

## SPEAKING ABOUT RAPE IS EVERYONE'S BUSINESS\*

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**Synopsis**—The silence regarding intra-racial rape is profound. Two recent cases of rape of Aboriginal women by Aboriginal men in the Northern Territory, Australia led to this attempt to map terrain on which informed discussion may occur. Socialist and radical feminists dispute whether it is class or gender that has primacy in their analyses of rape while black activists accuse both of being insensitive to issues of race. This paper interweaves anthropological and indigenous insights regarding the shifting contexts within which rape occurs and is analysed; the strategies women pursued in the past; and argues for the provision of services which take account of the needs of Aboriginal women.

### SOME FACTS

- In 1988 Australia celebrated its so-called "bicentenary." Aborigines took advantage of the moment to protest their exclusion from many aspects of life in the "lucky country," one they had occupied for at least 40,000 years. In June, at Barunga in the Northern Territory, the Prime Minister promised that by 1990, the government would have created the conditions under which negotiations for a treaty between Aborigines and other Australians could take place.
- Since the 1967 constitutional referendum at which 90% of eligible voters endorsed giving the Commonwealth Government

concurrent rights with the individual states to legislate for Aborigines, there have been few pieces of legislation passed but there have been many enquiries, promises, campaigns, and counter campaigns. Currently a four man Royal Commission is enquiring into the disproportionate number of Aboriginal deaths in cells. When it began in 1987 the death toll was 64, it now stands at 108.

- Australia has a population of approximately 16 million of whom 1.2% are Aboriginal. The Northern Territory population is 125,000 but about 21% are Aboriginal. Here Aboriginal people live on the fringes of the towns; in town camps (some with a lease, some not); on cattle stations where the work is seasonal (sometimes they have title to a residential excision from the pastoral lease but mostly not); on old reserves now held as Aboriginal land under the *Aboriginal Land Rights (Northern Territory) Act*, 1976. Some have secured title to traditional land by claim to "Vacant Crown Land" brought under this Act; some secured title to pastoral leases bought for them in earlier times but very few live *in* the towns; very, very few have professional jobs.
- There are special purpose organisations, some established under statute, others as part of the bureaucracy. Aboriginal Land Councils, Aboriginal Legal Aid Services,

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I have known for years that I had to write this paper but have resisted. Having now broken my silence, I dedicate the paper to "Nampijinpa" for her courage. "Rape is a man's fantasy, a woman's nightmare" (Medea & Thompson, 1974, p. 11). I thank Susan Hawthorne, Renate Klein, Ros Lewis, Jane Lloyd, and Jocelyne Scutt for their critical comments and moral support while I dealt with my anger and wrote. I am grateful to those members of the Northern Territory Department of Law who answered my questions.

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Aboriginal health centres, resource centres, church based groups and liaison offices, offer a range of services, advice and political forum. Many Aborigines are employed as paid workers in these organisations but the majority are dependent on social security.

### SOME QUESTIONS

Q. Where are women located in this new socioeconomic and political order?

A. On the margins.

Q. What do we know of the lives of Aboriginal women before colonisation?

A. Very little.

Q. What has been the impact of the changes on their culture?

A. Dramatic.

*Woman's body is important because it's mother. In old generations, between mother and father, father is worker and mother is carrier and she make it and she's important. Man only got seed. Woman is really important. You don't damage your body. Something happen to woman's inside, its really terrible. But you know now when man calling and grabs 'em, that's not right.*

*You known that's true: woman can care for her body; care for children's body. Not properly care now. Now young girl just get touched by anyone; they broke all her body. If that girl likes that man, all right, but he just can't force it, can't push himself. She be scared. She has to have feeling. No-one can take your body; that's her own thing.*

*It's important to show this story, not just for you and me, everyone got to know that one. Start with the old generation and come to the trouble now. Everyone can read that story.*

These were Topsy Napurrula Nelson's instructions after I had finished reading to her my analysis of the apparent increase in the level of sexual abuse of Aboriginal women by Aboriginal men in the Northern Territory of Australia. Until recently intra-racial rape has been a taboo topic for those who advocate self determination and self management; it places radical feminists at logger heads with both socialist feminists and the broad left; it generates charges of giving sexism priority over racism from black activists, of opportu-

nistic whites creating new divisions within the Aboriginal community—a fraught area indeed. But who speaks of the anguish, shame and risk for the Aboriginal women victims?

Although I have often been moved to disabuse anthropologists, lawyers and community advisors who promote the notion that rape is not a serious matter in Aboriginal society, I have avoided writing in any great detail of rape.<sup>1</sup> Two recent cases have convinced me that my continuing silence is tantamount to complicity. I shall return to the details of these later, but briefly one involves the prosecution of an Aboriginal male in a rape case where the defence relies on “customary considerations.” The other, not yet reported, and most unlikely to ever come to court, involves the pack rape by Aboriginal youths of Aboriginal girls who were “surprised” in the act of house breaking. Not to engage with the questions these cases raise, is to leave rape shrouded in myth, the subject of the spirited legal defences based on spurious anthropological evidence by lawyers or the stuff of repressive law and order campaigns. Although it could be said that this is “not my business,” it is very much my business. I hold to the position that, no matter how unpleasant, feminist social scientists do have a responsibility to identify and analyse those factors which render women vulnerable to violence. The fact that this is happening to women of another ethnic or racial group can not be a reason for ignoring the abuse. But, it is cause to look carefully to the cultural context, to heed the silences. Thus, my tack in now addressing this extremely sensitive topic, is to look again at the received wisdom regarding intra-racial rape; to interrogate anew the theoretical and practical pronouncements and hopefully, in so doing, to map the terrain on which informed discussion may occur and to create a space in which stories, like that told by Topsy, will reach a wider audience.

