



Sue Williamson, *Cold Turkey: Stories of Truth and Reconciliation* (Poison Victims).

Traumatizing the Truth Commission: Amnesty, Performativity, Intentionalist Teleology and the Event¹

Allen Feldman | New York University

Abstract:

This essay identifies the traumatropes inherent in South Africa's transitional justice project and perhaps many others that impeded the development of a critique of violence. Thus, in contrast to focusing on the traumatization of the victims of gross human rights violations, my concern is with the self-traumatization of the TRC by the TRC through what it condemned to unrepresentability and exteriority. I problematize the measurement of violence based on an intentionalist teleology founded on "just war" and "political motivation" that eventually proved incapable of depicting and addressing the racialization of state violence at the core of the latter's counterinsurgency project. This essay is not one more grading of what transitional justice failed to do in South Africa or elsewhere, rather I propose that the use of certain criteria for measuring violence in South African amnesty adjudications in tandem with the silent abandonment of other mandated ratios opened up a larger problematic: the relation between political program as performative pro-duction (bringing forth) and a demediatization in which violence does not operate as a subjacent interwoven vehicle of political intentionality and ideological-historical actualization.

“Say bones. No bones but say bones. Say ground. No ground but say ground.”

—Samuel Beckett, *Worstword Ho*

Transitional Justice and the Critique of Violence

Due to its commitment to legal realism and the ad hoc therapeutics of “the talking cure” what was the capacity of the South African Truth and Reconciliation Commission (TRC) to approach both the infliction and receipt of terror and violence as an organized continuum of meaning and identity, and not simply as a sequence of politically expedient or irrational or amoral acts that could be dismissed once publicized and condemned? Debates on these different interpretations were waged in public fora and associated with particular political parties and their respective strategies of remembrance and chosen historiography. Thus, the National Party that had presided over apartheid and its counterinsurgency and its supporters in the army and police depicted operatives of the state apparatus who perpetrated human rights violations as “aberrant”; their exposure would restore the integrity of the security forces, who had crusaded against imported communism, while conveniently ensuring continued moral and political deniability for politicians and the upper command structures of the police and army who had mandated the use of specific tactics from disappearance and assassination to torture. For much of the South African media, and significant portion of the white public “gross violations of human rights” in state violence did not originate in the state apparatus nor in the economic culture of racism, but rather in the behavioral and moral pathology of individual perpetrators—“bad apples,” as former General Magnus Malan put it under questioning by the TRC in October 1997 in Cape Town.² Bad apples were both psychologically and ideologically deviant or otherwise incompetent. Even so many “bad apples” were indemnified by the TRC because they claimed “political motivation” and *jus ad bellum* for their actions. Some, like police torturer Jeffrey Benzien, were posed as “traumatized” by their security work in interrogation, which, in turn, accounted for their human rights violations (including torture, among other practices). Moreover, the psychologized confessional tendencies of the TRC’s model of witnessing itself reinforced such medicalizing, psychologizing, and individualizing interpretations of state-enacted atrocities. The “bad apples” who appeared before the TRC amnesty judges and who were stigmatized as personifications of traumatic and aberrant violence represented a second relatively occluded traumatic kernel: the unrepresentability of the racist, excessive, and aberrant violence of the state apparatus itself over and against the normalizing framework of political motivation.³

Nation-building projects, reconciliation processes and movements for social justice are energized by what can be called “traumatropism.” In this the TRC was no exception: it both responded to and crafted traumatropology.⁴ “Traumatropism” is a term I have analogized from botany, where it is defined as the reactive curvature of a plant or an organism resulting from a prior-inflicted wound. Single communities and entire societies can reorganize their identities, histories and projects around the curvature of a chosen prior historical wounding; this would be

EMISFÉRICA

a politically constructed traumatropism. Traumatropes are formations of memory that can cohere into formations of domination: institutional agendas, rules, and prohibitions. Traumatropes are eventually prescriptive and indicate a point of historical stasis, a punctuation beyond which a society refuses to narrate itself.

Dominick LaCapra theorizes trauma as a privation and breakdown experience that is “radically decontextualizing and disempowering” and as an unreadable aporia that resists meaning but which poses the question of how it is to be worked through (2009, 22-23; 39-42; 59-89). Though he rejects the equation of trauma with the sublime, he implicitly asserts that historical trauma, as negativity, privation, and absence cannot be politically generative or constitutive. Rather trauma is consigned to a limit that bars society from historical transformation, understood as a non-repetition that transcends the iterative and intractable traumatic. This formulation refracts a certain metaphysics that dissociates repetition in history from the idea of progress.

In contrast to LaCapra I contend traumatropism is not worked through by something outside of itself such as narration, testimony, or therapeutics but is already a working through of a political aisthesis. It is a force of historiographic departure and propulsion that enables ethico-political periodizations through its interruption and interpositional. LaCapra’s analysis does not recognize that the botanical model of traumatropism can be refigured to detach the traumatic from its reduction to moralistic discourses on confession and witnessing, fraught intersubjective encounter, and mnemonic paralysis. LaCapra’s formulation does not allow for the political production and/or exploitation of traumatropes by the state as fashioning a political aisthesis of witnessing, truth telling, fact setting, and experiential certification. He thus conserves much of the canonical conceptual topology of the traumatic in the humanities, which is an attempted naming, redressing, healing, and mourning of historical negativity in surrogating forms. The metaphor/diagnosis of traumatization has become a neo-Fukuyama philosophy of history that colonizes the political with a calculated tropological inventory of terminal history. The discourse and study of trauma becomes an act of traumatic repetition in and of itself that misses the Real as a politically constructed and politically efficacious inadmissibility.

I propose a concept of traumatropism as a performative intervention, traversing discourse and significant violence that installs a historically situated limit-experience as hollowed-out space around which a polity is re-centered. The traumatrope is the detotalization/retotalization of a given social field, its re-segmentation and even sacrificial partitioning that excludes anything that cannot be emplaced within the tropological archive upon which the presentation of the traumatrope as a truth-claim is dependent. I share LaCapra’s concern that a transcendental and transhistorical model of trauma brackets the possibility of the historicity of history, but in my view historicity can be engaged by witnessing traumatropism, not as an existential *cul-de-sac*, but as a political technology that produces ontologies, norms of description, time signatures and humanitarian anthropologies. As discussed in this essay, the politicization, militarization, legalization, sacralization, and aestheticization of the traumatic can be engaged as a practice of statist power and not only as a cognitive paralysis in the face of historical experience. To

appreciate the traumatrope as generating political aisthesis we can turn to the political culture that was rapidly organized around the 9/11 attacks in New York elevating the latter as a deciding-decisive event, (and in doing so exiling substantive swathes of history to the terrain of the nonevent, or at least the indecisive event). Traumatropism turned ground zero into a magnetized, innervated, pathogenic and homeopathic space that ballistically affected other regions at a distance remaking the latter into metonymized terrains of death. Consider the drone planes now deployed in Afghanistan and Pakistan as part of this tropological apparatus; irrespective of the history of their technological development these sovereignty machines of capital punishment are traumatropic reenactments and prostheses of the aerial attack on the World Trade Center that was orientalized by the state and the media as being piloted by “roboticized religious fanatics.” Here traumatic repetition becomes technical repetition as an apparatus of war.

