

1-1-2003

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Margaret Urban Walker

Marquette University, margaret.walker@marquette.edu

Accepted version. "Truth and Voice in Women's Rights" in *Recognition, Responsibility, and Rights Feminist Ethics and Social Theory*. Eds. Robin N Fiore and Hilde Lindemann. Lanham, Md.: Rowman & Littlefield, 2003, pp 169-180. [Publisher link](#). This material is still protected by copyright. All rights reserved. Please contact the publisher for permission to copy, distribute, or reprint.
Margaret Urban Walker was affiliated with Fordham University at the time of publication.

Truth and Voice in Women's Rights

Margaret Urban Walker

*Department of Philosophy, Fordham University
Bronx, NY*

Truth commissions are a remarkable and novel political institution of our time. A truth commission is an official body "set up to investigate a past period of human rights abuses or violations of international humanitarian law" (Hayner 1994, 598). With the successful Latin American examples of the 1980s, over 20 truth commissions have been formed to date.ⁱ South Africa's Truth and Reconciliation Commission, described by political theorist Elizabeth Kiss as "the most morally ambitious truth commission to date" (Kiss 2000, 70), set a new standard with its public testimonies of victims and perpetrators, aimed at restoring "the human and civil dignity of the victims," a phrase that occurs repeatedly in its documents and its 1998 Final Report.ⁱⁱ

In the trend-setting Latin American cases truth commissions operated in the context of blanket amnesties shielding wrongdoers from criminal prosecution for precisely the offenses the commissions documented, so that truth commissions have been burdened with the reputation of being a "second best" proposition. Even so, their mission of truth-finding and truth-telling is increasingly recognized, around the world, as essential. Truth-processes other than truth commissions have been implemented in recent years as well. Following the fall of Communist governments, (then) Czechoslovakia adopted "lustration," barring those who were on membership lists of secret police or various Communist Party organizations from holding public offices for five years. East Germany combined lustration with opening the Stasi (secret police) archives to those on whom the files were kept (see Curry 2000; Garton-Ash 1997; Rosenberg 1995).

While truth-processes have proliferated over the past twenty years, the idea of a right to *the truth as a human right* is fairly new. It has emerged out of the practice of truth commissions and other truth-processes rather than preceding them. The idea of "rights to truth" implies something stronger than the importance, or value, or positive

effect of the truth. It places truths, at least of certain kinds, or under certain conditions, in the category of a something *claimable* for oneself from others, where the claim has both moral legitimacy and urgency, and where the claim presumes the obligations of some parties to effect or enforce it. Rights to truth in cases of gross violations of human rights, like massacre, disappearance, or torture, have been understood as rights of victims, families, and societies to *know or be told the truth* about these matters, as well as rights to *have the truth sought* through impartial investigation.ⁱⁱⁱ Even in the case of gross violations of human rights, however, not everyone's truths are equally likely to be sought or told. Priscilla Hayner, in the most comprehensive study of truth commissions to date, cautions, "Perhaps the most commonly underreported abuses are those suffered by women, especially sexual abuse and rape" (Hayner 2001, 77). Hayner points to the stigma and shame that may silence women's reports in many settings, but she also notes tendencies to see sexual violation as "secondary" or "added on," or as individual whims, rather than primary violations.

There is a good deal to be learned from, and a good deal to be done about, the persistent impediments to speaking and hearing the truths of women's lives. I will argue that rights to truth must encompass rights to voice B to be an authoritative teller of the truth about one's life and experience B as well as rights to know certain truths or to have them sought by others, and that these rights are as important to confronting cases of historically long-standing and systemic oppression as they are in addressing those episodes of violence usually called 'gross violations of human rights.' These are lessons to be drawn from feminist and other liberatory theories that make the possession of "voice" central to social justice and individual freedom. I will also argue that rights to truth B to its being told, but also to telling it B are not only instrumental but are fundamental rights for women and men, for they secure the moral, civil, and political dignity of those, including most women, who have been systemically silenced and epistemically discredited. In these ways they have been denied not only opportunity, equality, or well-being, but denied effective moral agency itself.