### SPEAKING TO EACH OTHER

To situate this collaborative endeavour, let me introduce Topsy and myself. In 1985 in Melbourne, Topsy Napurrula Nelson and I participated at a women's writers conference where, drawing on the nine years we have

known each other, we spoke to the topic "white women writing about black women." The gathering included Australians and overseas visitors, such as Audre Lorde from the U.S.A. (see Hawthorne, 1985). The atmosphere was tense and the topic had a troubled history.<sup>2</sup> I argued that in writing of Aboriginal women, I did not speak *for*, nor did I merely *report*, but rather my task was to locate issues of gender and race within a wider perspective, one outside the experience of any individual; to provide an analysis of social change; to formulate a critique for the wider society. Topsy, facing hostile urban Aboriginal and radical black American women, explained it was the quality of the relationships that individuals might form which provided the bridge. In our case, woman to woman, Topsy explained, we shared concerns about our children, our families, our safety, our place, our work. Now these may have been different (she allowed mine was driven by what she once called "that paper business" and hers by the law of her ancestors) but our knowledge of the priorities of the other allowed us to respond with proper respect.

In 1986 I organised a conference on the uses of oral sources by various disciplines (anthropology, history, psychology, literature studies) at Deakin University, Geelong, Australia. Topsy attended, pondered phrases such as "the new history" and at the end of the day told her story. She concluded with this emphatic statement: *You can move to another place. You've got plane, Toyota. We pass away here. We die in one place in our country; in our land, people don't move. We've only got one history, here.*

Topsy Napurrula Nelson was born, probably in the mid 1930s, at Ngapajinpi, a sacred site some 100kms south of Tennant Creek in Central Australia (see Bell, 1985). The place recalls the travels of the rain ancestors, the activities of the lightning brothers and is closely associated with her mother's mother. Her mother's country, further to the south west, is Jarra Jarra, the country of kangaroo dreaming and her father's place, Pawurrinji, west of Tennant Creek, celebrates the meeting place of the ancestral birds, the willy wag tail and the diamond dove. Topsy grew up with her extended family, wise in the ways of the land. Responsibilities for the mainte-

nance of the mythology, songs, painting, dances, and ceremonies which commemorate these places is one Topsy has taken seriously.

Like many people her age, the violence of "pacification" of the frontier is part of her family's experience. Topsy's mother's first husband was killed in his country of Wurrulju in the punitive parties sent to bring to justice the Aborigines responsible for the death of a lone prospector, Brooks. The official death toll was thirty-one but genealogical research and oral tradition puts it considerably higher. The Coniston massacres of 1928, are not featured in the history books used in most Australian schools, but the loss of a generation is part of the living history of Central Australian Aborigines.

In the mid-forties, Topsy spent some time on the mission at Phillip Creek just north of Tennant Creek. The girls were kept in dormitories and, if the parents wished to see their children, they camped nearby. One missionary, known to be abusing young girls, was ambushed by concerned female kin. He was brought to trial and sentenced but tolerance of sexual abuse from men in authority is the legacy of mission days at Phillip Creek. In the fifties, on the newly established government settlement of Warrabri, 150 kms south of Tennant Creek, Topsy worked as a house girl for the superintendent but received no wages.

When I met Topsy, during an eighteen month stint of participant-observation fieldwork at Warrabri (now Ali Curang) between 1976 and 1978, she was rearing children of her younger sister who had died tragically; was vitally involved in building a ritual world for the next generation and ensuring that the older generation was respected. I had lived only in capital cities in the south eastern states, was in my mid-thirties, had the sole care of my two children who were of an age with Topsy's and I had much to learn. Over the last decade I have returned many times over for shorter visits and Topsy has visited me in Canberra and Melbourne. The world has shrunk considerably since I began work in the north. We use the telephone to stay in touch. Many families now own cars. Homeland centres on land now held under secure title proliferate.

My work has ranged widely and taken me into many communities: sometimes the focus

of my research has been very practical—a particular land claim, a court case—sometimes an ongoing project but always it has issued in publications, court appearances, submissions to various enquiries which have been available for scrutiny by the people with whom I worked. This does not mean I make all I have learned available: there are some matters which are secret to women and they remain so; there are personal confidences which are also not the stuff of published work. There has been no covert research, always I have worked on the basis of each knowing and trusting the other. The process of making my work available has provided valuable feed back but it has not prevented me offering a critique which may not be shared by powerful brokers in the field (see Bell, 1988). When does self censorship inhibit intellectual honesty? Do we protect field relations at the expense of individual rights? Can anthropologists afford such luxuries?

### FEMINISTS AND AETIOLOGY OF RAPE

In 1971 Susan Griffin wrote of rape as “the all American crime” (Griffin, 1971). In 1974, *Against Rape*, Andra Medea’s and Kathleen Thompson’s survival manual for women was published. But, it was undoubtedly Susan Brownmiller’s *Against Our Will: Men, Women and Rape* (1975) which placed rape on the feminist agenda internationally. Echoing the theme of the earlier analysts she wrote, “rape is nothing more or less than a conscious process of intimidation by which *all men keep all women* in a state of fear (Brownmiller, 1975, p. 15). For Brownmiller the “ideology of rape” was the superstructure built on the biological base (humans unlike other primates could mate 365 days of the year). In her analysis, it was not necessary for all men to rape to sustain the ideology. Having identified “the secret of patriarchy,” the task was then to demystify rape.