This essay responds to these issues by identifying the traumatropes inherent in South Africa’s transitional justice project, and perhaps in many others, that impeded the development of a critique of violence as part of transitional justice. Thus in contrast to focusing on the traumatization of the victims of gross human rights violations, my concern is with the self-traumatization of the TRC by the TRC through what it condemned to unrepresentability and exteriority. I am concerned with how the TRC’s amnesty hearings measured violence based on an *intentionalist continuity* founded on “just war” and “political motivation,” that commensurated the various state and anti-state political programs, and proved incapable of ethically critiquing patently unjust, instrumentally dysfunctional acts of excessive violence legitimated by just war, particularly *the racing of violence*. This essay is not one more grading of what transitional justice failed to do in South Africa or elsewhere. Rather I propose that the use of certain criteria for measuring violence in amnesty adjudications, in tandem with the silent abandonment of other mandated ratios, opened up a larger problematic: the relation between political program as performative pro-duction (a bringing forth) to the event of de-mediatization in which violence does not “bring forth” as claimed, nor operate as a subjacent interwoven vehicle of political intentionality and historical actualization. De-mediatization of violence, previously cast as a means to a justified end, is not the depoliticization of this violence. Rather it requires a rethinking of the ethicality of force. Thus paradoxically the TRC’s amnesty protocol can be read against the humanitarian grain to advance a critical theorization of political violence within a philosophy of media. I explore this disconnection between the origin, the mediate, and the teleological in reference to Michel Foucault’s discussion of *parrhesia* (truth-telling) as a performed anti-teleological interruptive event, and in reference to Jacques Derrida’s initial polarization of performativity and the singular event, a binary that he ultimately complicates by bringing the two forms together in his thought-experiment, the “event machine.” In this essay both the apartheid state’s counterinsurgency project and the TRC’s amnesty protocol are read as event machines that performatively bracketed the surplus immanence in the execution of instrumental violence and in the indemnification of such violence. I am not claiming that

excessive and racialized violence was not testified to or documented in TRC fora. Rather I delimit the grid of juridical intelligibility to which such accounts were subject, particularly when given in amnesty hearings. Irrespective of the specificity of horrific testimony and mnemonic scarification, the TRC constructed a closed moral subject of violence and of just war through its amnesty protocol.³

By relating the critique of violence to the critique of intentionalist teleology I engage the becoming-event of the mediate, defined here as the unbidden incursion of an inadmissible immanence in the mediacy of violence, an incursion initially foreclosed by the normativity of just war and its requirement of teleological force. This significative excess emerges as the detachment of the medium of violence from the formalized ratio of origins and ends and the correlative infinitization of force. What is at stake here is the relation of two mediatic forms, transitional justice and violence, to historicity. The critique of violence requires a media ethics. I do not mean by this a critique of how the consciousness industry depicts and circulates violence while simultaneously placing itself outside of the subjugating force of its mode of circulation; the public media sphere per se can not engender an ethics of violence for itself or for another, as that ethics would entail an inceptual demediatization of media by media prior to any ethical reversioning. Rather by media ethics I refer to the critique of the political presentation of violence as media: as utensil meant to install a sequence of closure, the production of a terminal threshold, finality, or border. I contend that ideologically mobilized force produces an overflow of effects and signifiers, this is a hyper-performance that cannot be folded back into political purposiveness; such demediatized violence presents as a purposiveness without purpose. Violence that moves through a closed circle of antagonistics, as the substance of exchange and equivalence (between act and discourse or act and act) ruptures that circle, engendering material leakage that is unexchangeable, unequivocal, and incommensurable as the after-math and after-image of such antagonistics. Materiality once altered and othered by the incision of violence experientially breaches ideological and utilitarian circumscriptions thereby dislocating violence as the means to the historically determinate. Violence is here theorized as producing a situated and relational *transcendental materiality* generated by what is politically inadmissible in or from that violence. Teleological violence is the fractured vertiginous staging ground for those immediacies that refuse mediation and anti-finalities that cannot be terminated. This relational and subtractive materiality is the ungrounded and ideologically jettisoned surplus that, in exceeding the entrenched thresholds of antagonistics, provisions an ethical standpoint onto recursive violence as agonal exchange. From this framework I will contend that the TRC used amnesty protocols to constitute a closed system of antagonistics predicated on commensurated political bona fides that were poised against the breach threatened by the oncoming void of a decircumscribed and ultimately racialized violence as surplus immanence, as a means without end.

Measuring Forgiveness

Amnesty hearings were the most controversial of the activities of the South African TRC. They were structured as modified adversarial adjudications in which the burden of proof rested with the applicant. The core criteria applicants had to meet were (1) full disclosure of the human rights violation for which indemnity was requested; (2) demonstrated political motivation for the act that included following the orders of a command structure; and (3) proportionality, that is, the moral ratio between utilitarian and ideologically mandated political goals and the violent methods used to realize those goals.⁵ These were based on the principles of Danish jurist Carl Norgaard who had developed the latter in reference to the change of regimes in Namibia. The criteria of proportionality attempted a Kantian commensuration of justifiable and unjustifiable means in relation to justified yet partisan ends. Measures applied to proportionality invariably come into conflict with acts of violence overdetermined and excused by arguments for just war and cannot be constrained to the critique of means but potentially reframe the justice of those ends.⁶ However, in also recognizing political motivations for violence as excusable, the TRC could not bring proportionality to bear on the tactical decisions of such organizations without also exposing them as lacking in bona fides or coherence in their pursuit of political agendas through violence and thereby placing reconciliation at risk or at best requiring its reformulation.⁷ This skewed the assignment of disproportionate violence towards individual actors whose actions were allegedly morally or behaviorally disconnected from their political structures.

What is not discussed in the legal literature on the proportionality standard was that its application could have potentially recuperated the racialized imaginaries and racially inflected socio-economic historical conditions that informed and patterned many of the atrocities committed by the state's security apparatus—apartheid may have been condemned as a racially exploitative economic apparatus by the TRC commissioners but counter-insurgency as a systematically racist practice in its form and objects of terror was rarely discussed in public. In contrast the TRC's legal recognition of equivalential political motivation, though it legitimated armed insurgency against the apartheid state, effectively indemnified the state's ideological rationale of fighting global communism through the use of terror against communities of color.



Poster created by the South African Student Press Union. The poster alludes to the brutal killings of four men by the local police in Eastern Cape on June 27 1983.

