atrocity* appeared in Volume 3 of HRHW. It can be accessed at www.du.edu/gsis/hrhw/volumes/2003/zwanenberg-2003.pdf.

⁴ Truth commissions do not rely solely on victim testimony but often employ research departments that comb through documentation and draw upon the expertise of others in society—historians, journalists, academics, and other professionals—to create a comprehensive record of the past.

⁵ It is often overlooked by those who write about the South African TRC that the commission was not undertaken *instead* of trials, but *in addition to* trials. Criminal trials proceeded during the life of the Commission; investigations that became known to perpetrators led to them applying for amnesty; and, lawyers in the state prosecutor’s office are preparing a number of prosecutions for those who were either denied amnesty or did not apply for amnesty.

Dialogic truth is, as described in the Commission's final report, "the truth of experience that is established through interaction, discussion and debate."⁶ It is a concept of truth derived from the work of the 20th century Russian literary theorist Michail Bakhtin, who built upon concepts underlying Plato's Socratic dialogues.⁷

Ross' point is not that we need to create a better commission process that will produce a more accurate truth (those looking for such a prescriptive recommendation will be disappointed)—but that we need to recognize that testimony and recording are part of a process of retelling, reconstituting, reinterpreting, and reestablishing social reality and the creation of a shared history. In other words, we need to recognize that the *process* of truth telling is as important as the substantive truth that makes up the end result of such a process. Ross critically examines this process of telling, and challenges the related assumption that speaking of one's harm contributes to recovery from the effects of that harm. She thus questions whether, as the TRC claimed in some of its public statements, "revealing is healing" and "the truth hurts; silence kills." Drawing upon the work of other anthropologists and literary theorists, Ross reclaims the importance of silence as a source of understanding, power, and agency, as well as an important ingredient in healing. Although the silence of which Ross speaks is not the silence of amnesic amnesties all too frequently adopted by countries in transition (an approach pointedly rejected in South Africa but adopted by Chile, Argentina, and Guatemala), her observations raise questions about the categorical rejection most of us have towards such amnesties. If silence has some value, then amnesic amnesties may not be as categorically bad as most of us assume. Of course, there is a significant difference between individuals choosing to be silent—like some of the women in Ross' study—and a government imposing that silence. Imposed silence through amnesic amnesties will always be problematic; but Ross' discussion cautions us against rejecting silence *per se* in our rejection of many amnesties.

In addition to pointing out the contribution of silence to truth and healing, Ross discusses who chose to testify before the TRC and what they chose to reveal. While approximately equal numbers of men and women testified before the Commission, many women spoke about the experience of others, while most men spoke about their own experiences. The "others" women testified about tended to be men. In addition there were many women—and men—who chose not to testify. One of the reasons individuals did not testify was their inability, or unwillingness, to view themselves as victims. One of the criticisms of the TRC by many South Africans involved in the struggle against apartheid was the use of the term "victim" to identify those who suffered gross violations of human rights during the apartheid years. Many who did suffer a violation of their rights understandably identified themselves in a more active, positive light. Some preferred "survivor," a term that looks forward toward the act of survival rather than backward at the state of "victimhood." Others preferred "activist," "resistor," or "struggle hero."

Ross notes important differences between the ways in which women's apartheid-era experiences were portrayed by the Commission and women's own expression of those experiences when they are given space to construct their own narrative. Commissioners spoke of victims and perpetrators—which is not surprising given that those were terms defined in the Commission's enabling legislation—and the more idealized heroes or martyrs of the struggle. The women who

⁶ Final Report, Volume 1, Chapter 5, paragraph 40.

⁷ For the inspiration for the adoption of this notion of truth by the TRC, see Parlevleit (1998).

Ross interviewed rarely spoke of themselves as either heroes or victims, and seldom spoke of their activities as a sacrifice towards some higher good. Their narratives outside the Commission were couched in the language of autonomy and choice rather than victimization and passivity. While their personal narratives portray the women of Zwelethemba as more active (and in many cases more wily) than what was revealed through the Commission, such narratives also tend to downplay the pain and violations that many of these women in fact suffered. Ross is not claiming that the Commission hearings did not contribute to an important truth, but rather that the truth revealed through the public process is only partial, and that it is important for us to understand how and why it is partial.



