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# Homophobia, Injustice and 'Corrective Rape' in Post-Apartheid South Africa

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Kylie Thomas

February 2013

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While South Africa celebrates ten years of freedom and political democracy, there are those within our borders who are still outsiders, who have yet to find substantial meaning in this celebration. Despite formal constitutional protections against discrimination based on a person's gender and sexual orientation – one of the liberation struggle's most impressive achievements – black lesbian women are still refused entry into the nation's most public spaces and are punished for their same-sex desires and relationships.

- Zanele Muholi, "Thinking through lesbian rape", 2004:117

The truth is, 'Ngiyesaba' – I'm shit scared. There is a song in Zulu that says 'lemini iyeza nakuwe' – This day will come to you too. It is mostly sung at funerals. The thought of lesbian rape, attempted rape and assault, terrifies me as I do not know when it will ever stop.

- Zanele Muholi, "Lesbo rape – hate crimes", 2005:1

In August 2009, South Africa's Minister of Arts and Culture Lulu Xingwana walked out of an exhibition that contained several works by Zanele Muholi, a queer activist and photographer who documents the lives of black South African lesbians, on the grounds that the photographs were "immoral, offensive" and worked "against nation-building" (Van Wyk, 2010).<sup>1</sup> In 2010, South Africa's representative to the United Nations, Jerry Matjila, objected to the inclusion of comments on sexual orientation in a report on racism at the United Nations Human Rights Council in Geneva and argued that to include them would be to "demean the legitimate plight of the victims of racism" (Fabricius, 2010:3). In May 2012, an African National Congress (ANC) member of parliament, president of the Congress of Traditional Leaders of South Africa (CONTRALESA) and chairperson of parliament's Constitutional Review Committee, Patekile Holomisa, stated that while "gay people should not be molested and raped, homosexuality was a condition that occurred when

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<sup>1</sup> For the media statement subsequently issued by Xingwana, see, Department of Arts and Culture (2010).



certain cultural rituals have not been performed". He went on to say that "when rituals are done, the person starts to behave like other people in society" (De Lange, 2012:4). Holomisa made these statements in relation to a submission made to the Constitutional Review Committee by the National House of Traditional Leaders that calls for changes to the clause in Section 9 of the constitution that guarantees protection against discrimination on the basis of sexual orientation. While South Africa's constitution has been lauded for recognising the rights of gay, lesbian and trans-gendered people, the statements made by public figures and cited here indicate that deeply conservative views about gender and sexuality prevail.

On the 20th of April 2012, thieves broke into Zanele Muholi's Cape Town apartment and "stole more than 20 hard drives containing years of documentation: photography, video, interviews – but took nothing else" (McCann, 2012). As Muholi had produced what was almost certainly the most comprehensive, and without question the most intimate, archive of black lesbian lives in South Africa, it is suspected that the crime may have been motivated by homophobia. A great deal of Muholi's work is directed towards countering the discrimination faced by queer South Africans and her activist and visual work has brought the cases of lesbians who have been raped to public notice. If the theft was directed at keeping her work from being exhibited, it operates as an act of symbolic silencing and powerfully reiterates the message sent by Xingwana: the South African public sphere does not hold a place for those who do not conform to hetero-normative ideals.

In an important exploration of 'hate crimes' in South Africa, Bronwyn Harris writes that hate crimes are defined as acts of violence "motivated by prejudice or hatred" (Harris, 2004:12) and notes that "the concept of a 'hate crime' is not common within the South African context, although crimes motivated by prejudice are" (2004:12–13).<sup>2</sup> Hate crimes may appear to be aberrations in the social order and acts that make manifest the extreme prejudices of a limited number of individuals; however, hate crimes cannot only be thought of and addressed at the individual level. In addressing these forms of violence, it is critical to recognise that what makes such acts possible are the broader social and political contexts in which they occur. In a discussion of ways to understand and address institutional racism, Harris argues that "it is important to explore political discourse and its relationship with institutions and identity (and their overlaps with hate crimes)" (2004:77). She writes,

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<sup>2</sup> Apartheid itself can be understood as a large-scale hate crime.

Beyond the constitutional framework, political attitudes may impact on social discourses about hate and prejudice. ... In South Africa, for example, certain political parties strongly frown on homosexuality and/or immigration, whilst simultaneously promoting the rights of women and children. (2004:77)

As research on the HIV/AIDS epidemic in South Africa has shown, the ways in which those at the highest levels of government speak about and engage with issues relating to science and appropriate treatment and care for people living with HIV, as well as with issues relating to gender, sexuality and sexual violence, have material effects. In our context, the views of government officials who have disputed the connection between HIV and AIDS and the efficacy of anti-retroviral therapy have shaped policy decisions at all levels of government and have often led to increased levels of stigma and discrimination. In a similar way the prejudice expressed by national leaders in South Africa towards those who do not follow the codes of hetero-normative patriarchy *authorises* the violence of those who rape and murder lesbian women.

There are no precise figures for the number of women who have been raped because they identify themselves as lesbians. Rape, like other forms of sexual violence, is perhaps the most under-reported form of crime. There are clearer figures for the number of women who have been raped and murdered because their attackers sought to punish them for being openly lesbian.<sup>3</sup> What is clear, however, is that lesbians in South Africa, and black lesbians in particular, experience public space as a space of violence.

Since the release of Harris' report, the term 'hate crime' has been increasingly used to describe forms of violence directed against gay, lesbian, bi-sexual and trans-gendered South Africans. The terms 'curative rape' and 'corrective rape' have also been used to describe sexual violence directed against lesbians and to mark the distinction between rape experienced by homosexual women and the rape of heterosexual women or men or the rape of children. In their study, *The country we want to live in: Hate crimes and homophobia in the lives of black lesbian South Africans*, Nonhlanhla Mkhize, Jane Bennett, Vasu Reddy and Relebohile Moletsane draw attention to how these terms began to circulate as a result of the activism of "radical feminist and black lesbian-led organisations". These activists "attested to a very specific form of sexual attack,

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<sup>3</sup> See Mkhize and colleagues (2010:46–47) for a list of the names of women who were raped and murdered between 2006 and 2009 because they were lesbian. The authors provide a list of known reported cases but note that in public campaigns a much longer list of names is recited by activists, friends and family members of women who have been subject to hate crimes.