Image: Posterbook Collective of SAHA

In the actual amnesty process the ‘securocrats’ of the former government were indemnified by demonstrating only the criteria of full disclosure and political motivation. Where political motivation had been demonstrated, few applications were denied for failing to meet the proportionality criterion. The amnesty adjudication of four of the five killers of Steve Biko indicates a transitional moment and significant ambivalence concerning the proportionality criterion and race as a factor in state violence. The rare application of proportionality in the Biko killing may have been due largely to the deceased’s international standing and the notoriety of his death in custody. The amnesty application of the killers was essentially denied on the grounds of their failing to demonstrate political motivation and proportionality particularly in their medical neglect of Biko that led to his death after they had severely beaten him and in failing to disclose the full facts of his ill treatment. In effect, Biko’s torture-interrogation was seen as beginning in political motivation but then derailed into personalized punishment and post-torture medical neglect that could not be politically justified (TRC Amnesty Commission 1999). Biko, in spite of the injuries incurred during his beating, was driven more than 500 miles across the country, lying naked and shackled in the back of a police van and died on the way. This was considered by the amnesty judges to be disproportionate violence in relation to declared political motivation. The commission also stated that if the manner of his death was accidental (as the applicants claimed) it could not be attributed to a political rationale and was “wholly disproportionate to any possible objective pursued by applicants, particularly the stated one of extracting information or admissions from Biko” (Ibid). The judges concluded that the police were in fact motivated by “ill-will and spite” as they reacted to Biko’s “arrogant, recalcitrant and non-cooperative attitude, particularly exemplified by his occupying a chair without their permission to do so...” Missing here would be the American racist term “uppity” applied to a person of color as a provocation to violence; rather the judges deracialized the killer’s rhetoricized over-reaction to Biko’s resistance posture, attributing it to bad temper (and in doing so displayed their ignorance of interrogation/torture techniques). Here the judges divorced the individual from the subject in the space of torture by which both Biko and his killers were artificially detached from institutionalized racial interpellation that can authorize and frame such non-instrumental violence. Proportionality appears here as the moral prioritization of a means/ends ratio requiring that the execution of violence in political conflict be a series of ethico-procedural experiments in the achievement of balance in contrast to the ‘experimental failure’ of Biko’s interrogation.

It is counterintuitive to accept as transitional justice rulings that recognized the disproportionate in Biko’s “medical neglect,” but located principles of ideological adequacy, necessity and proportionality in calibrated beating and torture in this and many other cases, and that also, on numerous occasions, reduced such ill-treatment to personal idiosyncrasy.

EMISFÉRICA

Can this division between the political and non-political, the institutional and the individual, be upheld? What is the import of sublimating disproportionate violence under the liminality of *lack of* “political motivation”? One of the senior evidence leaders of the TRC’s amnesty investigations had told me that proportionality had been unofficially dropped as a criterion for denying amnesty by the time of the Biko hearings, especially when political motivation was demonstrated.⁸ In other words, both the application of proportionality and its abandonment were too scandalous for an organization that defined itself by transparency and truth telling. Many TRC evidence leaders (prosecutors) had attempted to demonstrate lack of proportionality in amnesty hearings to no avail, and this was borne out by the granting of amnesty in cases in which political motivation was demonstrated but the proportionality of the violence deployed in relation to mandated political agendas was clearly not evident.⁹



Official poster of the Truth and Reconciliation Commission in South Africa.

Image: Posterbook Collective of SAHA

One such case in which TRC lawyers and judges evaded the issue of proportionality was the Heidelberg Bar massacre on New Year’s eve 1993 by the Azanian People’s Liberation Army (APLA), the military wing of the Pan Africanist Congress (PAC) in which applicants were granted amnesty under the criteria of political motivation and disclosure. The Heidelberg Tavern was popular with students from the nearby University of Cape Town and attracted a multi-racial clientele. Based on intelligence provided by their commanders that the Heidelberg was also a drinking spot for the security forces in mufti a cadre of the APLA sprayed indiscriminate automatic weapon fire into the crowded bar. Four people were killed and five others wounded; the casualties had no clear connection with the security forces. Upon withdrawing from the bar the cadre turned and sprayed bullets at the balcony of another bar and restaurant across the street packed with drinkers. That bar had *not* been identified as a haven for security forces. The indiscriminate killing and wounding of civilians in the Heidelberg and attempted murder at another establishment not targeted in the original mission plan should have been viewed as disproportionate violence. Even straight forward anti-apartheid political motivation was contestable here as the Heidelberg attack occurred three

EMISFÉRICA

months before the scheduled elections that were part of the negotiated settlement between the ANC and the state that formally ended apartheid, and was most likely meant to subvert these elections by escalating racial tensions.



Sue Williamson, Truth Games series, “Capt Benzien Demonstrates the ‘Wet Bag’ Torture Method,” 1998. Mixed media. The work refers to the torture practices of police captain Jeffrey Benzien.

Image: artthrob.com

By dropping proportionality, the ethically-neutered rationale of political motivation was transformed into a parody of Malcolm X’s “by any means necessary.” The performativity of indemnified political violence was posited as the bona fide continuation of mandated political agendas. There was little public discussion of the proportionality issue by the TRC other than a few workshops on the principle of justice in war in contrast to the principle of just war, none of which mentioned the dropping of the proportionality criteria. Further, under the political motivation criterion the concept of responsibility was pushed onto the shoulders of amnesty applicants and lifted off the political command structures consequently producing the figure of “the bad apple,” whose violence was politically unmotivated and/or psychologically pathological. This would account for the fact that a good many of the state’s amnesty applicants were careful not to implicate higher echelon command structures in their actions that could have placed the bona fides of commanders under scrutiny by disclosing the lack of discrete political motivation and strategic measure in the tactical planning of sheer terror, assassination, and torture. In the case of torture, as the infamous amnesty hearings of police officer Jeffrey Benzien demonstrated, the TRC proved particularly inept at detecting the institutionalized policies and practices that had mandated and routinized torture preferring to hold “bad apples” like Benzien accountable. Benzien claimed he had not received any instructions to torture and had invented and self-initiated his techniques of torture which included what is now known as water boarding. His commanding officer who claimed ignorance of Benzien’s actions had an office adjacent to the interrogation room where Benzien operated. These omissions extended the structural deniability that had previously

been embedded in the planning of state violence. Therefore, by selectively giving evidence, the so called “bad apples” performed their ongoing institutional loyalty and ideological diligence that had also characterized their human rights violations. In cases in which political motivation was not demonstrated, a normative void framed the act of violence at issue. In the political culture of the state where contestation of the apartheid order was seen as advancing a global communist conspiracy, the project to indemnify violence based on political motivation assumed a decidedly phantasmatic contour.¹⁰

Parrhesia, the Touchstone, and the Betrayal of Bios

In reducing amnesty to political motivation (intentionality) and full disclosure, was the TRC setting the criteria for its own ultimate politico-ethical indemnification before the res publica of South Africa and the purview of transnational human rights consensus? The TRC acted as if all parties in the conflict originated in a pre-existing liberal consensus (hegemonic outside of the country and belatedly represented by the TRC itself) and had then deviated from this norm for which they owed an apology and an amnesty application in order to return to the liberal contractual order. This was the logic in part imposed by negotiated settlement that had instituted the truth commission. In morally and juridically detaching the counterinsurgency waged in defense of apartheid from the structural violence of the racialized economy itself the TRC did little to explore how the material violence and violent ideologies of the racial economy had contributed to the etiology of state violence through material practices that were required to underwrite the threatened laws and rule of racialized labor and production. Could an ethical and historical boundary be maintained between apartheid’s spatio-economic practices of psychic and bodily subjugation and its ways of policing and making war? Could war and policing be treated as having no transformative effect on how economic-spatial apartheid was administered?¹¹