Ross illustrates her main points through the stories of two women. Mirriam Moleleki is a woman from Zwelethemba who decided not to testify before the TRC. She was not hostile to or disengaged from the TRC process; in fact Mirriam was employed as a “briefer” by the TRC, a person who aided those who chose to testify before the Commission. She was also not someone who was inactive during the struggle and thus would have little to say. As Ross notes, Mirriam “had been detained four times, held twice for three months at a time in solitary confinement, and her home had been subject to police surveillance and searches, her children threatened and beaten, and her life threatened” (139). When asked why she did not testify, she downplayed her own role and suffering in relation to others. Ross speculates (and rightly so, in my view) that Mirriam’s reaction of humility and transference was a much more common reaction among women than men. It is an unsurprising reaction given the context of gender relations in South Africa and the patriarchal context in which the TRC operated. Given the state of gender relations globally, it is not surprising that all truth commissions have faced and will continue to face such an issue. While Ross discusses how an awareness of the social construction of the concept of “woman” helps us to understand the interaction between women and the TRC, I would have preferred that Ross go into greater detail about the critical issues raised by this observation.

In addition to discussing why some women testified while others did not, Ross also explores how testimony was used by the TRC, the media, academics, and others. In one of the most fascinating parts of the book, she traces the way the testimony of a particular woman, Yvonne Khutwane, was elicited before the TRC, and was then interpreted and reinterpreted over time. Through this case study Ross illustrates the dialogic nature of truth—the way that a particular narrative story is picked up, formed and reformed in a variety of social contexts. The conclusion is not that such truth is illegitimate, but that we need to be more conscious of the inevitable process of interpretation and reformation of truth:

Rather than understanding the reconfiguration of testimony as aberration, a deviation from an original, authentic spoken word, it can be understood as part of the work of forming the everyday in violence’s aftermath. In that case, this chapter may be read as outlining a methodological approach to understanding social reconstitution. Tracing the continuities and discontinuities of testimony and its reception over time illuminates the extent to which local discourses reflect and refract larger processes, and vice versa....Such a method may shed light on ways in which new norms are articulated and previous experiences acknowledged or

silenced. I am suggesting here that spoken words and silences sculpt one another and may take on a kind of tangibility, a traceable life of their own. In future, scholars will be better able to map the carving of utterances from the conditions of possibility and to trace their effects over time. Anthropology, with its commitment to long-term research of an intimate kind, is well-suited to the work (101).

Yvonne Khutwane was one of the few women activists to testify before the TRC, and the first to testify about sexual violence. The voluminous TRC final report refers to her testimony four times—a frequency that is rarely surpassed in the report. For many other women, one such excerpt about sexual molestation—from testimony that one of the TRC members elicited from Khutwane at a public hearing—became the defining moment of her testimony and life. The treatment of Khutwane’s sexual violation highlights the subtle nature of Ross’ argument. On the one hand, if not for the directed questioning of one of the TRC members, Khutwane’s story of sexual violence would not have been told. On the other hand, as Ross shows through a close reading of Khutwane’s testimony, supplemented by numerous interviews with those involved in telling her story, the public story of Yvonne Khutwane bears a slim resemblance to the reality of her life, and to the image that she sought to, and did, portray at the TRC hearing. In fact she requested three specific things from the Commission as part of her testimony, none of which were related to the incident of sexual molestation that was transformed into the defining moment of her testimony.

The story of sexual molestation arose from a series of directed questions by one of the committee members during the public hearing; Khutwane did not bring it up in her original statements to the Commission. The TRC report described Khutwane’s male molesters’ questioning of Khutwane about her sexual preference as “humiliating.” However, Ross finds it ironic that the report does not make a similar observation concerning the close questioning that Khutwane was subjected to at a public hearing of the TRC and broadcast to millions on radio and television. While this observation raises important questions concerning the possibility that testifying may contribute to a feeling of violation and victimization, it is not clear from Ross whether Khutwane herself found the Commission’s questioning humiliating. There is an important contextual difference between being questioned about sexual preferences by men who have assaulted you in a police vehicle late at night in an isolated part of the country and testifying before a Commission established to provide a safe forum for individuals to tell their stories. Ironically, Ross’ assumption that this was a humiliating experience for Khutwane may be an example of Ross *herself* retelling and reinterpreting this event to make her own point, as there is no suggestion in the information she provides that this is the way Khutwane viewed the testimony. In fact, Ross quotes from an interview with Khutwane suggesting that after the fact Khutwane may have found the act of testifying affirming.

According to the TRC, Khutwane was debriefed after the hearing and expressed relief at being able to tell the story of sexual molestation for the first time. Khutwane does not remember being debriefed, and Ross has yet to gain access to the documentation of the TRC that might indicate whether in fact Khutwane was debriefed after her testimony. (Another manifestation of the government’s reaction to the TRC is the barriers that have been raised to access the Commission’s documentation in the public archives.) In an interview with Ross a few years after her testimony, however, Khutwane speaks of the gestures of affirmation she received from members of her community both immediately after the hearing and even years later. Khutwane has preserved a copy of her testimony and news clippings about her testimony in an envelope “[f]or my grandchildren, so they will know about me” (87). Ross notes that this reaction was unusual, as most of the women

with whom she spoke did not testify because they did not want to expose their humiliation to future generations.