According gender primacy in their analyses of women’s oppression, radical feminists located the forces which sustain and perpetuate the social conditions under which the culture of rape is produced and reproduced in patriarchal relations. Claiming it was class not gender that accounts for women’s oppression, socialist feminists charged Brown-

millier with false universalism. What I want to emphasise here is the consequences for strategy these theoretical differences represent. Radical feminists were more inclined to promote women’s only services, refuges, crisis centres than were those who look to transforming the relations of production.

To black women neither the radical nor socialist feminist was sufficiently cognizant of race and racism. Angela Davis in *Women, Race and Class* (1981, 178ff) charged Brownmiller with having “resuscitated the old racist myth of the Black rapists” and “the image of the Black woman as chronically promiscuous.” Having demonstrated the vulnerability of black women, Davis says little of rape within black society and when she admits the possibility, she subsumes the black man under the working-class rubric. Davis (1981, p. 200) writes:

Working class men, whatever their color, can be motivated to rape by the belief that their maleness accords them the privilege to dominate women. . . . When working class men accept the invitation to rape extended by the ideology of male supremacy, they are accepting a bribe, an illusory compensation for their powerlessness.

Until quite recently, the ramifications of this “powerlessness” for women have been the stuff of novels rather than scholarly debate. Hester Eisenstein, in *Contemporary Feminist Thought* (1984, p. 33), quotes from *Vida*, by Marge Piercy in which the heroine challenges her sister:

I hope you don’t go around saying in your women’s group that a Black man raped you. . . . He was probably terribly oppressed.

The white woman working in black organisations charged with being racist, not “cool,” if she won’t sleep with black men, has remained part of personal experience. Mary Aickin-Rothchild (1979) was prepared to draw on these experiences in the writing of the American experience of “White women volunteers in their freedom summers: their life and work in a movement for social change” but, this is an exception.

Eisenstein (1984, 33ff) traces the implica-

tions, both theoretical and practical of Brownmiller's thesis, touches on the critique of black women but does not venture into the Australian field. This is not surprising: the literature is sparse. Neither the fear of the black male rapist evident in the lynching mobs described so dramatically by Davis, nor the sexual anxiety manifest in the White Women's Protection Ordinance of 1926 in colonial Papua (see Inglis, 1974) is part of the Australian experience. Why it is that the Aboriginal male did not constitute the "Black Peril" of the islands or the "Black Buck" of the American south is another question worthy of some future consideration.

It seems that, once again, it is in fiction that the power relations of rape are explored. When Alice Walker (1983) wrote *The Color Purple*, the responses ranged along the following lines: she had no right to say such things, a traitor to her own; it was a relief to be able to confront these issues; it was only fiction (see also Morrison 1972). The Spielberg film of Walker's book didn't help the discussion as it obliterated the nature of the relationship between the two women.

In Australia the best known research on rape is that of Jocelyne Scutt. In her study of domestic violence in *Even in the Best of Homes* (1983), Scutt successfully debunks the rape-stranger paradigm (1983, p. 69). In unmasking the rapists, we discover not a deranged individual but some-one known to the victim, often in a position of trust. Further, rape cuts across class lines (1983, p. 70). Scutt provides a critique of the power relations within the family and between men and women, of marital rape. That women victims become the accused, the shamed, the guilty, she suggests is in the interests of men. Mapping the extent of rape entailed the "coming out" of rape victims and it was feminist consciousness raising which provided a forum where experience was shared and catalogued, where the blaming of the victim was exposed.

Men, Scutt argues, are well served by the silence on rape. Women had not "asked for it": they had been treated as male property and the law protected property. The origins of rape laws Scutt terms akin to those of robbery and theft. They involve "the taking, without consent, of goods from the lawful owner with the felonious intent of converting

them to the taker's use . . . ravishment of another's property" (Scutt, 1983, p. 141), the other being male. In Scutt's analysis, rape is the ultimate act of sexism, of domination, of objectification, of powerlessness, of owning nothing not even one's body (1983, p. 172).

The practical strategies—reforming the law to include marital rape, sensitising law enforcement agencies to the needs of the raped, educating women regarding their rights, establishing rape crisis centres and counselling services—for a time moved in tandem with the theoretical explorations of Brownmiller's hypothesis. Of necessity Brownmiller had raised more questions than she could answer but as Eisenstein points out, it was feminists, not criminologists, who held up to scrutiny the aetiology of rape, who exposed the deep mistrust of women and fears of their sexuality that were embedded in the law.

#### **THE CHANGING NATURE OF GENDER RELATIONS IN ABORIGINAL SOCIETY**

In writing of the scope of women's relationship to land; the wide ranging changes in marriage, ceremonial practice and gender relations wrought by the colonisation of desert lands; of the political problems women confront in their dealings with established bureaucracies and the more recently formed Aboriginal organisations, I have argued that the cash economy has offered little to women (see Bell, 1980; 1983; 1984/5; 1987; Bell & Ditton, 1980/4). In traditional society women had a power base underwritten by their economic independence as the producers of up to 80% of the reliable diet and their ritual autonomy as the direct descendants of the formative era, the *jukurpa* (dreamtime). Relations between men and women were characterised by a high degree of flexibility wherein each had sanctions that could curb the political ambitions of the other; each had room to manoeuvre; women could withdraw to the *jilimi*, a women's only camp, without suffering economic or social deprivation. For women, this residential structure and their separation from men in daily and ritual activity was a source of strength. However, with the loss of traditional lands and the concomitant skewing of the checks and balances of customary law, women have found their

power base undermined. They became dependents, members of households which in the view of the major service organisations, has a male breadwinner.