Foucault has theorized that the political, including political economy, is war by other means and identified this logic as originating in racially polarized social formations (Foucault 2003). The predicating and predicated violence of the state and its agents was never explicitly interrogated by the TRC for what light it could shed on the organizational mentalities and subject making practices of economic apartheid as a war machine in itself. This opens, not the ethical question of means and ends, but rather the question of what autonomous political means does it take to impose and support subjugating economic media. Separating the violence of political economy from the political economy of violence historically and ethically divorced the limitless movement of capital under apartheid from the correlative infinitization of its violence against persons of color as the striated substance of this self-moving circulatory apparatus.¹² I have analyzed elsewhere how regimes of labor discipline in colonial and post-colonial South Africa deployed the body of color as an interchangeable economic and fetishized substance, the worked-upon body of color was the substrate for the interior chain of signifiers that constituted a racialized economimesis. With the emerging threat posed to

capitalist labor discipline by the struggle institutions economimesis evolved into a counterinsurgency theater of structural nostalgia that restaged subjugated bodies of color through pain and disfigurement. In this theater the now threatened political economy was violently reenacted through the allegorical re-inscription of labor discipline onto the recalcitrant black body, both individual and collective. I do not seek to pose racism as the reductive truth about the violence of the apartheid state but to stress that like the infinite productivity of apartheid capitalism, which entailed the capitalization of race and the racialization of capital, state terror was as committed to the (re)production of racial subjects as it was to securing the economy of racial exploitation.¹³

Did the truth commissioners and amnesty adjudicators—comprised of human rights activists, judges, lawyers, clerics, social workers, psychologists, historians etc. —not know that race significantly structured the lack of “measured” violence inflicted by the state on its opponents? That is hardly credible, given their credentials and professional-political biographies. Rather, we are confronted by contradiction, indeterminacy, and discontinuity between competence (knowledge) and performance: the silence on the state’s racialized violence, in short, was predicated on knowledge of the truth. The TRC in effect “passes for the thing itself, ceases to represent it so as to replace it by destroying it, and becomes itself both the only archiving archive and the archived event” (Derrida 2002, 64). This would mean that amnesty performed the deracialization of state violence as a means to “reconciliation.” What was at stake here was not limited to the procedural integrity of the TRC but impinged on the entire ethico-politico-historiographic project of fashioning democracy and a “culture of human rights” out of the compromised institutions of apartheid and the ANC’s negotiated settlement with those edifices.

Foucault identifies the performativity of truth telling, frank speech, as the singularized production of a *parrhesia*, the subject-constituting practice of speaking truth and the dramaturgy of that performance that refracted a *bios*, the relation between rational discourse, the *logos*, and a form of life; this *ratio* is described as *basanos* or “touchstone” that measures the rapport between a person’s life and its principle of intelligibility. Parrhesia as refracted bios is irreducible to constative and performative utterances, which in different ways can effectuate outcomes according to pre-existing conventions and agreements. Rather *parrhesia* may or may not bring about political change by naming the ethical void denied by a situation, but it does generate a truth-telling subject from a *bios* under ordeal producing an open situation of unknown effects and possibilities—*parrhesia* can be the igniting of the irruptive event to which the subject binds itself even at the risk of life (Foucault 2010, 62). The TRC’s silent suppression of the criteria of disproportionate violence eliminated the *bios* of experienced racism as a touchstone of its truth-telling practice in contrast to what may have been attested by many witnesses in amnesty hearings or in human rights violations hearings where indemnification was not directly at issue. The silence around the disproportional separated both amnesty policy and adjudications from the *bios* of those commissioners and judges who had been mandated by

their own witnessing of racial subjugation, constitutional legislation, funding and oath taking to perform parrhesia, to speak the truth about apartheid and to enable and witness such truth speaking by others.

The concept of *basanos* (touchstone) entails norms of fidelity, credibility and commensuration that underwrite parrhesia as a test or an ordeal. Page du Bois traces the semantic mutation of the concept of touchstone in Hellenic law, philosophy, literature and theater to the point where it coincides with the use of violence in political *agon* and juridical torture to differentiate the counterfeit from the true. Foucault does not speak of this relation to violence but states that the *basanos* enables the assessment of the *reality* of what is to be tested as a concordance or *homologia*, traversing a form of life (*bios*), the discourse that stakes claims and the reality that is claimed. The TRC's indemnification protocol based on a confessional concordance between violence and ideology is predicated on this principal of *homologia* effectively reducing one to the other-- thus, the centrality of intentionalist continuity, political motivation, as the medium of *homologia*. However if, as in 5th century Greece, moralized violence itself becomes *the touchstone*, *the* medium of accrediting truth and of testing the counterfeit, then what can stand as the touchstone to the touchstone of nomothetic violence—what decides its truth and/or identifies what it counterfeits? Since slaves were ubiquitously represented as the tortured in Athenian democracy, torture as touchstone required the slave as subjugated difference who was beyond veridiction except under the witness of pain; this skewed the cultural production of truth in that society as the production of law from a violently discarded exteriority.¹⁴ As the *basanos* became more proximate to violence in law, formal *agon*, theater and politics, Hellenic tragedy expressed this change through the co-mingling of the true and the counterfeit in the violence and the speech of tragedy's protagonists. The self-subverting performance of truth telling that is foregrounded in tragic theater dramatized the paradox that any violence which claims to test and to make historical truth through an ordeal is itself subject to a double bind, for in its appeal to the ultimacy of its instrumentalized material grounding, violence denies the vocation and efficacy of the *basanos* to any other *tekhné*, device or practice. Violence becomes the touchstone that counterfeits itself as touchstone by withdrawing from purview, the validity and intelligibility of any other *criterion*—no political, legal or religious institution “tortured” the practice of torture to extract its truth in 5th century Athens. The touchstone of violence prevails only by repressing a counter-touchstone, by being blind to the contamination inherent in its claim to set purity, to get to the bottom of things, to achieve the foundational through fear and pain which invariably entails counterfeiting an evidentiary body and voice and their legibility. The *aporia* of the touchstone is the *aporia* of the medium—of what mediates mediation and whether truth or the counterfeit or both reside in the medium as Plato examined in his critique of the mimesis of writing as a toxin and cure for memory.

The Ethics of the Immeasurable

EMISFÉRICA

Norgaard principles seek justice through calculability, advancing a realizable commensuration between justice and the means of war and the assertion that there is a measure for violence, be that political motivation or proportionality, which can adjudicate the unjust. These commensurations installed a nonantagonistic ground for antagonism and its measurement. Antagonism ceased to be constitutive of the social, but rather a liberal social order was conceived upon the moral priority of continuity and/or proportion between word and deed, ideology and violence, to which antagonism was to be submitted. The TRC's moralization of politically motivated violence prescribed a prolonged continuist parallelism between ideology and violence which mandated the self-grounding of discourse in violence and of violence in discourse as the touchstone upon which acts, subjects and bodies were to be tested and judged in the forum of transitional justice. Political motivation established the reversibility between violence and discourse across political antagonisms as a closed circularity of presence that became the sub-stance of transitional justice.

The moralization of balance or proportionality can be traced back to premodern theological polities based on transcendental foundations that were rejected by democracy as a self-instituting immanent politics. Once secularized, the political principle of balance had to be mined from the internal relations of force, opposition, and mediation. The paradox inherent in this is that in Norgaardian justice balance becomes the touchstone of violence and proportionate violence the touchstone of amnesty as a post-violent installation of balance; their relation is structured by harmony as an emblem of the good—here the relation between harmony and homology bears consideration. Government by checks and balances regulates flows and circulation, in transitional justice this would be to measure and regulate the flow and circulation of force, damage, destruction as they intersect with ratios of discourse and action. Balance is posited as internal self regulation, yet balance produces itself by constituting an excess exteriority to be balanced, there is a politics of the surplus that is presumably outside law, justice and polity. Imbalanced political violence is a praxis and politics that over-performs and over-reaches beyond the constituted limits of the political-- it is a self-instituting violence and politics.¹⁵ Proportionality, in contrast, suppresses the political as excess; it is government by the geometry, symmetry and proportionality of the middle place as an Archimedean point of centration. There is a spatial and structural homology between this government from a harmonizing center and the proscenium dramaturgy of the truth commission that stages a literal topology of the middle place where political actors appear in order to generate their reconciliation, their harmonization at a central locus of originating justice.

