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The monstruous and the miscount: a radical theory of accountability

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ABSTRACT

Can public inquiries and truth commissions provide a space for political transformation? This article investigates the field of transitional justice to address this question, focusing on pessimistic accounts of the persistent failure of truth-telling practices. It identifies three main narratives on why truth commissions fail to promote change, namely the failure of implementation, failure of design and failure by design narratives. This article contends that none of these narratives satisfactorily answer the question raised by this special issue due to their attachment to a referentialist ontology and a linear temporality of truth-seeking. Combining Rancière's critique of political philosophy with insights from Lacanian psychoanalysis, the article advances a radical theory of accountability capable of circumventing these limitations and elucidating the links between truth-telling and political transformation. Based on an anti-foundationalist approach, this theory sees the work of truth commissions as situated in struggles that constitute the after-maths ; the process of counting the parts of a conflict (victims, perpetrators, collaborators) and making suffering count (as violence) by attaching it to an object source (a cause). Seen in a radical light, truth-telling appears trespassed by two organizing principles: the management of monstrosity (as a regime of visibility that formalizes suffering and apportions blame and culpability) and the inevitable miscount of the identities that populate the victim-perpetrators spectrum. The article argues that investigative commissions are doomed to fail, but it is thanks to this failure that they can offer a space for political transformation.

Introduction

Speaking truth to power is an appealing slogan in times of hardship. And because they embody the truth-telling imperative, investigative commissions (IC)[1] are commonly evoked to deal with exceptional times (catastrophes, the legacy of war and authoritarianism, the COVID-19 pandemic) and an ever-growing list of exceptional wrongs (extrajudicial executions, forced disappearances, institutional racism, and even workplace parties under lockdown).[2] But their undeniable

popularity aside, is truth-seeking[3] enough to promote change? This special issue asks the question of whether ICs can provide a 'space for transformative politics' in the wake of state-led violence and other misdeeds (Thomas et al. this issue). This is certainly a question that concerns Transitional Justice (TJ) scholars, for whom truth-telling remains a fundamental practice of accountability in times of political change.

The first part of this article surveys the field of TJ and correlate fields focusing mainly on explanations for the failure of truth-telling. TJ scholars have long harboured a certain suspicion regarding the achievements of ICs (Mendeloff 2004). Evaluating the successes and failures of truth-telling has become a prime concern in the literature (Kochanski 2020), with increasingly pessimistic appraisals in recent years (Furtado 2022; David 2020; Allen 2021). While the focus on the pessimistic side might sound overly cynical to some, it proves invaluable for the present analysis. The recognition of failure, more so than the praise of successes, demands explanations. It can expose deeply held assumptions about accountability that would otherwise lay dormant. In the TJ literature, we find three distinct narratives acknowledging the shortcomings of truth-telling: *failure of implementation, failure of design* and *failure by design*, which are properly unpacked and explained in the first section. The paper argues that all three narratives evidence problematic ontological assumptions that lead to an oversimplified view of accountability, which are outlined in the section. First, accountability is assumed to follow a linear temporality according to which *wrongdoing predates the moment of reckoning in time*. Second, all narratives rely on a *referentialist view* which effects an artificial distinction between *acts of victimization* and *claims of victimhood*. In other words, the identities that populate the victim/perpetrator spectrum are all too frequently assumed to represent entities that pre-exist the moment of accountability.

So long as we hold on to these assumptions, we cannot answer the question raised by this special issue in a way that does justice to its complexity. Therefore, in the third section, this article proposes the outlines of a radical theory of accountability capable of clarifying the relationship between truth-telling and political change. Inspired by an anti-foundationalist ontology found in Lacanian psychoanalysis and Rancière's critique of political philosophy, this theory circumvents the temporal and referentialist assumptions that permeate traditional critiques of ICs. A radical theory of accountability reads practices of accountability, such as ICs, not as reactions to wrongdoing, but as productive political acts of *counting* that inscribe violent events and violence-related identities in reality, *for the first time*. It defines such practices in terms of belated processes of translation/politicization of grief, whereby suffering comes to be constituted as morally, legally, and politically unacceptable. Importantly, this theory locates ICs always in relation to what Montesinos Coleman and Rosenow defined as struggles: the 'situated practices of social and/or political mobilization against injurious logics of oppression, exclusion or exploitation' (2016: 205). It emphasizes that practices of accountability are immersed in struggles to politicize suffering, that is, to make it about the distribution of roles and parts in a community. ICs must inevitably address these struggles through what I call the management of monstrosity, or the practice of revealing, naming, and shaming 'monsters' as the identified object-source responsible for suffering. They are part of the process of translation whereby suffering becomes violence, that is, it comes to be regarded *as socially unacceptable*, and associated with the quality of wrongdoing.