Truths and Tellings

Rights to truth have been invoked in cases where the truths are those called 'gross human rights violations,' such as extrajudicial killings, torture, disappearance, arbitrary detention and inhumane treatment. These terrible truths that shatter, suspend, or corrode lives of their victims and others are not "unknown" to all; they are known to perpetrators and to living victims and sometimes to many others. But they are often known incompletely or without detail. In the case of extrajudicial killings and massacres, the living may "know" without being able to verify details or find the remains of their loved ones. And even when some possess the truth, it can be denied, or remain without public legitimation, known but not acknowledged.^{iv} Many women have been among those who fought for the truth about others they loved, as did the Mothers of the Plaza de Mayo in Argentina and the Mothers of El Salvador and women marching in the Plaza of Martyrs in Port-au-Prince, Haiti. The South African Commission, concerned that its human rights hearing drew many more women testifying about brutality to others than violations of their own rights, organized hearings specifically for women to come forward.^v Whether truths are pursued by women or men, and whether they concern women or men, rights to truth have been invoked in a special kind of case, the case of state-sponsored or other organized violence hidden and denied. So it might seem that rights to truth are essentially rights to have certain truths discovered or acknowledged. And it might seem that rights to truth are not fundamental human rights, but rather that claims to truth are instrumental to the protection or exercise of other fundamental rights, like securing justice. I argue against both of these assumptions, that rights to truth incorporate rights to speak one's truth, and that the standing to speak as well as know is constitutive of moral agency, rather than instrumental to some of its exercises.

Rights to truth do not appear in the U.N. Universal Declaration of Human Rights. Nor do they figure in U.N. conventions concerning torture or genocide. Some U.N. documents, like those on Enforced Disappearance and Extralegal Executions mandate "investigations," as Amnesty International and Human Rights Watch urge in all cases of gross human rights violations. And a 1997 U.N. recommendation to combat impunity speaks of "full and effective exercise of the right to the truth."^{vi} Yet among earlier U. N. documents, CEDAW (the U.N. Convention to End All Forms of Discrimination Against Women, opened for ratification in 1980) is interesting in this respect. Although it does

not speak of rights to truth, CEDAW requires eliminating “prejudices” about women and women’s and men’s roles and “customary and all other practices” that support prejudices of women’s inferiority.^{vii} It specially features basic education, as well as career, vocational, family, health, and family planning information. It is more detailed in its coverage of provisions for participation in public and political associations and entities, national and international, than is the Universal Declaration of Human Rights.

I think it is not an accident that so many provisions of CEDAW, growing out of women’s movements, go closer to rights to truth, including rights to voice, while also directly addressing rights to work, credit and economic agency; rights to reproductive control, marital consent, and maternity provisions; and rights to protection from sexual exploitation. I see CEDAW as responsive to a complex of assumptions of feminist activism and theory that are shared with other twentieth century liberatory movements for rights that address oppressions based on group membership. The assumptions are these:

1. Important truths may not just be “there” for the knowing.
2. Truth is necessarily an interpersonal and social achievement that requires social, discursive, and material conditions.
3. Getting certain truths told requires political will and is a matter of justice.
4. It is an indignity to have one’s identity or community represented by lies, and to have to live with those lies.
5. It is a constitutive element of dignity to be a possible bearer of truth about one’s experience of oneself and the world.
6. The dignity of human beings is not acknowledged and enacted where human beings do not have *initiative, access, and voice concerning what is true* of their world and in their lives.^{viii}

On these assumptions it is not only unspoken truths about what are often called “unspeakable” acts of violence and brutality that must be retrieved, released, and publicly acknowledged. It is also crucial for human beings to be able to find and tell truths that are “unspeakable”

in other senses. There are truths unspoken out of despair, intimidation, or strategies of self-preservation under desperate conditions. There are truths that await telling because the vocabularies and forms of thought that will retrieve or release them are not yet available, or are not widely understood. There are truths that cannot yet be said in places and by people where they can have real interpersonal, social, and political effects. And there are truths whose tellings and tellers are discredited by the authority of others.