‘curative rape’” (2010:26). Drawing on the work of scholars and activists Zanele Muholi, Helen Moffett and Vasu Reddy, the authors write,

This form of violation is perpetrated with the explicit intention of ‘curing’ the lesbian of her love for other women. Although many heterosexual survivors of rape attest to the stated intentions of their assailants as punitive (they have done something wrong, and thus ‘deserve’ rape), survivors of ‘curative rape’ make it clear that their attackers were interested in humiliating and punishing them for their choice of sexual identity and lifestyle and in ‘transforming’ them – by coercion – into heterosexual women. (2010:26)

This report offers a critique of the terms ‘corrective rape’ and ‘curative rape’ and argues for careful and nuanced application of the concept of ‘hate crimes’. The report forms part of the research conducted for the Violence and Transition project and focuses on an interview conducted by my co-researcher, Chiedza Chagutah, with Sibongile, a woman who was raped by a man close by to her home in a township just outside of the city of Cape Town.<sup>4</sup> Sibongile’s account complicates and widens existing definitions of hate crimes, given that she was raped by someone who knew her well and whom she believed to be her friend. While the report pays close attention to a particular, individual life history and experience of trauma, it also argues for understanding gender-based violence as structural violence.

## Rape: Corrective, curative, hate crime

South Africa has extremely high rates of sexual violence, and rape has been used in the country as a way to “punish” women who do not conform to normative ideals of femininity in different ways over time.<sup>5</sup> In her study on what she terms ‘group rape’ in South Africa, Katherine Wood cites Steve Mokwena’s Centre for the Study of Violence and Reconciliation (CSVR) paper on ‘*jackrolling*’, a practice defined as “a form of group abduction and rape of young women in Soweto in the eighties originally associated with a gang called The Jackrollers”, which “was designed to put out-of-reach or snobbish women in their place” (2005:306). In the post-apartheid present, lesbian women have been made subject to what has been termed ‘corrective rape’ or ‘curative rape’, which, like

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<sup>4</sup> Gender-based violence formed part of the focus of the third phase of the Violence and Transition Project, run by the Centre for the Study of Violence and Reconciliation and the Centre for Humanities Research at the University of the Western Cape. Chiedza Chagutah conducted interviews with several women who are part of the Khayelitsha-based lesbian activist movement, Free Gender, and who talked about their experiences of sexual violence.

<sup>5</sup> See Wood (2005) for an overview of the phenomena of ‘gang rape’ and ‘group rape’ in South Africa.

*jackrolling*, can be understood as a violent form of policing of the social order. In an article about hate crimes, activist Wendy Isaack defines ‘curative rape’ as “a term used to describe the sexual violence perpetrated for the purpose of supposedly ‘curing’ a person of their real or perceived sexual orientation and/or gender identity” (2007:2).

Such forms of naming provide useful short-hand terms for forms of violence, and sexual violence in particular, directed against lesbians in South Africa. But the terms also carry with them a series of assumptions that may not hold in all cases. The use of the terms by feminist scholars can work inadvertently to reinforce essentialist conceptions of gender and sexuality. Perhaps the clearest way to understand what is at stake in the ways in which we name forms of violence would be to defamiliarise the terms used to describe violence directed towards lesbians through applying the descriptor ‘corrective’ or ‘curative’ to a different category of hate crime – racism. A racist ‘curative beating’ or ‘corrective racially motivated shooting’ makes no sense precisely because of the widely held view that a person’s race cannot be altered – it is taken as a given. A similar, and similarly mistaken, biologism is at work in the notion of ‘corrective rape’, which ‘makes sense’ because of widely held ideas about essential womanhood and femininity. By this logic, a black or white person cannot be ‘cured’ of being black or white because blackness or whiteness is taken to be a biological given and a lesbian can be ‘cured’ of being lesbian because her underlying essential femininity is taken to be a biological given. ‘Curative’ racially motivated violence would be genocide or the Nazi ‘final solution’, just as the inner logic of ‘curative rape’ of lesbian women contains the desire not for some form of social restoration but for elimination. In other words, if the ‘corrective rape’ of lesbians is intended to ‘turn’ them into heterosexual women, it is intended to negate, symbolically and often physically, what constitutes their identities and their being.

The term ‘corrective rape’ also implies that if lesbians performed their sexuality ‘correctly’, within the appropriate bounds defined by patriarchy, they would not be subject to sexual violence. This, as the argument made by Mkhize et al. about the way in which black lesbians are ‘doubly vulnerable to gender-based violence’ makes clear, is not the case:

As women, they [black lesbians] inhabit a South African reality in which all women are vulnerable to diverse forms of sexual attack, and black women who are poor are surrounded by more opportunities for men to attack them than women who are better resourced (and thus, often, white). As lesbians in homophobic contexts and cultures in which sexual violence is a popular weapon, they are at the knife-edge of community rejection and vulnerable to local ‘policing’ through physical and sexual assault. (2010:26)

Hate crimes against lesbians have also been read as 'message crimes' and as corrective not of the individual but of the social order. While men who rape lesbians in South Africa may intend to convey a message through the act of rape, this is not necessarily directed as a 'warning' to other lesbian women. The message may be to other men, asserting patriarchal power over women and affirming aggressive masculinity. Interpreting hate crimes against lesbians as 'message crimes' requires a careful interrogation of motive, intent and effect without which we may think we understand more than we do about histories and forms of violence post-apartheid. Reading the 'messages' conveyed by violence too literally may mean that we fail to analyse what appears self-evident and unchanging but is in fact complex and contingent. Focusing on the 'message' may also divert attention from an analysis of the conditions under which the transmission of violent messages is made possible.

In a section of her report on hate crimes in South Africa headed "Hate crimes are 'message crimes'", Harris draws on the definition of hate crimes provided by the American Psychological Association to argue that

hate crimes impact not only on the individual victim, but on the whole 'hated group'. ... They are different from other crimes in that the offender is sending a message to members of a certain group that they are unwelcome in a particular neighbourhood, community, school or workplace. (2004:22).