The conclusion offers a counterpoint to Andrew Williams' somewhat more proce-duralist view (this issue). As practices of accountability situated in the domain of struggles, ICs are often fractured and necessarily incomplete. They are torn between the search for monsters in the after-maths and the inevitable realization that this practice, this act of counting, can only ever produce a miscount of violence-based identities. But it is precisely in the gulf opened between the naming and shaming of monsters and the inevitable miscount that this practice incurs that political change happens.

Failure of implementation, failure of design or failure by design?

Let us be clear; not all TJ scholars would subscribe to the view that truth-telling recurrently fails. A good deal of scholarship would happily accept the vision of ICs as a special kind of political panacea. But this article is not about them. Thus, we move on to the first narrative: *the failure of implementation*. This narrative is woven through critiques that explain the shortcomings of specific ICs – such as the classic cases of the Argentine CONADEP, the South African Truth and Reconciliation Commission (TRC) and others – as a consequence of problems faced or mistakes made during the phases of implementation, the collection and management of data and the writing of the final report. This narrative largely dominates a predominantly empirical literature with a problem-solving orientation and a focus on learning lessons and disseminating best practices (Thomas 1994; Hayner 2011, 2018; Francesca and Payne 2012; Sikkink and Marchesi 2015; Chapman and Ball 2001; Bickford 2007; Stahn 2005; Zvobgo 2019; Mark 2006). It provides the central undertone of reports published by major consultancies and civil society monitoring groups[4] and even intersects with the work of critical scholarship, normally centred on other aspects of ICs (Wilson 2001; Leebaw 2011). Works within this narrative foreground concerns about the extent of the ICs' mandates, budgeting, the promises made by politicians and the staff, the expectations of civil society groups, and the professional backgrounds of selected commissioners. All of these issues are seen as relevant variables capable of explaining or shedding light on the successes or failures of ICs.[5]

Related to this narrative, but with a markedly more critical tone, is the second one: *failure of design*. This second narrative finds expression in the concept of transfor-mative justice, an ambitious idea advanced by Gready and Robins (2014) whose work strives to strike a balance between the critique of TJ interventions and the problem-solving literature. Essentially, the concept promises to redesign practices of account-ability in the wake of atrocities to better address the root causes of violence in transitional and post-transitional societies. This narrative builds on a longstanding critique of the more than 40 ICs established to date as having failed to address the root causes of local wrongdoing. Since the days when the TRC popularized the global peacebuilding potential of ICs, critics have drawn attention to the rather narrow conceptualization of violence (focusing on violations of civil and political rights) and excessive legalism that shaped truth-telling practices (Laplante 2008; Aoláin 2009; Bell, Campbell, and Ní Aoláin 2004; Fletcher and Weinstein 2002; Miller 2008; McEvoy 2007; Lambourne 2009; An-Na'im 2013; Nagy 2022; Furtado 2015, 2017, 2020; Sharp 2018; Lai 2020).[6] To quote Rosemary Nagy, their central goal and ethos involved moving away from a fixation on the localized institutional design of ICs

towards the very template of truth-telling practices, drawing attention to 'the false and problematic assumptions [...] that transitional justice must guard against' (2008, 279). And it is on this ethos that the *failure by design* narrative seeks to capitalize, promising a paradigmatic redesign of truth-telling practices 'from the legal to the social and political, and from the state and institutions to communities and everyday concerns' (Gready and Robins 2014, 340). Here, truth-seeking takes on structural contours, according centrality to both historical and everyday patterns of injustice such as settler colonialism, land ownership and the slave trade (Catherine 2017; Evans and Wilkins 2019).