Initial contact with those who "opened" the territory to white settlement was male to male: it would have been inappropriate, even dangerous for women to join such meetings. Thus, we find it is men who have been groomed as community spokespersons, it is their power base which has been legitimated, deemed the negotiating forum, not women's. The subtleties of traditional gender arrangements were conveniently ignored and, in the shift from reliance on a hunter-gatherer mode of subsistence to welfare colonialism, men found a more accommodating niche in the male oriented political institutions of the dominant society than did women. With men recognised as authoritative representatives of communities, women, for the most part, were locked out of the new decision making arenas. In short, they have been forced to rely on others to represent their interests, be it with respect to land, law reform, or resource development: within the emerging socio-political order on the northern frontier, Aboriginal women have been disenfranchised.

### THE RESOUNDING SILENCE OF SOCIAL SCIENTISTS

Those feminists who sought to reform the law had to confront "the woman as property" concept while in anthropology we had the "man the aggressor" thesis of Robin Fox and Lionel Tiger (1971). Looking to the general anthropological literature on sex relations in Aboriginal society, one finds references which evoke images of women as property: man the hunter partakes of sex after a successful kill; an aggrieved man may be appeased by access to the wife of the offender; sexual licence at times of male ritual gives men access to otherwise prohibited women; a young girl is made a woman by multiple penetrations by men other than her husband. None of these appear to require a woman's consent, yet none speak of rape (see, for example, Berndt & Berndt, 1964).

So what has been written by those anthro-

logist and historians who have ventured into this field? Australian feminist publications such as *Hecate* and *Scarlet Woman* have been prepared to address difficult questions but they have done so within very narrow confines. It has been acceptable to write of the rape of Aboriginal women by white men, in fact for some it was obligatory. My analysis of inter-racial sexual relations acknowledged the brutality of frontier society but argued against the simplicity of generalisations such as all black woman/white man unions were transient, demeaning and violent or that women were sexual objects which their men traded with white men for tobacco, sugar and tea (Bell, 1983, p. 98). In analyses which stress the exploitative aspects of frontier sexual relations, women were said to be prostitutes and men pimps. However, women's sexuality as Topsy emphasised above, was theirs to bestow as they wished but their behaviour was misread, interpreted as promiscuous (see Bell, 1983, pp. 100-101). Further, because their relations with white men threatened Aboriginal men by making new resources available to women and thus diminishing the male power base, men responded by attempting to bring the white intruders within their scheme of male to male reciprocity. When that strategy failed, violence ensued. It was not so much that men were seeking to protect their womenfolk from abuse but rather that men were attempting to maintain their negotiating position vis-à-vis their women.

It has also been acceptable to write of the loss of self esteem that this theft and abuse of women constituted for Aboriginal men. Women, it was argued, enjoyed access to the hearth and home of the white man while her Aboriginal mate was demeaned, denied his woman by another male with more resources. Of course these analyses fail to acknowledge that women are not objects, passed from man to man; that they do make choices, but they did so on the basis of incomplete information regarding male female relations in white society. As to their privileged access to the dwellings of the conqueror, their contact with the home and hearth rendered them familiar with domestic routines but little else (see Berndt & Berndt, 1964, pp. 441-442).

In giving evidence in cases where an

Aboriginal man is accused of rape, defence counsel have consistently argued that rape is a light matter in Aboriginal society. Male anthropologists give expert evidence to the effect that "pack rape" was a traditional punishment for a woman who transgressed, who, for example, stumbled, be it unwittingly, on a male secret ceremony, or saw a male secret object. Not all brutal rapes and assaults find their way into the Supreme Court in the Northern Territory but, when they do, with notable exceptions, there we find judges affording protection to Aboriginal women. Mr. Justice Muirhead in sentencing in *R v. Pat Edwards*, said:

Sitting as a judge of this court, I am not just prepared to regard assaults of Aboriginal women as a lesser evil to assaults committed on other Australian women, because of customary practices of lifestyles, or because of what at times appears to be the almost hopeless tolerance or acceptance by some Aboriginal people to drunken assaults of this nature . . .<sup>3</sup>

It helps to give these statements some context. The behaviour of Aboriginal women certainly "shocked" many early observers. Their language was direct and graphic, their interest in matters sexual not disguised, their enjoyment obvious, their approaches unmistakable. The writing of anthropologists exudes the same mistrust and fear of women's sexuality manifest in white society; a questioning of their previous sexual activity; their inability to say no and mean it. But they did and could say no. If a woman was not interested in sex, then she merely stayed in the *jilimi*, the single women's camp, an area taboo to men, she did not walk alone. If a man attempted to force himself, there were always plenty of able bodied women to deter him; there was the woman's family to deal with if it was a wife; there were ritual deterrents employed by women to reduce the activities of over active men and rapists were rendered incapable of any sexual activity by angered female kin wielding digging sticks. The force of these strategies, preventative and defensive have been reduced as women have lost their power to participate in decision making arena and become dependents, be it on the state, a husband, or father.

## ABORIGINAL WOMEN'S PERSPECTIVES

The literature on rape rarely records the views of Aboriginal women. The exceptions are the comments from urban activists and they are advanced in the context of their comments on the white women's movement. Over the last two decades I have heard comments along the following lines: *No white woman can know what it is like to be black and female in Australia. No white woman may speak of Aboriginal women's lives. The women's movement is white, middle class and insensitive to black women. Our greatest problem is racial oppression not liberation as women. We don't want to pit ourselves against our men. You are just playing out your fantasies in our backyard.* As these women point out, not all women participated in the consciousness raising sessions and not all felt welcome at refuges. For women living in remote regions of Northern Australia, the women's movement was a creature of the southern states.