Reading hate crimes as messages works on the assumption that the person/people to whom the message is directed does not already know and understand the message. Hate crimes, in this frame, work to remind those who have transgressed social norms of their place. The effect of this is to render hate crimes into exceptional events. In the context of South Africa, these forms of sexual violence operate less as message and more as normative practice. These acts do not take place in a wider social and political context of safety, tolerance and freedom, in which rape occasionally occurs as a form of punishment. These conditions necessitate a more careful reading of the 'message' of what has been termed 'curative rape'. Why would such violent messages be necessary in a context where the unequal relations of power between men and women are perfectly and painfully clear?

I do not dispute the need to describe and define the ways in which South African lesbians are subject to particular, and sometimes intensified, forms of violence. However, given the prevalence of extremely conservative ideas about gender and sexuality in the country, I would

argue that the terms ‘corrective’ and ‘curative’ rape should always be carefully qualified, if they are to be used at all.<sup>6</sup>

The section that follows turns to an analysis of Sibongile’s narrative of her experience of being raped. Her account makes clear how homophobia intensifies the trauma of rape: through widely held ideas about lesbians ‘asking for it’ through their openly transgressive behaviour; by the negligence and sometimes outright disdain of the police and criminal justice system; and through the ongoing forms of discrimination endured in the aftermath of the assault.

## Traumatic recall: Rape and recovery

*Chiedza Chagutah:* And then, because now people argue, some of these men who actually do these, who do these things, they argue that, oh no, we did this because according to our culture, like in a case where a lesbian would be raped they say in our culture it’s not acceptable so they deserve it, was it ...?

*Sibongile’s mother:* Ah, I wouldn’t say, no, it’s right, it’s the right thing if they think that the lesbians should be raped because they, they are looking for it because why are they, ah, lesbians and things like that, it’s not, ah, it’s not right in that way because really and truly, they are also people and they came from mothers, they didn’t just erupt from someone or even just fall off from a tree like, like apples, you see so, ah, it is, I feel it’s not right ...

This brief excerpt is drawn from an interview conducted by Chiedza Chagutah with Sibongile’s mother, an interview that took place after Chiedza had listened to Sibongile’s account of having been raped. I have chosen to begin my reading of Sibongile’s narrative with her mother’s words because in their insistence on the fact that lesbians “are also people and they come from mothers,” they remind us of what is at stake in any consideration of violence in the lives and experiences of black lesbians in South Africa today. Part of the reason violence considered to be directed towards an individual or group of people as a result of hatred towards them demands our attention is because the presence of such forms of violence, the conditions of their possibility, exposes the limits of what is understood to constitute the ‘fully human’, the ‘proper citizen-subject’ of the

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<sup>6</sup> ‘Punitive rape’ may be a better term as it does not imply being restored to a different and more authentic or proper form of identity as is implicit in the notion of ‘corrective’. See also the argument in the Human Rights Watch report entitled “We’ll show you you’re a woman” on how focusing on ‘corrective rape’ can detract “from the larger set of issues fuelling violence and discrimination against lesbians and transgender men. A narrow focus on ‘corrective rape’ can give the mistaken impression that only ‘butch lesbians’ are subject to sexual assault, or that rape is the only issue of concern, or that sexual assault faced by a lesbian is qualitatively different from and more serious than sexual assault against a person who is not identified as a lesbian” (2011: 2–3).

democratic state. Sibongile's life story, like the testimonies collected by local organisations such as Forum for the Empowerment of Women and Gay and Lesbian Memory in Action, can be read as a powerful rejoinder to such limits.

Sibongile was born in Port Elizabeth in 1978 and moved to Cape Town when she was about seven years old. Prompted by the interviewer to start by talking about her childhood, Sibongile begins the interview with an account of her earliest memories of herself. She remembers herself as a creative child who loved to draw and recalls that her family was fortunate in that they were one of the few families to have a television set. She remembers that when she was about five years old she announced she was going to marry a woman she saw in an advertisement and that the response from those around her was laughter. However, she remembers that her mother was embarrassed by what was understood as a misplaced expression of desire. Sibongile is clearly aware that she is being interviewed because of her sexual orientation and because of her experience of sexual violence (she was raped four years before the time of the interview). She goes on to clarify that in spite of her mother's embarrassment and the amused reaction of those around her, she was always clear about who she is:

[Clears throat] And, ah, my mom was embarrassed like anything, um, but I totally didn't understand, you know, what all the fuss was about so, you know, that's basically my earliest memory in the sense that I've always known who I am, it's not like this came later in life. I, I didn't see anything wrong with it or anything like that, it was just who I am, um, and as I grew up, ah, I was a tomboy, you know, I used to play with boys, I had two brothers, um, and, ah, they used to play with me and, you know, pretty rough, they were pretty rough guys, um, but that's basically how I grew up and ...

What Sibongile describes as her earliest memory is an awareness of who she is and that part of her awareness of herself is as someone who has never been a 'girl' in the conventional sense. She states that she did not perceive there to be anything 'wrong with it', meaning that she did not think of her non-conformism to gendered norms as an act of defiance or as deviant but rather simply as an expression of herself. Her statement that she did not 'see anything wrong with it' implies she is aware that there is a view that there is a right and wrong way of performing gendered roles and that there is also a moral judgement attached to the 'failure' to perform such roles in the 'proper' way. Sibongile describes herself as a "tomboy" and as having played with her brothers, whom she describes as having been "pretty rough guys". She doesn't elaborate on the meaning of "rough",

nor does she mention at this point in the interview that both her brothers subsequently died in car accidents.