Lastly, there is the *failure by design* narrative. This response encompasses more radical, uncompromising critiques of ICs as frameworks whereby relations of power and inequality are naturalized by truth-telling and reproduced 'under the radar' of a bewildered civil society. This strain of critique pushed the boundaries of scholarly discomfort with ICs, uncovering the biopolitical workings of the modern state and the logic of social control at play in TJ mechanisms (Christodoulidis 2000; Moon 2008; Humphrey 2002; Meister 2012; Bevernage 2015). In this narrative, the imperative to speak truth to power that infuses the promises of ICs is but a technology, in the sense intended by Foucault of a *technē* (an art) of government. Truth-telling is read as another constitutive element of modern forms of subjection, that is, the regulation of conduct via the naturalization of norms and expectations around normality in liberal societies. Thus, the exposition of wrongdoing (abnormal conduct) and the ensuing accountability effort cannot be disentangled from the purpose they serve: the fabrication of a collective identity in which social divisions are covered and concealed and a time known as the aftermath is artificially drawn and promoted as the time when violence and evildoing are no longer (Never Again).

This narrative is indebted to the work of Foucault (1995, 2003), Agamben (1998) and the Foucauldian-inspired investigations of the management of deviance in Hall et al. (1978), Cohen (1985) and Garland (2002). The view of ICs as mechanisms of state control has perhaps the most provocative exponent in *Official Discourse* (1979) by Frank Burton and Pat Carlen, a book rarely cited in TJ but which in many ways preludes the recent critique of truth-telling. For Burton and Carlen, modern-day inquiries became the central ideological frameworks whereby state officials continuously reconstructed hegemonic rule in moments of crisis. In TJ, the type of inquiry known as a truth commission is usually described as a late 20th century innovation, the fruit of processes of re-democratization in Latin America (Teitel 2003; Hayner 2011). Nevertheless, the Argentine CONADEP, near-unanimously regarded as the first truth commission, was not born out of an inventive epiphany but of a political compromise that tapped into a much older set of historical practices. Pressurised by human rights activists demanding a bi-cameral commission with a wide mandate, the Alfonsín government sought inspiration from the model of US congressional commissions, in which notables were asked to independently weigh in on matters of national import (Crenzel 2015). The model of Anglo-American inquiries, in turn, is part of an older lineage, which Burton and Carlen trace to the *Domesday Book* in 11th Century England.[7] Importantly, when we look at ICs in this *longue durée*, our view of truth-telling is transformed. ICs appear less as empowering fora where survivors can freely speak truth to power and more like the mechanism for the enforcement of bureaucratic rule employed by a nascent modern state, short of

a corps of professional functionaries. In Burton and Carlen's words, ICs have historically served 'the administrative goal [...] of a calculated intervention to keep structural contradictions under control so that economic interests could be systematically pursued' (Burton and Carlen 2013, 5); a rather strong judgement not necessarily shared by all works associated with this narrative but illustrative of their common concerns.

Generally speaking, and their differences aside, all three narratives evidence problematic ontological assumptions that lead to an oversimplified view of practices of accountability (including but not exclusive to ICs). First, accountability is assumed to follow a linear temporality according to which wrongdoing predates the moment of reckoning in time. Second, they rely on a referentialist view by assuming and reproducing the distinction between *acts of victimization* and *claims of victimhood*. This means that labels such as victims, perpetrators, collaborators, and bystanders are frequently treated as the names ICs attribute to entities that pre-exist the practices of truth-telling and adjudication. The next section will explore these assumptions in more depth and pave the way for the introduction of a radical theory of accountability capable of circumventing them.

The referentialist remanent in critiques of truth-telling

All the narratives described in the previous section intersect at one specific point: they assume, tacitly or overtly, a relation of *a priori existence between the parts of a conflict and the moment of enunciation of named conflict*. The most traditional scholars and advocates of ICs – those situated in the failure of implementation narrative – would have little issue with the statement that perpetrators, victims, and collaborators of wrongdoing exist prior to truth-telling practices. They are largely assumed to arrive at the moment of scrutiny of past wrongdoing as fully constituted anthropological entities whose deeds and stories ICs are expected to uncover and recount. In this traditional view, ICs come into being as reactive responses to the legacy of atrocities and as independent from the problems they are mandated to investigate (in the sense that they have not caused or created them). The general view, in conformity with the promises of truth-telling, is that wrongdoing happened in the past and the job of ICs is to investigate it, bring the truth to light and hold perpetrators accountable. While implementing this plan may be difficult for a series of reasons, conceptualizing it is not.