This immanence of balance is predicated on a morality of sufficiency that engages the question of how and when violence is sufficient in the absence of transcendental judgment. Is sufficient violence identical with the completion of ends, with the appropriation of the essence of the end as the unity of the finite (the means, medium, and mediacy) with the infinite as the on-going permanence and closure of the end (without which it cannot be a sustainable point of sufficiency)? Violence construed as medium contains the means of its own abolition for the appearance of the end is correspondingly the disappearance and finitude of the mediate in the

EMISFÉRICA

entelechy of sufficiency. What then takes place, what positions are appropriated, when violence exceeds the sufficiency of means and ends as a superfluity, as over-actualization, over-performance and “over-kill”? What then is the insufficiency of the paradigm of sufficiency as applied to the political? Is there a legible history of sufficiency, or only that of its lack—what is called “politics” as the concentrate and sphere of the insufficient?

Under Norgaard protocols violence either carries, transports, circulates and materializes the sense of the prescriptive program or it does not. Now that which conveys sense—that is constitutive of sense—is inherently sense-less in itself, for it does not belong to the field that it makes possible; the medium *presents* but in itself mediacy is not represented. When viewed as detached from the imputed intentionality and sufficiency of political program ex-mediate violence becomes non-sense, irrational, imbalanced, and thus non-indemnifiable. Norgaardian amnesty as a means to justice seeks to forestall a fall into such historical senselessness, as justice requires reason to be inherent in history. The Norgaardian measure of the proportional is haunted and dislocated by the real prospect that acts of violence can be in excess of the political field they structure and enclose, rendering such violence a political force beyond what has been institutionalized and performed as the political.

The TRC, despite dropping disproportionality, salvaged this Norgaardian relation between history and reason by anchoring amnesty to demonstrated political motivation and the transparency of full disclosure, which guarded against the fall into the inchoate, the latter was assigned to the individualized, depoliticized, and psycho-pathologized perpetrator by the TRC and a significant section of South African media.¹⁶ Amnesty rendered a negative periodization of human rights violations coherent and serviceable for a reconstructed South African polity and its post-conflict periodization; state violence rendered transparent and amnestied became a sublimated landmark in the trajectory of historical progress and national reconciliation. Amnesty was a key inception point for the museumification of apartheid, but that conservation required a certain aesthetics of exhibition as regards violence that, like many aestheticizing gestures, banished the disproportionate.

The ethical coupling of the proportionate and disproportionate must acknowledge that the latter term escapes full presentation—the priority of the proportional can only re-present the disproportionate as its lack, superfluity and as incommensurable. As a theorem of the measurable, proportionality requires and produces the open, infinite non-ground of the incommensurable as a violence beyond balanced violence.¹⁷ In turn, under the rubric of balance and sufficiency the disproportional is the sense-less medium, the substrate that constitutes and carries the meaning and normativity of the proportionate. However, since the proportional predicates the disproportionate as a conditioning and required subtraction can this subtraction be understood as sense-making, as a delimitation and ethical figuration of the dissembling artifice of commensurated violence?

Buried within the Norgaard concept of a requisite proportionality between acts and reasons

EMISFÉRICA

of violence is another call to ethicality. Moving beyond the positivism or arbitrary historical priority of the proportionate means admitting an ethical reversibility: *that the just measure of proportionate and commensurated violence is a violence without measure*. Why this reversal of criteria? Because neither the proportional nor the disproportional are historically prior to the other but in each lies the condition of possibility for the other. I stress the disproportional as ethical measure because the exclusion of this criterion constituted the threshold of the TRC's representation of violence and the limit of its own self-representability beyond which its practices of anamnesis and reconciliation could not go. Disproportionate violence was the immeasurable lack in the TRC's project of commensurating reconciliation, but disproportionality is not simply a logical category but rather constitutes a doubled lack as a stand-in for the TRC's occlusion of both de-instrumentalized and racialized violence.

My stress on a surplus immanence, a transcendental materiality of violence, is not a claim that transitional justice should be grounded on a sublime stasis of terror beyond all history, reason and representation—attributes that are often assigned to the Holocaust. Here I must disagree with Alain Badiou who only associates immeasurable violence with the dehistoricizing hypostasis of the Holocaust, which in his view (with which I concur) evades the Holocaust as a political sequence (2002, 63-5). However, I am claiming that the proportional/disproportional constitute a desublimated economy of immanence in relation to the sublimating value equivalence that fuses ideological and repressive apparatuses; thus our access to the semantic drift and effectual superfluity of any political violence is through its finite and instantiated material presentation and its binding to and unbinding from closed political operativity.

Evaluation of proportioned force by disproportional violence explodes the artificial compression and commensuration between moralized ideological codes and their violent instantiation. This ethics decouples a political synchronicity that “linguistifies” violence and materializes political code in a concerted mimesis, and which deflects and suppresses any asymmetry, and modal atonality (that which cannot be harmonized or homologized) between these interlaced, contiguous yet detachable strands of political practice. Incommensurate violence measures those moments and tendencies when *relations of antagonism* (the means and transactions of conflict) collapse into the ever-expanding *conditions of antagonism*: when a plethora of ideological *phantasmata* spring forth from within a material practice, imploding its emplacement as a technically subjacent and iterable medium; when interrogators torture not for information but to imperially extract power, self-identity, sovereignty and even democracy from the disembodied pain of the other; when the state dissociates from its own praxis at the levels of self representation and pragmatic command and control through black ops and the deployment of proxies and surrogates overt and covert; and when ideologues bind themselves to their justified and moralized programs but not to the ethical excess and durable gestating damage of their violence beyond all program, mandated outcome, and terminus.

Disproportionality measures the violence of a displacement, fracturing once tidy systems of

moral commensuration and unpacking the effective counter-turning of means/ends confluences. It captures power “at that point where [...] intentions—if, that is, any intention is involved—are completely invested in real and effective practices [...] the place where it implants itself and produces itself in real effects” (Foucault 2003, 28). Foucault infers that neither originating subjects nor intentionality may survive this implantation of self-altering and constitutive power effects. Incommensurable violence goes farther than this and becomes the limit-experience at which fabricated means/ends ratios attain a point of exposure as internally riven performatives and from which they become politically and ethically representable as an inutility that paradoxically enables inappropriable violence as a form of power. The disproportional here is also the system-derived singularity that threatens a maximalizing political program as its self-engendered obverse in the sense of shadowing, being turned against, located on the other or further side of the program; it is a depleting truth event that leaks out from under the common nouns of formal political ideology and covering excuse that can and should be turned against these edifices through popular mobilization, diverse modes of counter-witnessing and counter-memory and by transitional justice fora.