Sibongile's mother was employed as a nurse, and Sibongile describes her father as a self-employed person who sold fruit, vegetables and livestock. She explains that her parents divorced when she about four years old and she moved to Cape Town with her mother, whereupon their relationship with her father effectively ceased:

We moved to Cape Town and, um, you know, ah, over, like, the December holidays, we, we'd go to PE, me and my mom, um, and basically just to get him to contribute to whatever it is that I would need, either for school or whatever, um, but what happened was that after a while my mom realised that, um, these trips were actually more trouble than they were worth, um, in the sense that my father, ah, he, *ja*, he wasn't a responsible man, um, you know, he felt out of sight, out of mind in a way, um, he was no longer married to my mom, um, we weren't in front of him, um, so he didn't feel any obligation to actually pay for anything so that's why we actually, ah, stopped going to PE over December holidays [clears throat] but I grew up here in Cape Town, I quite like Cape Town.

Chiedza goes on to ask: "So which schools did you go to here in Cape Town? And where were you staying then?" This question triggers the following response:

Um, when we first arrived here, um, my mom got a place to rent, ah, that was in New Crossroads, hmm mm, and it was round about 1990, um, that there was, um, a new development, ah, called Bongweni, Bongweni Park and, um, my mom bought a house there, she was like a first-time owner, um, and we used to go there over weekends just to basically see how far the builders are in terms of building and [clears throat] [whispers something] and we finally moved in and we lived there for about 20-odd years, um, and we, we moved out in, ah, 2010 in February, um, and we came to live here, um, [pause] the thing is that, you know, that place felt like home, um, but everything changed, ah, after what happened to me in 2008, ah, which is that I was raped, I was drugged and raped by, um, by a guy who was friends with my brothers [clears throat]. I trusted him a lot, um, [pause] and that's where he got the advantage to actually do this to me and the worst part of it was that, um, I didn't get any, any help from the police, um, in the sense that he was arrested for just one week, um, came back after that.

The almost 20 years of time between Sibongile's mother buying the house she and Sibongile lived in together and the time of Sibongile being raped by her neighbour are eclipsed by the trauma of this event in Sibongile's life. She does not relate the names of the schools she attended, nor does she simply name the place where she lived. Her response indicates that the site of her former home and her experience of being raped are bound together so that for her the question of where she used to live cannot be raised without evoking the trauma she experienced when she lived there.



This is not least because when the man who raped her was released after having been imprisoned for only a week, she saw him constantly because he lived so nearby:

He lived about three houses away from mine and, ah, [clears throat] he had so much access to me and I was totally helpless, um, in the sense that when he came back he even got his friends, ah, to stalk me, um, and I did go to the prosecutor to complain about this but he didn't take it seriously, I mean the only thing he asked me was, um, did they do anything to me and I said that well, for the mere fact that they stalking me, ah, it's harassment and it's basically another way to tell me that he can actually do anything to me, you know, it's mind games really and it's, it shouldn't be happening and it should be actually taken on as a further charge but he never took it seriously.

Sibongile does not clarify the reason for the man being released after such a short time, but what emerges from the narrative is her clear sense that the criminal justice system was not working in her favour, that in fact it was working against her. Sibongile relates how she continued to be victimised by the man and by his friends after his release from prison and that in spite of her complaint to the prosecutor, no action was taken against them. The legal system failed to protect Sibongile from what she experienced as a blatant display of the power of the man who raped her: "It's basically another way to tell me that he can actually do anything to me". Sibongile is asked to recall the events of the day and Chiedza's hesitancy in phrasing her questions indicates the difficulty in speaking openly about rape. She asks, "So do you remember like that day when ...?" A lengthy interruption to the interview follows and when the interview resumes, Chiedza asks, "Um, so like the day, do you remember the day, what, were, like the events of that day?"

Sibongile's narration begins with the fact that she was celebrating having been promoted at work and was drinking at a *shebeen* close to where she lived that was run by her neighbour. She states, "I used to feel very safe seeing as he's a guy, I know I'm safe, I can basically chill there, nothing's gonna happen, um, and what happened was that he told me ...". Her account begins with statements regarding how the presence of a man she knew relatively well meant that she felt at ease. Her certainty that "nothing's gonna happen" is eroded over the course of her recounting the events of the night. The man who raped her is not named and, in her account, he is both the engineer of the events and an absence. She does not describe his physical appearance. Sibongile describes drinking through the night, and when she begins to relate the events immediately preceding the rape, when the man gave her brandy she thinks was drugged, she remembers that during the night the man's girlfriend had arrived:

So we were busy watching the sunrise round about six or so in the morning and that's the time that he took out some brandy that he had and, ah, I forgot to say that there is a woman who'd actually showed up sometime in the night, turns out that this woman is his girlfriend, um, apparently she was with some guys and, um, these guys tried to rape her, um, and now she was basically looking for a safe, you know, place just to ... so, ah, my friend plays the hero, he rescues her from this whole thing ...

Sibongile does not name this woman, nor does she give an account of her emotional state or what they discussed when she arrived.

The woman's experience of almost being raped by a group of men she knew and the advice Sibongile receives from the man who raped her not to walk home "just in case somebody comes out of the blue and just grabs me or whatever" culminates in Sibongile waking up to find the man had been attempting to rape her while she was passed out as well as in her realisation, in the aftermath of this experience, that she had in fact been raped. Her account provides a clear picture of the broader context of violence in the social world she inhabits, and in particular of the constant threat of sexual violence that is present across public and private spaces. It is ironic that, as Sibongile observes, the man "play[ed] the hero", "rescuing" his girlfriend from the threat of rape outside only to subject Sibongile to rape that same morning. She notes that after the man advised her against walking home, Sibongile lay down next to the man's girlfriend in their bed:

I was feeling more and more tired at that time so I basically just took off my, um, shoes and I got into bed next to them, um, which is that he was sitting, he was sleeping on the one end, with his girlfriend in between us and then I was the one on this end, um, and I woke up later on, the thing is that [clears throat] as I said I was drugged, um, so what happened was that at one point I, I felt, um, I felt a penis poking my naked thighs and I found that to be very, very strange because I knew that I had my jeans on and it didn't feel like a dream so that's when I really opened my eyes and when I opened my eyes, you know, this guy was on top of me just wearing a t-shirt, um, so I grabbed his arm and I said no and that's when I passed out again. So apparently he carried on while I was passed out and when I woke up I couldn't remember anything but my mind just kept telling me that there was something I had to remember, there was something but I just couldn't remember what this thing was and I had this feeling that whatever it was it was important, but for the life of me I couldn't think of it.