Matters are not so simple when it comes to more critical views, e.g. works situated in the failure by design narrative or crisscrossing the failure of design and by design narratives. We could confidently say that critical approaches have done nothing but show the productive or political side of truth-seeking. Earlier critiques of the TRC, for instance, were aware of the peculiar temporality and the troublesome dynamics of representation at work in ICs, in particular those framing their vision of political change in terms of national reconciliation. The notion that ICs (mis)represent the past in order to produce the political unit of a community through the denial of conflict is a recurrent theme. So is the acknowledgement that the 'designation of victim, perpetrator, guerrilla, terrorist, witness and repentant is often a matter of perspective' (Jeffery and Candea 2006, 292). Thus, critical scholars are acutely aware of what Christodoulidis termed 'the politics of identity (the question of naming)' underlying truth-telling practices (2000, 196). This much is not up for debate, but the devil is always in the details. The very language critical

scholars often resort to, the phrasings, hesitations and metaphors employed throughout their critique, are suggestive of a tacit or overt reification of a *referentialist worldview* that sits uneasily within their work. In this view, signifiers (roughly, terms such as victims and perpetrators) are meant to re-present signified/referents (a content or external object, such as those who suffered and inflicted suffering).

ICs are construed as moments when victims and perpetrators are *recognized* or *misrecognized* for what and who they are, potentially even *framed* in a particular way and light and for a particular purpose, but not necessarily *constituted* as such. Though Christodoulidis is aware that political communities, such as the South African rainbow nation, are defined by the 'contingency (and revisability) of the "we"' (Ibid, 196) this contingency is not extended to the parts of the whole (the parties at conflict). In his assessment of Jeffrey Benzien's testimony before the TRC his constructionist approach finds a limit. In a rather telling language, he describes the moment of accountability – the public exchange between Benzien (the torturer) and Tony Yengeni (Benzien's victim) – as a time when '[t]he torturer eventually finds himself before a responsibility he cannot escape' (Ibid, 182) and not, as we shall see later, as a moment when the torturer is found/ finds himself in the capacity of a torturer. Importantly, in the politics of identity/naming that characterizes truth-telling, not all identities are up for grabs. He states that to be successful, 'reconciliation cannot draw on a denial of identity, on demanding on the victor's terms of "freedom fighters" to account for themselves as "terrorists"' (Ibid, 199).

Similarly, Doxtader speaks of truth-telling as a practice of 'self-dis-closure' (Doxtader 2003, 280) which creates 'an opening for understanding, characterized by the simultaneous displacement and recovery of self' (Ibid). He contends that 'the speech of reconciliation troubles [past] identity' (Ibid., 281) but this recognition of the contingency of identity coexists with unease with descriptions of accountability as the time 'when victims of gross human rights violations [. . .] are called on to reconcile with perpetrators of crimes against humanity' (Ibid., 269). Once again, as I will later explain, there is a great difference between being called on to reconcile with and being *conjured*, in a Lacanian sense, as a subject of reconciliation. Although Meister (2012, 2002) frequently employs psychoanalytical terms, he too falls prey to the same problem. While analysing how truth-telling splits victims' identities between innocent sufferers to be mourned (good victims) and the unreconciled to be feared (bad victims) a slip betrays his belief in something called '*the actual victim*' (Meister 2012, 17, my emphasis).

The persistent attachment to this referentialist worldview is followed by the re-establishment of a liner temporality: the moment victims and perpetrators come into existence is squarely placed in chronological order at a time t^1, the moment of victimization, that precedes the time of truth-seeking and adjudication t^2, when victimhood is reclaimed. Michael Humphrey provides the clearest example of this logic, placing the birth of victims and perpetrators at the atrocious act, the rituals that account for '[t]he production of the victim through violence' (Humphrey 2002, 24). By mixing insights from Kristeva (1982), Agamben (1998) and Girard (2013) Humphrey reads acts of atrocities as means of controlling the abject (the unspeakable void that prevents the full realization of a political community) through the ritualistic performance of violence for the sake of order (the sacrifice of the victim). He concedes that the official recognition and a posteriori memorialization of these identities obey a certain politics: '[w]ho is recognized as a victim is at the outset shaped by the purpose of the "official story" to be

produced as a stored collective memory of the past—i.e. report and archives' (Humphrey 2002, 81). This thought instructs his critique of the selectivity of the *Nunca Mas* report published by CONADEP, where '[c]ertain kinds of victim and certain kinds of abuse were emphasized. Some categories of suffering and violence were never recorded or addressed in the trials' (Humphrey 2002, 81). But it does not disturb the established temporality of victimization (t^1) and victimhood (t^2). More recently, echoes of this temporality can also be found in the work of Tami Jacoby, who contends that the 'process of victimhood begins with an act of harm within a particular political context and follows the injured party through judgement of the harm as a wrong' (2015, 518).