In the seventies black women activists, such as Bobbi (Roberta) Sykes, tended to argue that the experience of Aboriginal women was not addressed by feminists. Accusing white women of not paying attention to the facts of rape of Aboriginal women and not challenging the myth of the over-sexed black woman, Sykes (1975, p. 319) cited the views of several black women in a leaflet put together by the Canberra based Joint Women's Action:

If you are black and a woman and in your early teens, you have probably been raped at least once. If you are black and a woman and in your early twenties, then you probably have been raped two or three times.

Sykes of course is speaking of rape by white men, of men like police who abused positions of trust and although she is intent on castigating feminists, the proposition that it is rape, literal, or metaphorical which is the shared experience of black women, allies her analysis with Brownmiller in a way she probably did not intend.

While stating she has never been involved in the women's movement, Sykes questions

whether her contacts with feminists are patronising of her or them but is certain about the power differentials: she is the helped and they the helper. In her view (Sykes, 1984, pp. 66-67) the women's movement concerns a power struggle within white society and she has little faith that the changes will 'trickle down' to black women. Similarly, Eve Fesi (1984) has little time for white women's politics. She argues that outsiders should not interfere in Aboriginal matters but she berates those women who prevented both black and white using the women's refuge in Alice Springs (Fesi, 1984, p. 114). By way of contrast, Lilla Watson (1987, p. 51) writing of her experience of growing up black and female, acknowledges the specificity of her experience but writes: "There was and is no question that I support in strongest terms women's liberation, whether it be for black or white women."

By the eighties, Aboriginal women working in bureaucracies, such as Pat Eatock and Elizabeth Williams, began to acknowledge the myriad positions adopted by feminists. Responses became more pragmatic. Eatock (1987, p. 28) tells of how her daughter, pack raped at 17, learnt to read through her contact with women and their writing in the Crisis Centre. Williams (1987, p. 72) explores some of the subtleties of her involvement with the women's movement which she depicts as a form of mutual advantage. "I appreciated the support of feminists . . . [and] it helps . . . to have me to promote the position."

The most recent, and by far most reflective piece comes from Marcia Langton (1988) who, as research director of Central Land Council, Alice Springs, daily confronts racism and sexism. She writes of women as the inclusive "we" and the enduring nature of their lack of power in Australian society but it is the Aboriginal agenda for self determination for which she seeks support from feminists. She looks to the forum such as the Broad Left Conference and the Socialist Feminist Conference (1988, p. 4). While these are appropriate arena to pursue Aboriginal political demands, they are not ones in which the issue of rape is likely to arise. Activists, like Langton, are in a good position to analyse an issue such as rape but, for the most part, because of the nature of their

priorities, seek alliances with socialist rather than radical feminists.

Only Vivien Bligh (1983) has directly addressed the needs of women who have been raped. The research was undertaken to establish why Aboriginal women were not using the Rape Crisis Centre in Adelaide. Her initial attempts to contact women through existing organisations proved fruitless. It was through direct exchanges that information was forthcoming. Her findings confirm Scutt's. Bligh found that the incidence of rape was high; that the age of victims ranged widely (4 to 58); that both white and black men were involved but women talked more readily about the former than the latter (1983, p. 101); that a pack rape by seven men had occurred; that there was an extremely low level of reporting to non-Aboriginal agencies, including women's organisations. The one woman who had sought help from an Aboriginal organisation found that their informal procedures did not give confidentiality a high priority. Her story was soon common knowledge in the entire Aboriginal community (1983, p. 101). Few cases resulted in convictions. Alcohol played an important part for most of the women and there was little sympathy for Aboriginal women raped when drunk (1983, p. 102). Most thought an Aboriginal worker at the Centre would alleviate the situation of having no-one to offer sympathy to rape victims (Bligh, 1983, p. 102). In the discussion following Bligh's paper, further experience of rape was recorded. It was said that in the case where the seven men were accused of a pack rape, they had the "best top-notch lawyers in the state". They got off but the woman had to then leave the city and "go back home, where the stigma is still at the back of her mind" (1983, pp. 102-103).

Although the literature is sparse and much is anecdotal, it does appear that many of the features of rape documented by Scutt, are relevant to Aboriginal women. What is not present in Australia (unlike the U.S.A.) is participation by black women in the theoretical debates. I would suggest that the initial rejection of feminists' analyses of gender relations reflects the influence of the socialist left on Aboriginal activists and it has taken time for Aboriginal women to recognise that there are many feminisms, some of which



may be more relevant than others. The underlying dilemma in the theoretical positioning of the topic of rape which polarised feminists in the seventies is now entering the writing of Aboriginal women. What is probably most tragic is that the provision of safe places to which women might retreat, places which provide an alternative to a violent relationship, have a traditional analogue, in the *jilimi* (see Bell, 1987). It was in this area, separate from the main camp, that ritually important women lived, that others gathered to socialise during the day. It was where the secret women's objects were stored. It was an area where men feared to tread.