This is why rights to truth matter not only in the cases of wrongs classified as gross violations of human rights. They are critical also to breaking the grip of long-standing systemic and cultural oppressions justified by reference to history and customs. The appreciation of this is one of the achievements of feminist, race, postcolonial, and gay and lesbian theory and politics, which have always been in important part works of truth and politics of truth. It also figures centrally in movements of Native, Aboriginal, or First Nations Peoples. The truth by itself does not set people free, but people's abilities to set themselves free -- to claim freedoms and establish their dignity -- do depend critically on their initiatives, access, and voice concerning what is true of their world and their lives. To say that we have a moral right to truth is to say that we have urgent and legitimate moral claims in this regard, and that these claims are not only reserved to "moral emergencies" or the kinds of extreme episodes of mass violence that tend to be called "human rights disasters."^{ix}

Contemporary liberatory theories that emphasize *voice* have long recognized the stakes in suppression or denial of histories of injustice and destruction. These theories take seriously *powers to silence* as working parts of oppressive social and political arrangements; they see as fundamental the *powers to speak* that oppressive arrangements are careful to block or destroy. Philosophers Maria Lugones and Elizabeth Spelman expressed it this way in their brilliant 1983 essay "Have We Got A Theory For You!" Women's having "voice" is necessary both as a way to "increase the chances that true accounts of women's lives will be given, but also because the articulation of experience (in myriad ways) is among the hallmarks of a self-determining individual or community" (Lugones and Spelman 1983, 574). This way of putting it brings out two issues that have intertwined throughout several decades of feminist theories and

women's movements: the importance of revealing and responding to the actual truths of women's different lives, as well as the necessity for women to be able to speak those truths out of their own mouths, with a presumption of basic credibility and authority. Rights to truth involve both rights to know the truths and rights to tell the truth.

Preventions of Truth and Speechless Standings

Although sometimes we speak of the truth when we mean "what really happened" or "what the facts are," a truth is, more precisely, something *told* (that is, asserted or represented). What makes assertions or representations true is something in or about the world, something that in some cases can be established easily (e.g. looking and seeing) or in others can require complex procedures (e.g. techniques of forensic pathology). *What* is true, however, is something that someone says, or otherwise *depicts* or *represents*, as being so. A truth is a telling or other representing that has to be told or made or "put forward." Bringing or putting the truth forward requires the *will* or motive to do so, the *means* to do so, the *opportunity* to do so, and the standing to do so. Truth commissions after eras of grisly and appalling violence bring forward truths that those who had power did not permit to be told publicly at expense to their power, and did not fear would ever be told. In these situations, there is not only an *absence* of truth, but what we might call, looking at truth as something told or brought forward, a *prevention* of truth.^x

But everyday, longstanding, historically embedded oppressive practices exhibit these same "preventions" of the truth. Those empowered and entitled by oppressive arrangement do not care about or will not accept the truths about what the arrangement is, why it is oppressive, what suffering and destruction it visits, and what benefits and immunities it allows them to enjoy. So every movement for liberation from injustice, humiliation, or cruelty needs not only to challenge an oppressive system or a practice, but to enunciate the truths, sweeping and small, of what that system really is. Often it is necessary to invent the language and symbolism that is capable of bringing those truths forward. Often it is necessary to overcome powerful feelings of fear or despair in speaking. Even when those with interests in certain truths and the will to speak them do have the expressive means to put them forward, they may still not have access to places where what they will say can be heard or understood in ways

that can have an effect. And finally, it is possible to make truths “unspeakable” by disabling the ability of some to have their words “count” in exactly the ways they are intended to, even if they succeed in speaking.

The last form of silencing is the least familiar, but no less important. To have voice is not only to be able to speak, and not only to be able to be heard, but to be able to speak and be heard as saying the kind of thing that you are intending to say. Philosopher Rae Langton explains it this way: “Attempts by the slave to order or forbid [his master]...are unspeakable for the slave. Something has silenced his speech, not in the sense of rendering his spoken words inaudible or written marks illegible, but in the sense of...preventing those utterances from counting as the actions they were intended to be” (Langton 1993, 316). What is preventing this is not in this case his being gagged, threatened, hidden, or secluded, or his lacking the imagination, concepts, vocabulary, or initiative. It is his social and legal place, a standing that is precisely a lack of standing to issue anything that could amount, within that social and legal system, to an order to his master.