Within the referentialist ontology, the politics of naming in truth-telling is over-determined by the ethical-politico imperative of getting the names right. Even when scholars admit that the term victim works as 'a key political signifier of competing world views' (McEvoy and McConnachie 2013, 492) the need to make sure the signifier correctly expresses the nature of the signified/referent is left unscathed. Practices of accountability are criticized for their selectivity which 'leaves many perpetrators uni-dentified and many victims unacknowledged by the courts' (Humphrey 2002, 94). The reigning legalism of truth-telling is condemned on one side for 'denying the victimhood of those who suffer violations outside the traditional purview of civil and political rights' (Turner 2017, 37) and, on another, for imposing a divisive human rights mandate on rituals of memorialization (David 2020). In the end, the idea that 'victims are "produced" by the transitional justice industry' (Madlingozi 2010, 209) is entertained but only insofar as the identity of the *actual victim* is safeguarded but putting production under quotation marks. This article suggests a reading of this hesitation as a sign of conflict unresolved by critical scholars; the intrusive remanent of a referentialist worldview for which the 'notion of victim *represents real people*' (Jacoby 2015, 517, my emphasis).

Of course, there are those who remain acutely aware of the radical discursivity of the politics of naming and avoid to their best capacity the referentialist view (Johnson 2016; Federman 2018; Auchter 2021; Krystalli 2021; Eroukhmanoff and Wedderburn 2022). There are also those who recognize what Levi (2012) terms the grey zone in the context of the Nazi Holocaust: the ambiguities and complexities of certain situations (e.g. death camps) which further complicates the politics of naming (Mihai 2022). This piece argues that only a radical theory of accountability can fully incorporate their precious insights and take anti-foundationalism to its logical conclusions. After all, if 'most people are neither principal perpetrators nor outstanding heroes nor innocent victims' (Mihai 2022, 13) then what are these signifiers really doing? If we accept this assessment, then clearly the work of naming in truth-telling cannot be reduced to the expectations of a referentialist worldview.

In an anti-foundationalist and therefore radical theory, *the act is the claim, the claim is the act*, and no distinction can be reasonably made between these two domains. This is not to deny that suffering was enabled, caused, and experienced. It is equally not to say that we cannot find real people who suffer from the oppression of an unjust order or the intentional harm committed by the actions of individuals. My argument is that victimi-zation, as something inseparable from the domain of the symbolic (victimhood), can only happen, to borrow a Freudian term, via *Nachträglichkeit*, as a belated effect of truth-telling and the management of monstrosity. In other words, the coming into being of victims is indissociable from the inscription of their suffering into the Law (the

recognized language of political order), as unacceptable and culpable violence.[8] It is only at this supplementary point (t^2) – when past suffering is subjected to truth-telling's management of monstrosity – that sufferers become properly victimized and that the very act or complex systems/chain of causality that enabled and facilitated their pain becomes, strictly speaking, a victimizing act.

By no means am I suggesting that the suffering which ICs bring into the light is fanciful or the result of bad faith. I leave that facile argument to far-right provocateurs and their scholarly facilitators. I subscribe to the position that suffering is one of 'the existential grounds of human experience' (Kleinman and Kleinman 1997, 1) and that far from being a private matter, it 'is profoundly social in the sense that it helps constitute the social world' (Kleinman, Das, and Lock 1997, xxiv). I simply disagree with the unmediated association between victimhood and suffering (Catherine 2002). The crucial point is that not all suffering serves as the basis of victimhood and the attribution of culpability (the central pillars of the management of monstrosity). Victimhood is not the condition of sufferers, but of the violated, two categories divided by a symbolic abyss. It is here that, as we shall see in the next section, anti-foundationalism offers a decisive contribution to our understanding of accountability and the links between truth-telling and political change. Only by relinquishing a referentialist worldview can we build a theory of accountability that is radical, in the sense attributed to the term by the tradition of radical democracy (Laclau 2007). Such a theory refuses to accept the management of monstrosity – the focus on wrongdoing that obfuscates the essential wrong which founds a hierarchical community – as a done deal, or as the only way to achieve justice.