Topsy Napurrula Nelson's account of the current situation in Tennant Creek recalls the safety the *jilimi* afforded women. Men, she said, camped at a distance from the women and all communication between men and women was channelled through the married camps, located on middle ground. *Man come back early from hunting and this man, from his camp, he won't come too quick. Women goes to the married camp and lights the fire and when she's sitting down, he comes over. So those blokes never look straight at woman [ie see her exposed body. Women sit with the heel drawn up into the crotch]. Young man never look straight at women: that way you can't have trouble. No look woman because women got no clothes early day but man have to cover up, not women. I know that time. I used to walk around no clothes. I never went near my dad. My grandmother would say, 'Not allowed sit by uncle.' Not now. Those kids they go out looking at some-one else, standing there in the corner, watching what that man and woman they're going to do, children following and learning. Man might get woman before she gets ngapurlu [breasts]. That's not right. Should be possibly wait for woman's body. But they don't wait and parents don't take proper care.*

## TWO RECENT CASES

The first case, *R v. Dennis Narjic*, was before the Supreme Court of the Northern Territory in mid-1988. Dennis Narjic of Port Keats, Northern Territory had pleaded guilty to four counts of rape of one young Aboriginal

woman and to two of another young woman in 1986. When defence counsel indicated that the pre-sentence report would canvass the customary elements of the case, viz the tribal elders had indicated that there was "little likelihood of any payback" (Transcript, 1988, p. 17), Mr. Justice Maurice asked:

Are you telling me it's normative behaviour to have forcible sexual intercourse with your wife's younger sisters . . . never once have I had a glimmer that it's a normal part of cultural life for Aboriginal people to treat women in this way . . . for the kind of sadistic behaviour involved. . . . (Transcript, 1988, pp. 17-18)

According to the defence, there were letters of apology, acknowledging that it was wrong for the woman to run away to Darwin—this was to avoid further bashing—and, ventured the defence, "Wives are assaulted by their husbands and very few of them get reported to the police. It's a way of life unfortunately at Port Keats" (Transcript, 1988, p. 21).

Recognising that the accused may be an important man and that the court would no doubt have the views of the "tribal elders," Mr. Justice Maurice (Transcript, 1988, p. 24) asked, "Why should we only hear from men?" In his view there was a need for somebody with "fair dinkum anthropological qualifications" and knowledge of the Port Keats area to do an assessment.

If we're going to go into this question of what's culturally acceptable behaviour, why shouldn't we hear from some female, some female leaders of the female community of Port Keats? Why should it be men who are the arbiters of what's acceptable conduct according to the social and cultural values of Port Keats? (Transcript, 1988, p. 24)

But, protested the defence, we may not be able to get women to speak. "It's just that historically no one ever asks them," the judge (Transcript, 1988, p. 25) observed.

The second case involves allegations of a pack rape in a flat in a Northern Territory town during the absence of the tenant. What

happened is not clear. The woman tenant returned to find her place had been turned over, that food and clothes were missing but that her books were untouched. She was undertaking research in the area and, after cleaning up the worst of the mess, washing the clothes strewn about, and reporting the break-in to the police, she sought information from local Aboriginal women. A group of girls, it appears, had entered by forcing a bathroom window, and spent some time in the flat before being surprised by a gang of youths. The extent of the violence which then ensued is not fully known.

Explanations of the incident range from simple theft explained by "if you work with blacks you invite theft," through dismissing the blood stains as menstrual, to a brutal pack rape. If the latter is true why have the girls, their mothers, local organisations not acted? One story runs that the girls have been intimidated: told if they report the rape, they will be charged with theft, much easier to prove than rape. Another says women in this town are expected to tolerate such behaviour from black men and that is even what white women do. There is a white woman living in one of the town camps who invites multiple partners and violence nightly.

There is a local woman doctor who is sympathetic to the needs of Aboriginal women but there are a number of obstacles to be overcome in consulting with her. Some of the local organisations do have Aboriginal women on their representative boards but the most influential of these resists acting on information from a white woman. Indeed, her attempts to approach the community health centre to ensure the girls had medical assistance ended in her being refused entry to the premises.

Recently there have been a number of violent attacks on Aboriginal women. It is hard to know for certain that the number is increasing but on the basis of a range of evidence, it is my opinion that it is. I have been in communities when rapes have occurred and seen the way in which various persons react. Aboriginal women have been prepared to administer their own justice, that is, women's customary law, to the rapists. But, the local policemen, assisted by local Aboriginal police aids, also always men, have placed the accused males into protective custody. In this

way women's power to respond has been thwarted.

### SEXUAL VIOLENCE IN TENNANT CREEK

Tennant Creek is a frontier town of some 2,000 people and until the recent rise in the price of gold its population was falling. The residents may not like to hear it spoken of as "frontier" but reference to the consumption of beer, 91% of the alcohol consumed and the existence of 13 licenced outlets, probably makes the point (see Brady, 1988). With the discovery of gold in the 1930s, the small telegraph station on the overland line became a boom town. Its fortunes have fluctuated.

The Aboriginal population of Tennant Creek is often cited as around 400. I would place the Aboriginal population higher because Tennant Creek is where many of the "residents" of homeland centres, Ali Curang and nearby cattle stations spend much of their time. Thus, while the statistics show that less than 20% of the town is Aboriginal, the use of services by and visibility of Aborigines within the town is much higher. Tennant Creek is located in Warumungu territory; the road north cuts through a sacred site complex; in accordance with government policy (protection/assimilation/integration/self management) the local people have been moved in and out of the town. Today, not only Warumungu make Tennant their home, it is an important service centre for many neighbouring groups.

When I was working at Ali Curang, a trip to Tennant Creek was an outing. It was where I bought bulk food, clothes and could enjoy a meal in a restaurant. The only "user friendly" office was the Department of Aboriginal Affairs and the only specialist 'Aboriginal' service was the Pabulu Association (housing) which, now re-formed, has become Julalikari. Tennant Creek in the mid-1970s was quite unlike Alice Springs with its population some 21,000, its well established network of Aboriginal organisations: Central Land Council (C.L.C.), the Pitjantjara Land Council, Central Australian Legal Aid Service (C.A.A.L.A.S.), Central Australian Aboriginal Congress (C.A.A.C.), Tangentjerre (the town campers organisation) and the Institute for Aboriginal Development.