Sibongile recalls her confusion in the aftermath of the rape and remembers herself attempting to resist the man but passing out while he was raping her. Sibongile describes how in spite of not being able to name what had happened to her, her sense that something was wrong persisted after she returned home:

I went home, I don't know, my, my mind was very, very foggy, um, it felt like I had, not really a headache, I had trouble thinking, I had trouble thinking, I had trouble focusing, um, it just

felt like there was something in my brain which was trying to suppress, ah, any thought or anything like that.

It is clearly difficult for Sibongile to recount this time in her life, and while her narrative is coherent and her account of the events preceding the rape and of the rape itself is told in a relatively lengthy, unbroken response, her use of repetition and of several different formulations in order to express her state of being mark the challenge of speaking this experience. A few days after she was raped, Sibongile encountered the man who raped her. She describes her feelings of intense fear on seeing him and her struggle to piece together the events that resulted in her fearfulness:

This happened on a Saturday morning, um, I only got a flashback of what had happened on Tuesday and I was like, because the whole weekend I was just so weird, it was like I was having some type of out-of-body experience, um, I really couldn't, um, describe what was happening to me, um, and I remember when I saw him at one point I just got really, really scared and I didn't understand where that fear was coming from because I'd known him for such a long time, um, and, you know, he was in his car with a friend of his and as he was talking to me he kept looking deep into my eyes as if he was searching for something, um, but at that time really, nothing was really getting to me but on Tuesday, that's when I got the flashback and everything just started making sense.

Sibongile's fear is met by the unflinching gaze of the man, whom she describes as looking at her "as if he was searching for something" – a gaze that seems intent on discovering whether Sibongile has any memory of being raped.

Um, so that's when I actually went to the doctor, um, that's when I went to actually go and report the crime, um, and he was arrested, um, [pause] but, *ja*, justice wasn't on my side, definitely not, um, because they didn't really, ah, keep him, you know, incarcerated for too long. I felt that my life was in danger and, um, it felt as if the authorities didn't care, um ...

It seems that Sibongile felt her life to be in danger both because of the man's brazen, unrepentant and threatening demeanour and because in releasing the man from prison the justice system removed from her the promise of protection. The inadequate response of the police and criminal justice system to women who report being raped is multiply injurious in a context where the threat as well as the practice of rape is so widespread as to have become normative. Many women do not report rape for fear of exposing themselves to processes that to many women seem to favour the perpetrator(s). The widely reported rape trial of South African President Jacob Zuma and the harassment of the woman who accused him of rape by members of the public and by ANC

supporters outside of the court is one high-profile instance of how many people respond to women who report being raped.<sup>7</sup>

Sibongile's account of her experience with the police, the justice system and with people in her neighbourhood in the aftermath of being raped indicates how the trauma of rape can be, and in many cases is, compounded by such responses. In spite of the fact that Sibongile went to a centre where one would anticipate there being structures for providing support for those who have been raped, she encountered quite the opposite. When asked how the police reacted when she went to report having been raped, she states,

I mean firstly, um, I was called a rape victim, ah, by, um, by two police officers. That's how this thing happened, um, what's the name of this place, I've forgotten what it is, um, but it's, it's called like Tutuzela Centre, it's like a rape crisis centre, so that's where I was and these two police officers come in, it's, um, coloured guy and a white guy, middle-aged, they come in, they looking around, they asking, "Where's the rape victim? Where's the rape victim?" [whispers] I'm like what the fuck, um, so [clears throat] at that time I was actually waiting to be, ah, ah, um, examined by the doctor, I hadn't been examined yet, hmm, okay, and what happened was that ... [long pause]. And what happened was that they actually, um, took me in, ah, ah, so they could get my statement and, um, it felt as if they were deliberately trying to confuse me, um, [clears throat] in a sense that the guy who was taking the, um, the statement, um, it seems as if it was more important to him, um, as to what my cell number is and where I work than, um, you know, why I was actually there, um, and it felt like he was deliberately trying to trick me by asking me certain things and then he would write down a statement and then would cross it out. Now you imagine that you're coming from this really traumatic experience and then you have somebody just fuck you around like that, you know what I mean, as if they're trying to prove to you that you're actually off your, you know what I mean, so that was, that was really hectic, um, and the white guy actually told me that, ah, I wasn't raped, I was simply drunk and, ah, he said that they shouldn't take this case because it's gonna cost the state a lot of money, um, and there is no case. That's the time that the doctor actually came in and said that "Guys, you shouldn't actually be doing this because I haven't examined her yet", so it was only then that I got another investigator for, um, for the case but otherwise it wasn't really that much better man, it feels like these people, they would rather you, as the victim or survivor, they would rather you actually go out and you do the work than they.

Sibongile is a member of Free Gender, a group campaigning for the rights of lesbians in South Africa.<sup>8</sup> It is interesting to note her anger at the use of the term 'victim' when the police enter

<sup>7</sup> See Pumla Gqola's discussion of how the Zuma rape trial can be read as "typical" of rape cases in South Africa (2007:122).

<sup>8</sup> Free Gender is a black lesbian organisation formed in Khayelitsha in 2008. Their goal, as stated on their website (freegender.wordpress.com), is "the elimination of homophobia in the townships and the eradication of hate crimes against lesbians".

the room and employ this callous phrasing, asking, “Where is the rape victim?” In her essay entitled “AIDS: Keywords”, Jan Zita Grover analyses the rhetorical force in naming people living with HIV and AIDS ‘victims’. She writes that “victims always end up revealing some tragic character flaw that has invited their tragedy” (1991:29). She argues that the use of the term ‘victim’ is bound to a fatalism that “implies that nothing, or next to nothing, can be done about the cultural, social and medical crises presented by AIDS. It denies the very possibility of all that is *in fact* being done by people living with AIDS and those working with them” (29). Grover concludes,

A patronage that simultaneously grants ‘victims’ powerlessness and then assigns them blame for their condition is nothing new. It is therefore important to make connections between the construction of AIDS victimhood and the similar constructions of the poor, who also suffer the triple curse of objectification, institutionalised powerlessness, and blame for their condition. (30)

As Grover observes, the term ‘victim’ bestows both powerlessness and blame, and the consequences of this are extremely damaging for women who have been raped.