What does "accounting for" mean? A Rancièrian-Lacanian view

If we are to conceptualize truth-telling as a process that gives birth to victims and perpetrators via the translation of suffering into violence and its attachment to an object-source, we must take the relationship between subjectivity and truth-telling seriously, down to the micro-level: from the community to the parties in dispute.[9] We must take heed of what Rancière describes as the constitution of political subjectivity in the passage from *phóné* to *logos*; from the mere expression of pain by a voice to the articulation of a claim of wrongful treatment within a moral or legal order. We must follow the kind of anti-foundationalism that defines Lacan's psychoanalytical approach by granting the working of signifiers the epistemological privilege they are due in representational practices (Lacan 2006; Stavrakakis 1999). Instead of seeing truth-telling as embedded in a certain politics of identity/naming, whose ethico-political imperative is to get the names right, we should see it as part of a politics of identification; one in which subjects are not called on to disclose themselves, but conjured as such (victim, perpetrator, collaborator) via the capture of their being by a language and its inscription in a social 'text' (e.g. a report). This section will provide the outlines of what such a vision of accountability would look like.

TJ often claims that the job of ICs is to give victims a voice, to restore their capacity to speak; but from a radical and anti-foundationalist perspective, what truth-telling does is *to give them a place*: sufferers are born *qua* victims once their suffering is *placed* in a language (a chain of signification in which meaning is constituted by oppositional relations) as an intentionally produced, unnecessary and harmful violation of the

promise that holds a community together. In this process, ICs, in particular those investigating atrocious behaviour, must often engage with the figure of monstrous or inhumane acts. My understanding of monstrosity in this article incorporates this ever-present theme but takes Foucault's cue that the word monsters, deriving from the French *montrer* (to show), refers to 'beings or things to be shown' (1988, 70); those who demonstrate a certain wickedness (Haraway 1992). Not all suffering enjoys the same visibility (Kleinman, Das, and Lock 1997; Winter 2012; Auchter 2021). Every instance of accountability seeks to reveal, to shed light, to make something appear and therefore involves decisions of which things or beings will be shown and cast in a particular light as the individual and indivisible sources of defiance, corruption and moral aberrations. It is in this sense that accountability possesses an inherent aesthetical and deeply political nature, in a Rancièrian sense, as the reorganization and partitioning of the perceptible (Lloyd 2019).

A radical theory of accountability departs from the understanding of the aftermath as a linear temporal dimension (the post-conflict) replacing it by the idea of the *after-maths* as a political practice of counting things, making them count and holding them accountable. In *Disagreement* (1995), Rancière, traces what he defines as the arithmetic model of justice (we could equally say accountability) to ancient Greece, where vernacular ideas of justice were mostly concerned with 'preventing individuals who live together from doing each other reciprocal wrongs and with re-establishing the balance of profits and losses whenever they do so' (Rancière 1998, 5). He contends that political philosophy emerged in opposition to this arithmetic of justice, proposing instead a geometrical approach based on social rankings and hierarchies that properly expressed the natural qualities of the parts of the community. Justice and accountability here meant getting what one was due. Admittedly, many things happened between now and the time of the great philosophers, but this sense of accountability as defined by the two poles of an arithmetic act (counting) and a geometric exercise (measuring) has remained. Accountability practices are to these days expected to count the parts of a conflict, measure the amount of suffering caused and deliver justice in proportion, according to what each part is due in the balance sheet of wrongdoing.