Performativity and the Event

The imbricated asymmetry between measurable and immeasurable violence questions the constitution of the political subject by political program. The TRC’s reduction of indemnification to declared and demonstrated political motivation affirmed the moral priority of the sovereign subject that dominates from a center, that maintains a presence to self in all its acts and utterances as a fixity of codes. This is intentionalist teleology enshrined as the performative continuum and temporal linearity of justified violence. Disproportionality overthrows the moral and epistemological priority of the purposive subject commensurated to political reason in all its actualizations. At the level of spatio-temporal action, the moralized model of performativity is a compressed structure where all associated elements metaphorically express the intentionalist centration, whereas modalized incommensurate violence, with all of its rippling effects and errant kinesis, freely unfolds as a dissociative metonymy—the distention, dispersal, fragmented syntax, and decompression of the elements of intentionalized action—the subject, the media, and the actualization. This dissociative metonymy is the pathway of the broken and plural subject of the political who is also a self-altering subject, including the subject that remakes itself through violence—that is to say, through the coercive alteration of the bodies of others.

Ethical assessment based on incommensurate violence does not abandon the ethical responsibility of the subject. Under this criteria the perpetrator becomes ethically accountable not just for declared bona fides but for the consequential non-ostensive references, and atonalities of practicopoietical action as the return of the action onto the actor. Gillian Rose dissects this field of emergent dissonant nonsynchronous ethicality in reference to the denial of self-engendered difference:

“We know our actions but deny their actuality. This is a form of dissembling. We know each action as the exercise of duty, and we refuse to know its actuality in the phenomenal world... (Rose 1981, 179). For Rose, “[r]e-cognizing emphasizes the lack of identity or difference which is seen. *Anerkennen* (re-cognizing) thus implies an initial experience which is misunderstood, and which has to be reexperienced... Hence “re-cognition” implies initial mis(re)cognition, not an immediate seeing into.” (71)

The ethics of the real cannot reside in the model of the subject as calculable, as an executive axis from which other calculables like prescribed moral judgment derive. Akin to Foucauldian *parrhesia*, the ethical decision for Derrida “carries within it, and must do so, an essential excessiveness. It regulates itself neither on the principle of reason, nor on any sort of accountancy [...] I believe there is no responsibility, no ethico-political decision that must not pass through the proofs of the incalculable or the undecidable. Otherwise everything would be reducible to calculation, program, causality, and at best hypothetical imperative” (Derrida 1995, 272-273). From this ethical judgment proceeds as a mode of de-subjectivization, irreducible to the concept of subjective freedom, which still calculates a sub-stance and stasis of the subject. Instead it negates this stance of the subject and unfolds as a labor of separation and expropriation that comes after the subject of violence, that arrives in the wake of the subject, and that *wakes* the subject of violent reason in the sense of both grieving and coming into cognition. Ethicality arrives as separation from the subject of violence and as a self-partitioning within that subject, as the acceptance of desubjectivization and multiplicity. Reiner Schürmann sums up this encounter with performative differing:

The subject appears not only as manifold, as in Kant, but as nonsystematically, irreducibly so. Nietzsche's locus is (anti-)subjectivist inasmuch as his discovery of forces in conflict originates in 'my hypotheses: the subject as multiplicity.' He hypothesizes both with and against the subject, turning the polymorphous subject against any one fictitious thinking thing or one transcendental apperception. No longer denoting any subject as numerically one, the I ceases to be capable of instructing us about the legitimacy or illegitimacy of norms (Schürmann 1984, 375).

To shift the aporetics of the TRC's indemnification of political motivation to the critique of violence requires a consideration of the performative and the event, bearing in mind that the issue of performativity here transverses the testimonial structure of witnessing violence, the gestural actualization of violence, the reactive incorporation through word and deed of violence exposed as disproportionate, and the TRC's epistemology of violence. Performativity as the medium of intentionalist continuity is the grammatization of the subject. Derrida critiques this grammatization in which speech acts and extra-linguistic acts are theorized as sustaining plenitude, understood as the identity of the intending subject with itself across actualization. Intentionalist teleology both inscribes and circumscribes what happens as well as its own performative fabrication as recursivity. Intentionalist teleology stages and frames within a priori

EMISFÉRICA

conventions, contracts, and agreements advancing whatever moralities that can be built upon these privileged and pre-given continua. Intentionalist teleology sustained the testifying political subject in the amnesty hearing as well as the collective agency interpellated by the remedial programs of organized political violence recognized by the TRC.

The TRC's reduction of human rights violations to political intent and its reduction of violence to the performativity of that intent opens questions about political program and "motivated" performances of which Derrida writes: "Pure performativity implies the presence of a living being, and of a living being speaking one time only, in its own name, in the first person. And speaking in a manner that is at once spontaneous, intentional, free, and irreplaceable" (Derrida 2006, 74). Derrida associates intentionalist teleology in performance with sovereignty and governmentality. Political performativity makes recursive claims over acts through its "I can, I am authorized, I am competent to, and I have the right and the power to speak, act, and claim." The sovereign subject and the subject of sovereignty underwritten by ipseity, sameness with self, supports the triangulation of political rule, performativity, and power/knowledge identified by Foucault as invested in the mastering of the bodies of self and other. Government of self and others, compulsory visibility, and hierarchical observation are some of the modalities of intentionalist teleology as political program; they install the interdependent continuity and contiguity of pan-optical sovereign performativity and scopically subjugated embodiment which can extend to violence as a methodology of subjection.

Within performativity the mediate, the method, is subordinate to external intent and yet must embody and repeat intentionality to produce it as exteriority, effect, actuality and end. The medium, empty of subjectivity and will, and as submitted to repetition is presumably antithetical to the event; its action or operativity is not an open event but only the path to a calculated terminus and enclosure, which for Derrida is never an event. "An event would not be worthy of its name, it would not make anything happen, if all it did was to deploy, explicate, or actualize what was already possible: which is to say, in short, if it came back down to unfolding a program or applying the general rule to the case" (Derrida 2005, 91). Transitional justice projects, with their testimonial and confessional performatives and prescriptive apologetics, are inclined to re-enact, enunciate, or to perform history as process, progress, or regression but not as the irruptive event that dislocates a given *mise-en-place* such as the historical "clairvoyance" of a testimonial space. The event for Derrida and Badiou presents a lack of plenitude; it is a subtraction and an abstention from the subject conserving work of the performative. The event is the absented cause of the performative for the event is a withdrawal from, and interruption of an existing order of performative actualization that instigates the necessity for recuperative performativity. As Badiou stresses there is no truth of the event, nor is there any performativity of the event, there are only the performatives and truths precipitated by the interruptive arrival and passage of the event (Badiou 1988).

Derrida associates the actualization of plenitude or self-presence in performance with teleology, he proposes a “non end” as introducing the anti-performative into those closed means/ends relations which sustain the political subject:

This non-end is not an extraneous vestige of the teleological essence of intention, it belongs to it as its most intimate and most irreducible other, as the other itself in it. It lasts as long as there is life, intention, language, or, as I prefer to say in general, the mark (or vice versa) [...] If nonplenitude (the non-telos) is therefore not an empirical accident of the telos, or even a simple negativity, one cannot not take it into account as one might a contingent accident held in the margin out of concern for method or for eidetic purity (Derrida 2008, 129).