Today Tennant Creek has Land Council, Legal Aid and Congress offices and there are a number of resource type centres.

Anyinginyi, as CAAC is known in Tennant Creek, has supported the establishment of a women's refuge and has assisted in the preparation of submissions for Federal funding to be administered through Health and Community Services in the Northern Territory. The current committee is in the process of organising its constitution. But, already there has been conflict over control of the centre which is reminiscent of the events of 1980 in Alice Springs when funding for the local refuge was withdrawn (see Bell 1987, pp. 121-122). Then, as now, the dispute is fuelled by prominent local white women who argue that it is racist to establish refuges for Aboriginal women but who consistently refuse to make existing establishments a welcome environment for Aborigines. In addition to the spurious "equality of access" argument, in the Territory it is still possible to get a sympathetic hearing by claiming that women's services are destructive of the family. Patriarchal values are strong indeed.

In the absence of a women's centre, where do women go? Contrary to other research findings, it appears that in Tennant Creek they go to police and that they take another woman for support. In other urban centres police are reluctant to intervene in domestic affairs but what constitutes "domestic" when people live in large family camps? On many occasions police need to be restrained from intervening in family affairs, for example, arresting a drunk at home. There are women on Julalikari, the organisation on which each of the town camps has a representative, but it is not always someone to whom it is appropriate to speak of such matters. There may not be a woman with proper kin or country affiliations: these remain powerful forces in the lives of most Tennant Creek women. Julalikari is however the forum to which family troubles are brought.

Existing Aboriginal organisations are heavily male oriented and in the case of rape, the defence is usually represented by Aboriginal Legal Aid. In this regard, it is interesting to note that where Aboriginal women as victims have sought compensation under the Northern Territory Crimes Compensation Act, they have done so through private solici-

tors not Aboriginal Legal Aid. The limit of claim is \$15,000 but it is being used by Aboriginal women.

In Tennant Creek, Helen Carney, a doctor at the local hospital, is willing to give advice and do the examinations but she is not first line of contact. Some women get advice from welfare but that is through referrals to the Department of Community Development from another source. Once again it is not the first line of contact. These are town problems, so what happens out bush? By and large, these areas are dry (i.e., no alcohol) and there are always authoritative persons, men and women, present to inhibit violence. Also, and probably most importantly, the composition of the population of bush camps is governed by concerns of kin and country, not the vagaries of government policy. The camps tend to have a coherent structure and reasonably clearly defined lines of authority. This does not mean all is harmony: there are still many disputes over access to resources.

There are signs that an alliance of Aboriginal and non-Aboriginal people is emerging in the town. At a public meeting held on 13 November, 1988, the availability of explicit pornography and the advent of strip shows at a local hotel were identified by residents of Tennant Creek as promoting 'degradation and exploitation of women' (personal communication, Topsy Napurrula Nelson). Along with resolutions for the removal of strip shows and the enforcement of existing licencing regulations, was a call for support for the women's shelter in Tennant Creek. Those who addressed the meeting included Dr. John Boffa, of Anyinginyi Council and Topsy who observed: *Those strippers at the Swan Hotel, afternoon time, start at 6:00 pm till midnight. They was just telling me, they go everynight and the kids go, in the corner and look in. Mothers don't know. They busy. That's why I ask government, make something also for those kids.*

## GETTING INTO COURT

Now it appears Aboriginal women victims may have found an ally in the Department of Law. As I have already pointed out, the organisation which, in theory should be their ally, Aboriginal Legal Aid, is usually appear-

ing for the accused. The reasons for the eagerness of the Crown to prosecute must, however, give cause for concern. It is rare indeed that Aboriginal women victims get as far as a court hearing and each case counts. But, are prosecutors acting out of compassion for the woman? And, does it matter? There has been a strong push in the Northern Territory administration, to “stamp out this customary law nonsense” (ABC Radio, Midday News, 23/3/88). It is one means of breaking the power of the local Aboriginal Legal Aid office; of demonstrating the superiority of Anglo law and the “primitivism” of acknowledging the existence of “customary legal considerations.”

While I would certainly agree and indeed have argued elsewhere (Bell, 1984/5; Bell & Ditton, 1980/4), that the male orientation of legal services needs to be redressed, I would not wish to see this critically important organisation dismantled; while I have seen numerous abuses of customary law by defence lawyers, I would not wish to trammel the tentative steps evident in a number of jurisdictions to take account of the existing Aboriginal law. Given that Aboriginal Legal Aid is usually defending the Aboriginal man, they would not be calling anthropological evidence hostile to their case. In the absence of research with Aboriginal women on the issue of rape in Aboriginal communities, very partial representations of Aboriginal women are presented in the courts and the precedents established are not ones which empower women.