Sibongile describes how, while she is waiting for the doctor to arrive to examine her at the rape crisis centre, “these two police officers come in, it’s, um, coloured guy and a white guy, middle-aged”. Sibongile’s attention to the fact that the officers are both men, that neither of them is a black African and that both of them are older than her may signify that she anticipates they will not be sympathetic to her. It may also indicate that she is calling to mind her memory of the men entering the centre and so describes them in detail and in the present tense. Her use of the present tense seems to indicate how the events of the immediate aftermath of the rape remain painfully present for her. She continues: “They come in, they looking around, they asking, ‘Where’s the rape victim? Where’s the rape victim?’ [whispers] I’m like what the fuck”. In this statement, Sibongile’s whispered “I’m like what the fuck” seems to convey the disbelieving, unspoken thought she had on hearing the police using the phrase ‘rape victim’ at the time. Her account of the events that followed at the crisis centre indicates that for Sibongile these events were a continuation of the trauma of the experience of rape. Sibongile experiences the police officers’ questions as a form of interrogation and feels that they are deliberately working to discredit her statement. This must have been particularly difficult for her at the time as she had been drugged and describes how challenging it was for her to remember exactly what had occurred when she was raped and because

she was raped while she was unconscious.<sup>9</sup> One police officer claimed that there was no case as Sibongile was drunk and had not been raped, and he made this claim even though she had not yet been examined by the doctor. The way she feels the police behaved towards her, to make her out to be untrustworthy and even mad, clearly still holds a painful charge for Sibongile. Before she is able to relate how she was treated by the police officers, she remains silent for a long time. This may be both because of the disrespectful way in which they behaved towards her and because of how their response to her case was linked to its outcome.

When Chiedza asks her how the man who raped her behaved afterwards and whether he admitted to raping her, Sibongile states,

No, the thing is that [clears throat] he acted as if he wasn't guilty, that's the thing, um, he had the story that, um, he couldn't have raped me because he had sex that same morning with his girlfriend and apparently his girlfriend could, um, back up his story, um, at the same time he had a friend of his, um, approach me and ask me if we couldn't, um, if we couldn't deal with this culturally, if you know what that means, ah, which is that he was basically asking me if I would be open to a bribe and I said no, so [laughs] why would somebody who knows he's not guilty offer to bribe the victim [pause], he knows what happened and I know what happened, um, but, [pause] you know, [clears throat] we just get so used to these types of things, um, as communities because I couldn't believe it, ah, when another woman actually came up to me and asked me if I enjoyed it, another woman asked me if I enjoyed it [pause] and there were other women who were saying that I was lying, this guy didn't do any such, um, cos he's got so many girlfriends, why should he need to do that?

The painful nature of the event of rape is compounded when the man claims that because he had sex with his girlfriend that same morning he could not have raped Sibongile and when his account is believed, partly because his girlfriend supports his story.<sup>10</sup> If we follow Sibongile's account of the man's sexual encounter with his girlfriend, used as it is in his account to secure an image of him as a 'normal' man, it is in fact anything but 'normal'. If he did in fact have sex with his girlfriend on the morning Sibongile was raped, they had sex in the bed where Sibongile was raped. In addition, his girlfriend had narrowly escaped being raped earlier in the evening and so may well have been traumatised herself. It is also not clear whether or not she too was drugged.

<sup>9</sup> Upon reading this paper, Violence and Transition project manager Nicky Rousseau pointed out that part of the trauma of Sibongile's experience may have been that she was violated while she was unconscious. This means not only that her experience is un-narratable but also that there is no limit to imagining what may have happened to her during that time.

<sup>10</sup> It later transpired that the man's girlfriend was an alcoholic and the investigator for Sibongile's case could not locate her in order to get a statement from her. For Sibongile, the way in which the man's girlfriend was used to corroborate his story and to discredit her own account in the absence of any form of coherent statement from the woman was one of the clearest signs of the failure of the justice system to address her case.

Sibongile describes how the man's friend offered her a bribe to ensure that she remained silent about what took place and how other women in the community in which she lived disbelieved that she was raped. Some women asked her whether she "enjoyed it", and it is unclear whether these women also disbelieved that she was raped but acknowledged that she did have sexual intercourse with the man or whether they were asking whether she enjoyed being raped. This may be related to the fact that Sibongile is a lesbian and the women may have been asking her whether she "enjoyed" sex with a man in a strange kind of taunting way, implying that she had now been subject to the same forms of male violence they had experienced themselves.

That the man who raped her thinks it is possible to pay her off and purchase her silence and that those around her respond so dismissively to what she experienced as an intensely traumatic event leads Sibongile to reflect that "we just get so used to these types of things, um, as communities". The idea that violence, and sexual violence in particular, is simply part of the fabric of life and is somehow acceptable was impossible for Sibongile to accept:

The thing is [pause] that's when I totally fell out of love with Khayelitsha, I was like if, if people can treat each other this way I would rather not be here and the thing is that at that point I was just so damn angry I, I felt that I was losing it because, um, I knew that I had this, this one thought would just keep playing itself in my mind which is that I didn't get justice but I can always get justice for myself, you know, if I could just find out how to make a petrol bomb and maybe just go there and just bomb his house, um, and that's how I could get justice but the thing is that I know how our justice system works, it's, it's strange how it works for the criminal but [pause] you know for a law-abiding citizen who is wronged in any way, if you try to actually restore balance in any way, you're fucked. [laughs] You know, I had this picture of myself in prison for about 20, 30 years, um, for having gone to retaliate and I felt that it's not worth it and, um, my mom, ah, she herself didn't like the situation.