The choice by many women to remain silent—motivated in part by shame—raises the question of whether a forum can be created that would allow such women to tell their stories, and even more provocatively raises the question of whether it would be desirable to create such a forum. Certainly in cases of mass and systemic violence, the contribution to truth of the details of one more violation is less valuable to society when so many others have testified about similar violations. On the other hand, if the additional testimony concerns a different type of violation, then there may be great societal value in having that additional testimony. Thus the fact that Khutwane’s was one of the few testimonies concerning sexual violence increased its importance from the point of view of the Commission. In fact, it was one incident of what the Commission suspected (rightly in my view) was a larger pattern of sexual violence. But while Ross draws our attention to the effect of such testimony on the individual testifier, she does not discuss the benefit to the larger society of exposing the existence of such violations nor consider how a balance between these two often competing concerns might be struck.

In the case of violations for which there have already been significant amounts of testimony, the question is whether providing such a space serves a purpose for the individual, her family, or her immediate community. Significantly, a number of the women activists in Zwelethemba wrote their own autobiography just as the Commission was beginning its work. In fact it was Mirriam Moleleki (who declined to testify before the Commission) who suggested that the women write their own autobiography for future generations. Her reluctance to testify may have less to do with her feelings about propagating her own story, and more with asserting control over how the story is told and transmitted.



An article or book may always be criticized for what it does not do—often such criticism is really a statement by the reviewer of his or her interest or research. Reading Ross’ book raised a number of questions for me as a legal academic interested in transitional justice. It is not clear from the book—although one can always speculate—what if anything Ross believes should be done to improve truth commissions, or whether she even believes, given her conclusions, that truth commissions can be improved. This is an important issue for both academics and advocates working and writing in this field, and one that Ross does not directly address. Is it that such commissions should be supplemented by other avenues of expression in healing, such as the autobiographies that Moleleki and her friends produced? Or is it that such commissions should be more searching in their written reports concerning the limitations of their accomplishments? Should silence be respected, even encouraged? Is the attempt to combine justice, truth, reconciliation, and healing in one public institution overly ambitious, even misguided? Ross speaks of the importance of “reclaiming the ordinary,” and she persuasively argues how a focus on “the ordinary”—the day-to-day lives of those who resisted apartheid, including the indignities they endured—is missing from the TRC’s report and why it should be included. Her call for a reclaiming of the ordinary, however, is not only a criticism of the truth as described by the TRC; it is also meant as a response to the question of what

should be done to heal communities devastated by apartheid. It is not clear if such a goal can be achieved by a large and public process like the TRC.

These are questions that of course do not have easy answers, and one can hardly fault Ross for not addressing them in what is already a very rich and informative book. She does us a great service by providing us with more than enough information to begin to discuss and debate these issues and come to our own conclusions; maybe she or others will take up the challenge of translating her observations into policy recommendations.

Near the end of the book, Ross warns us against losing the truth of women's resistance:

Without careful attention in the present, women's participation in multiple forms of resistance and in shaping political and social agenda, along with individual acts of caring that went against the grain of established convention, will remain unacknowledged, underexplored, and in danger of slipping from the historical record (164).

Ross has made sure that at least some of these stories will be preserved for future generations. Let us hope that others will take up her challenge.

References

- Hayner, Priscilla. 2002. Unspeakable Truths: Confronting State Terror and Atrocities. New York: Routledge.
- Jeffery, Anthea. 1999. The Truth about the Truth Commission. South African Institute of Race Relations.
- Minow, Martha. 1998. Between Vengeance and Forgiveness: Facing History after Genocide and Mass Violence. Boston: Beacon Press.
- Osiel, Mark. 1997. Mass Atrocity, Collective Memory, and the Law. Brunswick, NJ: Transaction Publishers.
- Parlevliet, Michelle. 1998. "Considering Truth: Dealing with a Legacy of Gross Human Rights Violations." *Netherlands Quarterly of Human Rights* 16(2): 141-174.
- Slye, Ronald C. 1999. Review of Anthea Jeffery's The Truth About the Truth Commission. South African Review of Books. Online at <http://www.uni-ulm.de/~rturrell/sarobnewhtml/index.html>.

Ronald C. Slye is a law professor at Seattle University. From 1996 to 2000 he was a consultant in international law and human rights to the South African Truth and Reconciliation Commission. He is currently writing a book on the South African amnesty process.

© 2004, Graduate School of International Studies, University of Denver.