How can a radical theory explain the recurrent failures of truth-seeking? Accountability – as an art of counting victims/perpetrators and measuring guilt in order to formalize suffering, that is, to give it a shape and formal status – is doomed to fail. Just as pain evades our capacity to put it into words (Scarry 1987), practices of accountability can never satisfactorily translate suffering in a way that captures its complexity. And this is not a fault of implementation, institutional design or paradigmatic inadequacies. This failure is of a different order altogether. On one hand, the failures of accountability share a certain similarity with the failure of speech itself, which is captured but not completely explored by the concept of the unspeakable. Accountability often needs to articulate unspeakable horrors and traumas that cannot be easily expressed in words let alone explained. But while other approaches regard the unspeakable as a quality of things (referents) a radical theory reads them otherwise: as being made unspeakable by the fractured nature of a particular language; not in the sense of vernacular languages, but of the systems of values and meaning that provide a given community of speaking beings a grounded sense of reality (Lacan 2006). Truth-telling is always embedded in such a language which defines the parameters, fantasies and

expectations held by beings captured in its symbolic field. Fantasies and expectations that, once broken, produce a sense of the traumatic. By enabling speaking beings to make sense of themselves and their surroundings according to values and meanings derived from oppositional relations (such as victim/perpetrator or just/unjust suffering) this language does a profoundly political work. Beyond the naming of the qualities of real people, it truly conjures up, in the Lacanian sense, new and old forms of political subjectivity.

Undeniably, real people experience real suffering. But their suffering takes no part in reality – which for Lacan (2006) is always already entangled in the symbolic – unless subjected to the management of monstrosity. This means that victimization (as an act/claim) and the delineation of wrongdoing are *simultaneous events* which recreate the experience of suffering in a belated effect. The paradigmatic case of the Holocaust, where the crime of genocide was retroactively invented by an act of creative legalism to account for the tremendous and grotesque suffering caused by the Nazi regime (Shklar 1964) is often treated as an exceptional case. The same goes for the cases of post-Vichy France and 1980s Argentina, where the crimes of collaboration and enforced disappearances were also created a posteriori (Nino 1996). But just as Lacan (2000, 2006) found in madness (the psychosis) the key to understanding the workings of 'normal' subjectivity, we can extract from these extremes a deeper truth about responses to violence. There can be no account of perpetrators and victims without a delimitation of wrongfulness; that is, without the attachment of suffering experienced and caused to an object-source and its inscription in reality as unacceptable and culpable violence. And there can be no account of wrong without the appearance of opposite forms of subjectivity defined alongside the axis of suffering and culpability.

Can truth-telling ever get the names of victims and perpetrators right? The practice of accountability can never reach a consensus as to the figures regarding violence-based identities. But this failure is what makes truth-telling political by opening the space for dissent: the refusal to accept the balance sheet. For Rancière, '[p]olitics arises from a count of community "parts", which is always [. . .] a miscount' (Rancière 1998, 6). The usual complaints that parts of a conflict (victims, perpetrators, collaborators) were left uncounted only testify to the radical political nature of the after-maths; an exercise that in attempting to close the books inadvertently and ostentatiously exposes the fundamental miscount which supports a given political order. Accountability fails again and again: it fails to name all monsters, demonstrate their monstrosity, [10] remember all the suffering experienced[11] and fails to get everyone on board.[12] And it is this unescapable failure that ruptures the fantasy of a just society at the very moment it is being promoted, opening the space for the conjuration of new forms of political subjectivity through the articulation of forgotten experiences of suffering as unacceptable and culpable violence.

This forgotten suffering poses to truth-telling the same inconvenience that Rancière attributed to the existence of the *demos*; the part of those who have no part in the balance sheet of wrongdoing. For him, '[i]t is through the existence of this part [. . .] of this nothing that is all, that the community exists as a political community – that is, as divided by a fundamental dispute [. . .] to do with the counting of the community's parts even more than of their "rights"' (Rancière 1998, 9). In the urge to close the books, this radical inconvenience is regularly

written off by a double count that creates a stabilizing fiction: the forced equiva-lence *between the parts of a community and its whole*; between the forgotten sufferers and those who wish their role in causing and enabling suffering would rather be forgotten. In the context of truth-telling, this part goes by the name of society – which, as a supplement for the *demos*, claims a quality it does not possess (innocence or guilt). We can see attempts at controlling the radical potentiality of the *demos* by conflating this part with the whole as in the fantasies of the victim society and collective trauma (we have all suffered equally) or in their opposite fantasy of collective guilt (we are all responsible). In both fantasies, wrongdoing comes to replace the awareness of the fundamental wrong supporting a political community: the Rancièrian category of the *blaberon* or *tort*, or the fracture that reveals the community's lack of identity with itself.[13]