Such speechless standings, for women, enslaved persons, or members of subject populations can be, and typically have been, written in the black letters of law, as when certain persons cannot give anything that counts as testimony in a court, or have no standing to enter legal actions or complaints. Such standings are also constituted by institutionally backed authorities whose certified expertise includes the power to declare what some people say as chatter, as symptomatic of irrationality or incompetence, as politically proscribed and outlawed speech, or as perversion or filth that in itself shows its source to be discredited. The educational, medical, religious and other authority or expertise of powerful men (and sometimes women) has often been exercised to disqualify the speech of women in these ways. These speechless standings can be constituted as well by reigning definitions of such terms as “politics,” or “development,” or “family” or “marriage,” so that certain people’s assertions about these matters do not qualify as relevant views.

In a startling example, Priscilla Hayner reports that commissioners on the Amnesty Committee of South Africa’s TRC disqualified an application requesting amnesty for rape without serious

consideration because they could not see how rape could be “politically motivated” (Hayner 2001, 79-80). Under statutes for the new International Criminal Court, sexual violations of women are in fact under many circumstances war crimes or crimes against humanity.^{xi} In February, 2001, guilty verdicts on three Bosnian soldiers at the International Tribunal at the Hague for the first time defined rape as a crime against humanity, and found holding the women in captivity and raping them a form of enslavement. Still, specifically sexual slavery suffered by women in many wartimes contexts is not yet acknowledged, nor is the category of genocidal rape yet in law (Simons 2001b; Vidovic 2001). Lawyers defending the three Bosnian Serb soldiers who were found guilty in February, 2001, of raping, torturing, and enslaving Muslim women in the town of Foca in Bosnia in 1992, claimed that “rape in itself is not an act that inflicts severe bodily pain” and that prosecutors failed to show that the raped women “were exposed to any severe physical or psychological suffering” (Simons 2001a). Rape as violation, torture, and political strategy remain even now difficult to speak if not unspeakable in some quarters.

The vocabulary of rights, when it is available to someone with the socially recognized and protected standing of a bearer of rights, is itself an example of a socially empowered form of speech without which certain kinds of things are virtually impossible to say. Without the vocabulary that has some of the meaning and function that the vocabulary of “rights” now widely possesses, some assertions can only be seen as preferences, requests, pleas or complaints, rather than claims that require consideration or demands that must be met. So closely is the concept of “right” connected to the standing to enter claims for consideration, that to paraphrase one well-known philosopher, transposing the gender of his pronouns: To respect a person, or to think of her as possessed of human dignity, simply *is* to think of her as a potential maker of claims.^{xii} Rights to truth imply claims to being a maker of assertions that embody a point of view and to be a possible bearer of the truth in what one asserts. A variety of material and social resources are needed, however, for that standing to be real and effective.

Because intimidation and violent or costly reprisals are so often the conditions under which women decide what truths to speak, full

legal capacity and recourse to civil and criminal law, as well as opportunities for economic survival, are essential for women to tell their truths. Literacy and at least primary education are indispensable for women to get and use the information that allows them to see their lives accurately both as they are in reality and as they might otherwise be, as well as to share this information with others. Further, it won't matter what women have to tell if they cannot be heard telling it in places where it can have an effect. Women's access to *public* speech that is not simply ignored or discounted requires access to public roles, public spaces, and public media or venues of expression. The idea of "public" as opposed to "private" spaces is perhaps too closely tied to Euro-American political formations to be the right one for all contexts. The point is that women's speech needs to be able, where women choose, to enter spheres beyond the personal, familial, domestic, or other borders that often confine it to women's disadvantage.

A right to be a teller of truths involves basic authority to assert, opine, testify, deny, contravert, or refuse, to be perceived as the possessor of a point of view and a possible bearer of truth. But that is not enough. People also need the opportunity to participate in processes that set *forms* of speech and *standards* of credibility. People need opportunities to enjoy some control over, if not access to, the forms and positions of expertise that shape cultural assumptions and social dialogue. I find it increasingly hard to see how in particular women's initiative, access, and voice concerning what is true of the world and their lives can be more than remote possibilities without aggressive measures to insure not only political participation, but something closer to proportionate representation in the main local and society-wide institutions of governance that rule women's and men's lives. Inuit people in the new Canadian territory of Nunavut considered, but narrowly defeated, a system of dual-sex political representation (DePalma 1999). France recently adopted a legal requirement for equal numbers of women to be fielded by political parties in almost all elections (Daley 2001). These are measures that address the need to dismantle the disabling of women's speech structurally at both the highest levels of social organization and on a society-wide scale. The same need exists in places of education and culture-making, where bodies of knowledge and the vocabulary and symbolism for socially authorized expression are propagated.