Sibongile sought to follow legal procedures and to take action against the man who raped her. As a result of the way in which she was treated by the police and the prosecutor, she became angry and felt as though she had no option but to resort to violence to "get justice" herself. Sibongile's fantasy of burning down the man's house disappears when she reflects on what the consequences of such an action would be for her. That the man who raped her does not seem to have entertained similar thoughts and was able to lie with confidence and impunity indicates the different kinds of relationships men and women in this context have to power and the people and institutions that embody it. What Sibongile's reflections on justice imply is that there is no way for those who are wronged "to actually restore balance", for this would mean presenting a

fundamental challenge to what is widely understood to be the proper social order. In other words, justice for lesbian women who have been raped must always remain outside the realm of the possible, for if justice can be attained by and for women who do not conform to hetero-normative patriarchy, the violence of such forms of social organisation would have to cease. Punitive forms of hetero-normative patriarchy in the form of sexual violence and the constant threat of rape are defended and maintained as they are a necessary component of the current social order. What Sibongile's narrative makes clear is that the policing of gendered norms and identities in the 'real' do not in any way follow the provisions of the constitution.

Sibongile's experience of the criminal justice system also directly contradicts the way in which law is intended to function post-apartheid. There are stark resemblances between her case and the cases of those who sought to report how they had been subject to violence by the police under apartheid and were turned away, dissuaded from seeking redress through the law or made subject to further abuse.<sup>11</sup> Eventually, Sibongile gave up on seeking justice through the law. She states, "I don't know whether these people were incompetent or [pause], or they just didn't feel that, you know, this case was important so let's just treat it any old how, that's how I feel". Her experience of injustice is compounded by the homophobia of her cousin, who claimed that Sibongile was lying and that the rape never happened, as well as by the ways in which the man who raped her and the other men in the neighbourhood behaved towards her in the time immediately after she was raped. She describes how her world seemed to contract and how she felt unable to escape the man who raped her:

The thing is that, you know, it's like our area got very, very small after that, um, because you know this guy, it seems as if he was everywhere, it seemed as if, as if he was making a point to be everywhere I was, you know and, ah, always smiling, trying to crack a joke with me, ah, doing the same to my mom, you know, as if nothing had ever happened, that was really upsetting, um, so we finally moved and then ...

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<sup>11</sup> On the 20th of December 2011, Deputy Minister of Police Maggie Sotyu returned the remains of the body of Nontsikelelo Tyatyeka to her mother at Salt River mortuary in Cape Town 15 months after Tyatyeka first disappeared and three months after her body was discovered in a bin outside the house of her neighbour, Vuyisile Madikane. It is suspected that Tyatyeka was murdered because she was a lesbian and after finding her body residents in Nyanga set Madikane's house on fire. He has been arrested and charged with murder. The deputy minister of police intervened in the case after receiving numerous complaints about the way in which the police had mishandled the case and issued an apology to the family for "the police's initial attitude towards Tyatyeka's case" ("Police release lesbian's remains", 2011). For an account of the attitudes and behaviour of police towards anti-apartheid activists in the 1980s, see Haysom (1986).



The man tormented her by acting as though “nothing had ever happened”, redoubling the way in which she had been drugged while he raped her in an attempt to erase her consciousness of the event even as it took place. This can be understood as a form of subjective erasure – a negation of her person that she felt continued after she was raped as the trauma of the experience was not recognised by those around her, other than by her mother.

As Sibongile herself points out, the idea that homosexuality is “wrong” and “not normal” is widespread in South Africa, as is the idea that men “have the right” to have sex with any woman they choose:

We’ve still got a long way to go, um, [clears throat] because you know the reason we have so many of these crimes, ah, against lesbians is that we’ve still got this very unbalanced, ah, situation leading from an unbalanced society which is patriarchy, um, which actually tells us that, um, men are superior, um, women must just be happy with whatever, you know, they get, um, so that’s actually why we have, you know, this problem in the first place and if we can start dealing with that we’ll get somewhere in terms of these other crimes because that is one of the things that fuels them. You look at gender-based violence, it’s stems from that, um, you look at rape by itself whether, um, the perpetrator be raping a heterosexual woman or, or a lesbian woman but it stems from that, from the fact that he feels that as a man he should get access to sex whenever he wants it, whether the woman likes him or not, whether the woman would like to have sex with him or not, it’s got nothing to do with him but he just has that right. So we really need to, um, we need to get our society, ah, you know, in that mindset first of all and then everything else will just follow.

Sibongile argues that violence against women will only be reduced when ways of thinking and being that encourage violent forms of hetero-normative patriarchy shift. However, the causes of gender-based violence cannot be unbound from the causes of other forms of violence in South Africa and the multiple ways in which these forms of violence intersect and exacerbate one another.<sup>12</sup> Sibongile’s account of her response to those who discriminated against her on the grounds of her

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<sup>12</sup> South African feminist scholar Pumla Gqola writes, “We know what is responsible for the scourge of gender based violence, and we need to confront violent masculinities. We need to confront and reject violent men and the patriarchal men and women who protect and enable them. Audre Lorde says, again and again, ‘your silence will not protect you’. Our silence, says bell hooks, is complicity. There is no fence-sitting on this one, no convenient grey areas” (2007:118). I am not arguing against the need to confront violent masculinities here but understand this to be only one component in addressing the cause of gender-based violence. The relation between gender-based violence and the forms of violence to which we give other names is an inconvenient ‘grey area’ that complicates any attempt to proffer singular solutions to sexual violence. Gender-based violence can also be understood as structural violence and as interpersonal violence. Thinking across these forms of violence, which are conventionally understood as discrete, might allow us to perceive what else we need to confront in addition to violent masculinities if we are to understand the ways in which violence pervades life in post-apartheid South Africa.

sexuality while she was at school testifies to how the use of violence to “resolve” conflicts is normative in South Africa:

I was a tomboy even then [in primary school and high school] but, ah, if anybody bothered me, um, *ja*, if anybody bothered me, um, that was easily, ah, ah, sorted out, you know, um, over lunchtime or after school, um, I would just go and I’d beat that person up and that’s it [laughs], you know, there’s no need to actually take it any further and, *ja*, people, you know, other kids at that time they got to understand that “Hey, you don’t actually mess with her. Just be cool if you’re cool with her. If you’re not, just stay away”, um, and then I started attending a multi-racial school which was a girls’ school and, *ja*, there I didn’t have a problem either.