Simon Critchley defines closure as the *act* of bringing an end, of delivering and conveying ends, as a metaphor and medium of enclosing an end, all of which would identify closure and nonclosure with mediality: "closure is the act of terminating a process, of definitely ending a state of affairs. [...] In this temporal sense closure is always associated with the process or activity of completion" (Critchley 1992, 62). The media of performativity are enclosed within a teleological program, yet in order to produce closure any such act or sequencing of termination presupposes a pre-existing condition of nonclosure and open terrain in which performatives do not prevail, from which they must be extracted, and to which performativity must address itself in order to adumbrate, enclose, and stabilize—in other words, to “performatize.” Performative enclosure of an act of violence through linguistic discourse or through the discursivity of further acts of violence indexes this open terrain through the very figure of violence that occupies a double position both exterior to and interiorized within the performative apparatus.

Performatively foreclosed violence as the media of closure substitutes for and displaces an open field of political, material and historical possibility. In the performativity of the truth commission this was indexed by an inadmissible, and unframable violence. When such violence was referenced by the TRC it was only as an errant kinesis that was negatively cited in order to support and transport the purposiveness, rationality and necessity of licit force. However, in Derrida’s concept of the non-end, the event arrives as the ending of ends; it arrives as an anti-teleological rupture, as the subversion of mediation conceived as the closed movement of closure. The anti-performative subtractive event is that which can emerge as this spacing, this chasm between a violence performatively interiorized, and violence as a subtracted or subtracting materiality from performative closure.

I propose that Derrida’s notion of the opening of the non-end anticipates *the becoming event of the mediate* as a *dis-exclosure*, the emergence of an im-mediacy that de-mediatizes foreclosed violence resituating the latter beyond the borders and barriers instituted by intent, calculation, seriality, and program. Wlad Godzich diagrams this de-mediatizing moment: “when (a) supplement substitutes itself to the intermediary; in this metabola, it is mediation itself which is exceeded; a dimension which is no longer just an in-between is opened” (Godzich 1983, 35). Now when the interval of mediation is dispersed beyond interpositional this is the becoming event of the mediate which subverts the teleology of

EMISFÉRICA

the means or *materiel* of performativity, and suspends the subjacent passivity and linearity of the medium, substratum, or subjectum that was assigned to carry, transport, and transfer the codes of the intending subject of the political program. This is to detach the medium or the support from its conserving archival functions and to witness a mediatic failure, deformation, profanation, and emergence by which another strata of the political becomes representable.

This becoming event of the mediate is the displacement of the measured and the measuring by the immeasurable non-end. In the TRC context this would be to show that the condition of possibility for proportionate violence is the disavowal of its own excess, a denial effectuated by the illocutionary force of acts of commensuration as the compressing imposition of a ratio between discourse and act, and between diverse material acts of terror and damage which assembles bodies into regimes be these political, economic, sexual, or racial. Here assemblage becomes literally assembly as a techno-militarized gathering in, or conscription of subjects, and as the *mekhane* of a political theater.¹⁵



Sue Williamson, *Cold Turkey: Stories of Truth and Reconciliation (Poison Victims)*, 1996. Mixed media. The work refers to the poisoning of political prisoners by the South African police.

IMAGE source: national museum of african art.

To discuss mediate violence and its movement beyond the dimension of the in-between is to discuss the body as medium, the body-in-violence, the becoming bodily through violence, and the emergence of transcorporeal assemblages as a political field. Within the topology of the performative, if the weaponized body is prosthetic to political code then the weapon-utensil is a supplementary prosthetic of this politically encoded and codifying body; in an act of codified violence this relation is extended to the target/victim as a ballistically encoded and terminal concentrate of the war assemblage. These metonyms, splices, and intensities of performativity constitute Critchley's closing sequence of closure. The intentionalist assemblage is the holographic reproduction and compression of the inceptive political code in the body as weaponry, in the body of the

weapon, and in the target/victim enclosed by weaponry and ballistics. *Political violence is force delivered by illocutionary assemblages of flesh and the inorganic.* The mimetic structure of the assemblage of violence pertains not to the relation between produced things but between two or more producing and produced subjects and to their transverse bi-directional co-subjectification. The recipient of violence, no matter how damaged, depersonalized, defaced, or dead, remains a subject of violence to the degree that politicized flesh is productive of the semiosis of power contributing to the movement and internal consistency/continuity of the intentionalist assemblage as an “economimesis” of power (Derrida 1981, 3-25).

The event interrupts economimesis; the prosthetic-turned-event is not the affirmation of a technological determinism or duplication, for the latter are borne by the means/end relation, continuum, or assemblage that is interrupted. Rather it points to a non-teleology of the prosthetic, its inutility, its purposiveness without purpose, and to a disassemblage at the core of assemblage. Such inutility of the medium and the prosthetic displaces the sovereign subject in the latter’s performative duplication and signals the consequent emergence of disarticulated positions unfolding through, from, and against the performative assemblage. When violent mediation is exceeded, this metabola speaks to the divorce of the targeting and targeted body-subject from inceptive and justifying political codes and its traversal by other structuring codes’ surplus, tangential to, or repressed by and autonomous from, the political programs that put the media and bodies of violence into assemblage. Yet these emergent codes and altered subjects, however encrypted, unrecognized, or inadmissible, are also constitutive of the political field. This opened political field is the genesis of a transcendentalized materiality that is both desubjectivizing and subjectivizable (which can include its reactive denial and disavowal), and for which the transitive subject is ethically accountable as the decentering, yet expanding phenomenality and kinesis of its actualizations.

The Event Machine

Derrida provisionally polarizes the model of the sovereign performative subject not only to the event but to the machinic, understood as material reproduction responsive to imprinting by an exterior intentionality that the machinic or medium lacks: “The machine [...] is destined to repetition. It is destined, that is, to reproduce impassively, imperceptibly, without organ or organicity, received commands” (Derrida 2002, 72). The medium as method is machinic, as it is subordinated to intention as the will-to-actualization. Derrida identifies a polarity between performative *response* and machinic or mediatic *reactivity* that in his view cannot be sustained: “Performativity [...] excludes in principle, in its own moment, any machine like [machinale] technicity. It is even the name given to this intentional exclusion” (Derrida 2002, 74). Now, we have all witnessed how a traumatic performativity collapses into the machinic, into automaticity and into compulsive repetition such as the political sequence from 9/11 to the unending war on terror (Feldman 2005, 203-226). Derrida is concerned with the pro-duction of an incalculable alterity from a

EMISFÉRICA

calculable program, the arrival of an ethical immediacy from the anaethical mediate (always subordinated to a suprasensible end). If the means present but lack representation, they thus haunt performativity; as method and matériel they introduce the ghostly machinic that extends and exceeds intention by sustaining any act of intentional institution as a promise of supplementary repetition and continuation. Derrida seeks to witness such violent incursions of the event in the performative which would be the dissociative unpacking of latter's compressed elements into metonymic disarray, unfixity, and a certain inutility sustained in and by demediatized repetition. The constituent elements of this metonymic disarray correlate to a violence marked by suspended reference, teleological mutilation, and a monstrosity of terror which is also an emergent monstration, a decentering demonstration of the hidden Janus-faced practices of state violence.

If intentionalist teleology is opposed to the machinic this [...] foreclosure of the machine answers to the intentionality of intention itself. It is intentionality. Intentionality forecloses the machine. If, then, some machinality (repetition, calculability, inorganic matter of the body) intervenes in a performative event, it is always as an accidental, extrinsic, and parasitical element, in truth a pathological, mutilating, or even mortal element. Here again, to think both the machine and the performative event together remains a monstrosity to come, an impossible event. Therefore the only possible event. But it would be an event that, this time, would no longer happen without the machine. Rather, it would happen by the machine (Derrida 2002, 74).