So, can truth-telling provide a space for political transformation? Indeed, it can, at times unintentionally and irremediably, even when the goal is to produce consensus. The management of monstrosity – supposed to demonstrate the sources of suffering – can only ever demonstrate an impossibility: that the books refuse to close, even though we keep on adding more figures (victims, perpetrators, business elites); that 'society' will never match the image of a reconciled polis projected on the mirror (imaginary) by truth-telling. But this outcome of spectacular failure is not taken for granted. It requires an active form of resistance, the kind beautifully captured by the refusal of a section of the Madres de Plaza de Mayo to accept the deaths of their children during the dictatorship (*aparición con vida*) and later reject the total sum of victims in CONADEP's report (Crenzel 2015). We must follow in their footsteps and make sure that struggles for accountability remain incomplete, split between the anti-impunity imperative and the exposure of an injustice 'that escapes the arithmetic of exchange and reparation' (Rancière 1998, 11).

Conclusion

This article analysed explanations for the failure of truth-telling in TJ, demonstrating their inadequacy to grasp the relationship between practices of accountability (such as ICs) and political change. The article proposed the outlines of a radical theory of accountability which reads truth-telling as immersed in struggles to politicize suffering, to put it into words and give it a place within the symbolic order. According to this theory, accountability is doomed to fail to satisfactorily translate suffering and to manage monstrosity (producing a figure of victims and perpetrators) that is consensually received. However, we must not lose sight of the fact that it is thanks to this failure that something called politics exists. This paper argues, hence, that ICs can only become spaces of transformative change if their professed duty to remember the past is matched with a certain *duty to fail*. I do not mean by this that truth-tellers should adopt a practice of reflexivity and remain attuned to their own limitations. What I mean is that any attempts at reaching a consensual closure, of closing the books and turning the page of the past, must be resisted. The struggle for accountability must be made to remain, like our future, open-ended.

Notes

1. This article makes no distinction between truth and investigative commissions for reasons later clarified.
2. See, for example, Kojo Koram's op-ed for the Guardian 'Britain needs a truth and reconciliation commission, not another racism inquiry' dated 16 June 2020.
3. In this article, truth-seeking and truth-telling are used interchangeably to denote the practices whereby past wrongdoing is investigated by agents of the state or working on behalf of the state (through archival research, forensic procedures or the collection of testimony) and findings are reported through official communications.
4. The International Center for Transitional Justice (ICTJ), the Centre for the Study of Violence and Reconciliation (CSVR) in South Africa, the Centre of Social Legal Studies (CELS) in Argentina and the Institute of Religion Studies (ISER) in Brazil are but a few examples.
5. For a recent review of this literature see Kochanski (2020).
6. This critique resonates with Alan Norrie's critique of the abstract individualism that structures not only TJ practices but the whole western criminal law tradition (Norrie 2017).
7. For a similar reading of the pre-history of ICs as technologies of veridiction see Fletcher and Weinstein (2002, 2014).
8. My idea of the management of monstrosity is similar to Claudia Car's theory of evil as 'foreseeable intolerable harms produced by culpable wrongdoing' (Card 2002, 3), but does not focus on the concept of evil (only tangentially touched) and incorporates a psychoanalytically inspired distinction between suffering and violence, inspired by Andreja Zevnik's work on anxiety (Zevnik 2017). This will be explained in the third section.
9. For a similar albeit theoretically distinct perspective see Bilbija and Payne (2011).
10. We must only remember Arendt's famous account of Eichmann as a *man of no account* (Arendt 1964) and Levi's words of caution about the SS: 'they were average human beings, averaged intelligent, averaged wicked: save for exceptions, they were not monsters, they had our faces' (Levi 2012, 169).
11. See, e.g. the exclusion of the plight of the Mapuche from truth-telling in Chile (Jara et al. 2018) and the accusation that the Brazilian truth commission produced a hierarchy of victims privileged the suffering inflicted in urban settings to that experienced in the countryside by indigenous and peasant communities (Furtado 2022).
12. See the classic example of the Kulumani group in South Africa (Madlingozi 2010).
13. Unfortunately, the gap between wrongdoing and wrong (*blaberon, tort*) cannot be truly grasped by recourse to concepts such as structural violence or systemic criminality (Nollkaemper and van der Wilt 2009). While these promising ideas grant wrongdoing an iterable dimension (e.g. either as a legacy of previous governments or a culture that informs recurrent behaviour) they often fail to address the problems highlighted by a radical theory of accountability.

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Disclosure statement

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