In one case in the Magistrates Court in Tennant Creek, working with a woman lawyer, I was able to explain the role of Aboriginal women in resolving marital disputes. Several important local women gave evidence as to the existence and content of Warumungu law which pertained. They gave evidence as a group, a practice pioneered with great success in the land claim forum. (It is improper to speak of grave matters without an appropriate “witness” present to verify your pronouncement and no-one person can speak to all matters.) I gave evidence as to the kinship aspects—the magistrate was accommodating but admitted that the finer points of cross and parallel cousins needed some clarification—and the principles which might be distilled from the evidence. I had

discussed the issue at some length with the women and had ascertained that which was for public presentation and that which was restricted to women. This, of course, raises tantalising question regarding confidentiality and privilege.<sup>4</sup>

In most cases involving claims to customary law, a little intelligent anthropological research in the community can clarify that which is “tradition” and that which is local politics. I would put the statement that in Port Keats it is “customary to beat women” in the latter category. It is a reflection of the history of the particular settlement and the “representative structures” through which tradition is articulated. As the judge has already noted, mostly we don’t know because we haven’t asked women. Of course finding ways of bringing women’s evidence to court raises many problems but again here the experience of land claims is most helpful (see Bell, 1984/5, pp. 353–360).

#### ASKING THE DIFFICULT QUESTIONS

We have put behind us, I hope the theories of male aggression and rape. In the 1970s arguing against the man the hunter thesis with male colleagues was a matter of being dismissed as a hopeless “women’s libber” and speaking in feminist gatherings, one was caught in a pincer movement between the radical and the socialist feminists and confronted by accusations of racism by Aboriginal activists. However, the topic is now in the open in Aboriginal communities; some 20 years have elapsed since the first women’s shelters and Aboriginal women are now seeking theirs. The stories are beginning to be told. Feminists need to reopen the theoretical debates, to create the space within which a critique of rape may emerge, to allow the courts to set aside their assumptions regarding the abuse of Aboriginal women, to give protection to the women.

Of course the problems confronting Aboriginal women rape victims are shared by other women and one hopes ultimately will be acknowledged by all citizens. The issue, as one involving human rights has been recognised. For example, Peter Bush (1977), police surgeon of 28 years experience, writes of the crime which concerns us all; of the law of rape “not made with a woman’s pride or

passion in mind"; of the willingness of defence counsel to exploit the situation so the victim is on trial; of hostile police procedures. These insights now need to illuminate the rape of Aboriginal women by Aboriginal men.

Understanding the representations of Aboriginal women in both scholarly and popular fora requires sensitivity to cultural difference, the historical specificity of particular groups, the interaction of social, political and economic factors. This is critical in finding answers. The Australian Law Reform Commission (1986) has struggled with the tension between customary law and individual right. Paradoxically, in view of the rejection of separatists' tactics as divisive, it is the radical feminist strategies which emphasise the universality of key experiences of women and the need for separate institutions and it is this which offers Aboriginal women the most likely strategy for success. The nature of the opposition is strong and comes from many directions. There are some unholy alliances in the campaigns against refuges for Aboriginal women and there may well be some unexpected ones in ensuring their success. Aboriginal women need to know their rights. Lawyers and courts need to be made aware of the plight of Aboriginal women. Deaths in Cells now has a public profile: the violence which women endure should also be confronted.

### SOME SUGGESTIONS

I began with some facts and questions. Let me conclude with some suggestions.

1. Acknowledge the facts: Aboriginal women are being raped by Aboriginal men.
2. Look again at the complex of forces which keep this fact off the agenda.
  - (a) Reference to a woman's unseemly behaviour (eg drunk, promiscuous) is a form of blaming the victim.
  - (b) An analysis of rape needs to focus on the intersection of gender, race, and class. Rape concerns power.
  - (c) Lawyers with an interest in customary law need to be educated regarding aspects of women's law and the impact of a century of colonisation of desert lands on their lives.
  - (d) Men are better positioned to take

advantage of existing organisations which "represent" Aborigines, than are women.

3. There is a delicate balance to be achieved by those striving for self determination and therefore not wishing to create divisions within Aboriginal communities and the needs of women whose voices have no forum. The Right will exploit these factions. The needs of women need to be addressed within the broad agenda of reform.
4. Refuges/Rape Crisis Centres do work for white women and where Aboriginal women have been properly resourced they too have shown that separate institutions are a successful strategy. Furthermore, it is one which builds on a traditional practice. It returns a level of power to decide to women and thereby constitutes a threat for some men.

### ENDNOTES

1. This has not stopped some commentators (lawyers in particular) seeking, on the basis of quite dubious sources, to determine my view and in the process attributing to me a range of inconsistent positions (McCorquodale, 1984, p. 219).

2. At the Women and Labor Conference in Brisbane, 1984, Aboriginal women activists had insisted that only Aboriginal women could speak about their experience and had demanded the removal of papers by white women. One paper it was argued had violated women's secrets although it drew only on published material. Who then had rights in the material? Could only Aboriginal women write of Aboriginal women? The solution at the Brisbane conference was to have separate sessions for Aboriginal women only and to have a senior Aboriginal woman present during the address of the one non Aboriginal woman who was prepared to consider continuing.

3. SCC Nos 155 and 156 of 1981, 16 October, 1981, unreported. See McCorquodale (1984, pp. 219-221) for a rather confused and confusing summary of rape cases and expert evidence.

4. One strategy of the Northern Territory government in opposing land claims was to subpoena field notes. I had appeared as a expert witness in the Warumungu claim. I had prepared a report on the basis of hearing all the evidence and my general knowledge of the area. My field notes, including work undertaken before the legislation was in place and thus not capable of being subject to informed consent, were subpoenaed. I resisted but it constituted harassment and until the position is satisfactorily clarified, I will not work on those claims (see Bell, 1988 for a discussion of the ethical questions). My notes are not safe and they present a particular problem for courts. Much of the material is "for women's eyes only." Unless all parties employ women lawyers and anthropologists, I will only disclose that which I have been authorised by the women concerned

to say in open court. There are a number of strategies we have pursued but the force of women's evidence is diminished when they can not speak in the court with the freedom that men enjoy.

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