The link between voice and truth has consequences for understanding women's situations and for women's understanding their own situations. One example is the use of "adaptive" or "deformed" preferences (or in an older idiom "false consciousness") to explain women's apparent compliance or complicity with unjust and even painfully oppressive arrangements.^{xiii} When women's behavior that conforms to unjust or oppressive norms is explained as a case of "adaptive or deformed preferences" the women who comply are seen as *actually preferring* what is painful or disadvantageous because they have learned to prefer it. Sometimes it is said that they have "internalized" oppression. But this is not the only explanation of compliant behavior, and it is a very different kind of explanation from one that sees women's compliant behavior as a kind of *adaptation*, that is, a strategy for living with, doing better in, or garnering some control in a hard, dangerous, or defeating situation. If a woman has chosen or learned a strategy by which she protects herself or others while coping with oppressive or demeaning practices, she may continue to find these practices very painful, frustrating, or humiliating *from her own point of view*. She may very well see them as wrong, or cruel, or unjust, or shored up by power rather than by right or good sense. She may see them as the going "game" or "system" that she cannot change and so must work to protect herself and others within it.

The difference between seeing "adaptive preferences" in women's compliant behavior and seeing strategic "adaptations" is the difference, as Uma Narayan has put it, between seeing women as "prisoners" or "dupes" of patriarchy, and seeing them as agents, however seriously constrained, "bargaining with patriarchy," something almost all women in fact do (Narayan 1997, Chapter 2; Narayan 2000). This is a very great difference, both as an explanation and as a moral evaluation, in how we understand what women do. One thing that is necessary, however, to distinguish cases where we are seeing realistic adaptations *despite* a woman's preferences from cases where we are seeing actual deformations of her preferences themselves, is to hear women *explain* their choices from *their* points of view. But this is what they cannot do without will, expressive means, access, and voice. Even worse, however, without will, means, access, and voice women may not be able to make these distinctions to themselves, or to make them clearly. This means that without voice it

is difficult if not impossible to establish a fact of the matter about women's behavior and preferences. One might reasonably ask whether there necessarily is a fact of the matter under these circumstances. The capacities for self-possession and self-revelation that come with having a voice go very deep, to the bases of moral agency.

Rights to Truth: Instrumental and Fundamental

Rights to truth and authority in shaping and telling it are instrumental in combating some especially harmful and defeating positions in which women can be placed or exploited by more powerful men and by more privileged women. Rights to truth and telling can enable women to claim their agency by announcing that they are negotiating their positions within unavoidable patriarchal structures the justice of which they do not accept. Rights to truth can be crucial political instruments. Their exercise can block "gendered nationalisms" that manipulate gendered identities, symbols, divisions of labor and resources, or putative "cultural traditions" of sex domination that are mobilized in national struggles to the disadvantage or subordination of women.^{xiv}

What rights to truth protect, however, are not only instrumental goods. They assert one's standing as a knower of the world and oneself, especially of the social world and one's places in it individually and as a member of collectivities. This standing is not only a means to other good things. It is a constitutive element of civil, social, moral and political humanity. The capacity and standing to speak for oneself about one's self, and especially about one's own actions, is intimately linked to one's moral being, what has sometimes been called a person's "dignity." Here, briefly, is one explanation why.

We show how our behavior is human action by expressing our intentions, giving an account of what we are doing from our own point of view. We learn from others to give these accounts of ourselves, and we learn to elaborate, defend, or concede them, by doing so with others. When we are able to do this we are *accountable* for ourselves and to others, and so can be held to account. When women are silenced as self-describers of their actions and choices they lose, or never gain, the status of self-accounting actors in relations of mutual accountability. This is a roundabout way of saying: they lose, or never gain, the most basic status of a moral agent.^{xv} Further, when anyone

is denied the standing to report for common consideration her or his experience, she or he is effaced even as the holder of a point of view, much less a moral actor with powers of agency, choice, and self-understanding.