The use of violence puts an end to the “need to actually take it any further” and operates through a defensive form of suppression that clearly can only be used in situations where the person defending himself or herself is stronger than the person being attacked.

Sibongile’s description of her brave “tomboy” self that inflicted violence on those who taunted her stands in stark opposition to the woman who was forced to move out of her home after being raped and then harassed by the men in her neighbourhood. That she continues to be involved in the activities of Free Gender and has reclaimed the strength necessary to attend court hearings where she may be exposed to further discrimination and potentially further forms of violence is a sign of her resilience and of her determination to recover from the trauma she experienced. At the same time her narrative reflects the way in which recovery is always partial. Sibongile is articulate about her anger, but a current of unresolved grief runs through her account. She is no longer the young woman who was certain of her ability to counter the injurious words of others with her own fists. Violence directed by men against women who are identified as “tomboys” seems at least in part about destabilising these women’s claims to the right to occupy public space, to proclaim their sexual preference and even to lay claim to the violence that is widely understood to be the property of men.

In June 2011, Nxolo Nkosana was repeatedly stabbed by a man she encountered in the street while she was walking to her home in Nyanga township with her partner. The man shouted at her, “Hey you fucking lesbian, you tomboy”, and when she ignored him he continued to insult her and then threw a bottle of beer at her. He came up behind her and stabbed her three times in her back and once in her neck. Nkosana stated, “I was screaming in pain and there was blood all over. I thought he would kill me because I fell down and when I tried to get up he went on stabbing me even when people shouted at him to stop” (Nicholson, 2011:3). After being treated at the hospital,

Nkosana laid a charge at the police station and the investigating officer drove her around Nyanga in order to find her attacker. Although she saw the man he ran away before she could point him out to the police. While Nkosana's courage in the face of the attack is remarkable and she is cited as saying, "I am not scared. I am who I am and I'm proud. I won't change and if we stand up against them, then they will stop this", Sibongile's account indicates that the depth and extent of homophobia in South Africa cannot be countered either by individual acts of bravery or by violent retaliation.

Sibongile describes her experience of going to court as a member of Free Gender to offer support to other lesbian women who have been raped or to support the families of those who have been raped and murdered as one that inspires rage:

Oh man, it's infuriating. It's infuriating because one, um, from my own experience, I know how my case was handled so [clears throat] I don't see any reason why any other case which is similar to mine will be handled any differently, um, and secondly, um, you know, whenever we go to picket and whatever at these, you know, courthouses, there usually these guys who either part of the groups which actually, um, assaulted or whatever, you know, that, that lesbian woman or whatever, they usually there and what they're doing is that, um, you'll find that they hold these little clusters around the yard and I feel that it's as if they sitting there trying to intimidate us, um, because they, you know what I mean, they see that we were against what they doing and whatever and they actually of the opinion that, you know, they, they, they, um, it's their right to do these types of things, um, and there's the fact that, I get the idea that they want to know us personally, they want to be able to recognise, oh that's the one, she was at court on such and such a day so that they can actually keep doing what they doing, um, so that's what's happening. It's very sad.

To enter the sphere of law is not to enter a realm of safety. In fact, by making visible their charge against those who seek to rape and murder, the women Sibongile describes expose themselves to further victimisation. Perhaps what Sibongile means when she states that the situation is "very sad" is her powerful sense of how the men who are perpetrators of these crimes evade punishment inside the courts and the women who seek justice there are punished outside of them. For Sibongile, 'justice' does not only refer to a trial resulting in fair punishment but also incorporates a much wider sense of the term that relates to how women who have been raped are perceived and treated by those employed by the institutions they engage with, as well as by society as a whole:

Justice is longer terms. Actual convictions first of all for, for, for rape perpetrators, um, and longer terms definitely, um, and the fact that [pause] we need to, we need to actually know exactly, ah, what our rights are in terms of like the Victims' Charter and stuff like that. What happens if you go to an institution, um, might be a hospital or whatever and you're discriminated against, um, because you're lesbian, um, and at that time you needed to

access certain services, you know, what justice can you get there, what justice can you get if you go to the police station and you're reporting that you were raped and you find that the police officer or police officers, who are dealing with you at that time, um, they just making fun of you and you would end up walking out instead of laying, you know, your charge, um, because I mean these are the things that actually, ah, allow this thing to keep happening because perpetrators know by now that they can get away with it and I don't understand why our country will actually protect them whereas they committing a crime, they committing a crime against humanity by what they doing because, um, rape has many, um, psychological leftovers, you know for, for the victim or survivor, um, and you find that, um, you might have been on track up until that thing, um, happens and it derails you.

Recognising how those who have been subject to rape are "derailed" is central to how Sibongile thinks about the forms of support that would be effective in helping those who have been raped – what she describes as support that works "to ease the person back into their own lives". She describes how difficult it was for her to "reintegrate back into" her life and how challenging it was to negotiate the legal system on her own. When asked about whether she thinks that the passing of a law that recognises hate crimes would ensure that justice is carried out, Sibongile replies,

Definitely cos I mean, you know, if that's what they're proposing then obviously they would need to, um, train people for those specialised courts, right? So *ja*, it would be a good thing, um, [pause] definitely because you find that at times, um, as a lesbian, you will find that the people who are dealing with your case, they themselves are homophobic so why in the world would they want to get justice for you in the first place so it would have to be that you would get the right people for the right jobs, take it out of these people's hands, ah, let them argue out maintenance cases or whatever, you know or something that really doesn't need much thinking or whatever it is, um, *ja*, I think it would be a good thing, definitely.

When Sibongile is asked whether there is a distinction between rape perpetrated against women who are lesbian and women who are not, she replies,

It is the same, right, [clears throat] it is the same because, ah, the man raped a woman, right, firstly. It's not the same, secondly, in that, um, he, the perpetrator and maybe other men who are abusive, um, they now have something which actually makes it more justifiable for him to have raped me, "*Ja*, she's a lesbian, what did she expect?"

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