Rights to truth and its telling are both instrumental and fundamental. For women who are disadvantaged and oppressed, they are a lifeline to the claiming of other rights. But for women and men they are also the emblem and embodiment of civil, political, and moral humanity.^{xvi}

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Notes

- i. Central sources on truth commissions include Hayner 1994, 2001; Steiner 1997; Rotberg and Thompson 2000. Krog 1998 is a riveting first person account of South Africa's proceedings. See also Wechsler 1990 for the stories of Argentina's and Brazil's ways of addressing a repressive and violent past.
- ii. The Final Report (1998) of the TRC is available in online form on its website, www.truth.org.za, which also displays the founding documents and related material.
- iii. See Méndez 1997, 261-2, on the "emerging principles" of victims' rights to justice, truth, and compensation, and on the right to know the truth as "a customary international law norm." Neier 1999, 40-1, argues American support of violently repressive regimes in Latin America made "deniable forms of repression" (like disappearance, secret detention and torture, and death squads) essential, and hence defined truth as the main battleground and focus of human rights organizations in the 1980s.
- iv. The distinction between knowledge and acknowledgment figures prominently in literature on truth processes. The distinction in this context is credited by Lawrence Wechsler to philosopher Thomas Nagel: "It's what

happens and can only happen to knowledge when it becomes officially sanctioned, when it is made part of the public cognitive scene" (Wechsler 1990, 4).

v. See Chapter 16, "Truth is a Woman," in Krog 1998.

vi. Quoted in Hayner 2001, 184.

vii. This is one of the areas, Article 5 of CEDAW, to which the United States government makes a reservation in signing the treaty, based on U.S. constitutional protections of privacy.

viii. Young 1990 is the most comprehensive development of a "participatory" paradigm of justice that underlies much contemporary liberatory theory.

ix. Jonathan Glover uses the phrase "moral emergencies" in Glover 2000, 408.

x. As interesting, in episodes of mass violence and severe repression, those with power rely on special euphemistic code languages and expressions so that even *they* often do not in fact tell each other or themselves the precise or whole truth, from bureaucratic euphemisms of the Final Solution to the contemporary code languages of torturers and free-handed security police wherever they operate. See Glover 2000 on distancing strategies, which include euphemism and "cold jokes" concerning torture and killing. See also Jolly 1999, 112-13 on the "use of language as a self-deluding practice of signification" in the language of assassins and security police who carried out the violent and murderous practices of South African apartheid.

xi. See Hayner 2001, 267, note 21. Hayner reports that more recent commissions, like those in Guatemala and Haiti, have placed more emphasis on sexual violations of women.

xii. The original passage in Feinberg 1980, 151 reads: "To respect a person, then, or to think of him as possessed of human dignity, simply *is* to think of him as a potential maker of claims."

xiii. The dangers of adaptive preferences (or in an older idiom "false consciousness") are mentioned repeatedly by contributors in Nussbaum and Glover 1995. See Nussbaum 1995, 91; Glover 1995, 123; O'Neill 1995, 142; Sen 1995, 260; and Okin 1995, 292. Both Martha Nussbaum 2000, Chapter 2 and Amartya Sen 1999, 58-64 stress adaptive or distorted preferences in demonstrating the defects of "preference satisfaction" as a measure of well-being in utilitarian ethics and economics.

xiv. Peterson and Runyan 1993, 132-3, discusses gendered nationalism. See also Narayan 1997, Chapters 1 and 2, on gendered nationalism, as well as how feminists may adopt perspectives on women in Atraditional societies@

that are complicit with conservative or fundamentalist forces in those societies that aim to control women through invocations of Atradition@ and Aculture. @

xv. Philosopher Annette Baier in the second of her Carus Lectures on AIntention@ (Baier 1997) gives a striking account of the intimate relations between learning to give accounts and being capable of intentional, and so morally assessable action.

xvi. This paper was originally presented as an invited plenary address to the Southeast Women's Studies Association Conference "Women's Rights are Human Rights" at Florida Atlantic University on March 16, 2001. I would like to thank the organizers of SEWSA for providing the original occasion to work out these ideas. This paper is a slightly revised version of that presentation. A shorter version of this presentation was given at The First Feast, the first annual meeting of the Association for Feminist Ethics and Social Theory in October, 2001. Another version was presented to the Gender studies School at the University of Leuven in March, 2002. I thank Professor Veerle Draulans for the invitation to offer these ideas there.