Derrida terms this mutilation of intentionalist continuity and of the performative assemblage the “event-machine,” an aporia that subverts the notion of the machinic as subjacent repetition and the event as singularity, and homes in on their possible complicity in the systematic opening up of the mediate to a violent infinity of duplication—Benjamin's mechanical reproduction as traumatic repetition.¹⁸ Undoing the discontinuity between intentionality and machine is tied to the insight that willful production entails the bringing forth of alterity and the possibility of the consequent occlusion of that alien emergence in order to sustain political production as a sovereign act of closure. In this way Derrida attacks the pervasive cynical reason of political culpability in the era of genocide and in today's global event machines like the war on terror. Thus a certain cynical reason based on the opposition of the intentional and the machinic silently framed the testimony of the state's amnesty applicants at the TRC that became an apologetics for the state at war. Derrida describes this bad faith that can be applied to the endemic serial killing of political modernity: “on the one hand, the irrationality of the machine that is irresponsible or beyond my control, the mechanism that caused me to do evil, and, on the other hand, the absolute sincerity, the authentic innocence of my intentions” (Derrida 2002, 74).

What happened by machine in South Africa in the drive to subjugate and fetishize by color, in spatialized racial aversion, in the ritualization of disappearance and torture, in quotidian terror against the families and communities of activists, in the literal holocaust of interrogation by fire (torture by *braai* or barbecue and smoke) and in anonymous body

disposal as a political ecology? Were these but accidents and misfires, incidental and parasitical to the lofty anti-communist crusade of the apartheid state and its appeal to *jus ad bellum*? The “bad apples” of the state secretly named the unnamable; their traumatic technical repetition of terror was a misdirecting screen for the state’s own death drive, for the pathogenesis of state violence as the sanctioning ground of individual aberrancy in which state agents performatively and responsively assimilated to the reactive machinery of repression that churned out killers and torturers commensurate to its pathologized enemies. In the ideology of the bad apple, from TRC hearings to Abu Ghraib inquiries (where this term was also deployed), the automaticity of the war machine is displaced onto the traumatic drives of depoliticized psychological aberrancy. The “bad apples” in South Africa or Abu Ghraib were falsified as bits of once linked-in human capital that had become discombobulated, delinked cogs of the war machine and were thereby barred from bearing responsible witness against the equally discombobulated, delinked cogs of the state’s auto-kinetic economies of war and race.

Force Protection and Reportioned Violence

We should thus abandon any notion of political naivety on the part of the state regarding its disproportionate violence or the state’s indifference to courts of witnessing of such violence. For the disavowal of disproportionality traversed both the apartheid state as well as the TRC. How else to account for, among others, the state’s culture of secrecy, embedded and planned structural deniability, the encrypted language of its policy directives, clandestine promotion of ventriloquized “black on black” violence as a form of outsourcing, and its gulag archipelago of camouflaged interrogation farms with their hidden cemeteries of tortured and executed detainees. This political culture of plausible deniability was institutionalized as a political aisthesis, as an organizational redaction of institutional and social memory that was intrinsic to the ongoing prosecution of state terror and for which perpetrators were ethically responsible. For instance, many hours were spent in TRC hearings debating and obfuscating the meaning of the term “elimination” in government directives. Did it refer to capital punishment or non-fatal tactical political “neutralization” as the state claimed? Government applicants for amnesty exhibited a common vocabulary and grammar of bureaucratic linguistic indirection and performative self-distantiation, a structural indifference, a communicative self-neutering, as regards brutal policies and acts of violence that was too sophisticated and too uniformly deployed across diverse testimonies to be attributed to legal coaching alone. Rather this refracted an embedded organizational speech economy that had built structural deniability into the planning and exercise of repressive terror.

The dis-exclosure of the mediate points to alternative effects of the political program beyond its moral agendas and yet can also provoke the reactive reincorporation of surplus as a pervasive political idiom. The very concept of “collateral damage” bears within it the subversion of performative intentionality by which the medium becomes incalculable political event and legitimation crisis and yet also signifies the reclosure of such errant mediacy, its resubmergence

EMISFÉRICA

into ideological calculability. Late modern political terror increasingly fabricates the incorporeality and immateriality of its violence. Violence is collateralized and underwritten by erasure, disincorporation and retraction of material excess by compensatory performatives that deflect all demands for redress by reinstating the 'necessity' of the unnecessary violence inflicted. Collateral damage re-institutes the intentionalist teleology of the political program. Collateral damage is the fabulated measuring and containment of immeasurable suffering to assure the fictive morality of violence. But what measure can be applied to this violence if not the surplus immanence, sheer resistance and asymmetry that is rendered unrepresentable by such adequations?

Reproportioning violence by doctrines of deniability such as collateral damage is a modality of "force protection," which is to defend and occult through supplemental force the legitimacy of a prior or even future act of force, which is also to maintain with force the very capacity and exclusive right to use force as in the state monopoly over violence. To protect an act of force is to fold its ethical excess back into the political program to erase the cut that divorces the performative from the material phenomenality of hyper-performance that can subvert the legitimacy of the subject-at-war. However today, the morality of the political program, such as the war on terror, is itself increasingly measured by the efficacy of its force protection efforts, its automatic reaction to the machinic variance of the political-performative subject launched into war. The moralization of state violence has become isomorphic to violence erased or rendered inapproprable and anesthetized. Force protection requires supplementary performatives that *remediate* failed, contested, and misfired performance, that silently admit that the understandings and contracts that signaled performative achievement, and which once recognized its signatures, have fallen into crisis and have left the performative contract unsigned, and under-signified. This loss of signature and signatories requires the reactive incorporation of force protection as a restoration of performative templates that can heal the wound inflicted on the performative by its performance. The immunizing or indemnifying return of violence to mediacy, its disavowal as an errant kinesis shaping differing political codes is the return of violence to the mechanical model of the machinic and this needs to be theorized as a political aisthesis. This restored machinic declension repeats inceptive code and command in "a state of anesthesia, it would obey or command a calculable program without affect or auto-affection, like an indifferent automaton" (Derrida 2002, 72). But this reduction of and withdrawal from the event, this anesthetized indifference is also a *mekhane* as ruse, ingenious invention, and counter machination that preserves the neutrality and rationality of violence in the myth of its mediacy and functionality, a closure that closes in on a prudentialized end: the retreat of the state from the historical materiality of its own infinity of violence.

Cinders

EMISFÉRICA

A single "thing" is unassimilable. It will therefore form the transcendental of the transcendental, the non-transcendentalisable, the non-idealizable, and that is the disgusting. It presents itself, in the Kantian discourse, as a "species" [...] (Derrida 1981, 22)

The formula of incommensurable violence as the only measure of the truth claims of violent commensuration would have sundered the facile continuity between political motivation and mediate violence, and complicate the role of amnesty in the TRC's memory project. The measure of the incommensurable points to an ethical remaking that moves restorative justice beyond commensurating the violence of reconciling political antagonists on the one hand, and beyond homogenizing the pain of victims and survivors through a logic of exchangeability on the other.

The re-experienced violence of the disproportionate would have breached the maximalizing violence of the state, contesting its self-legitimizing closure around anti-communism, anti-terrorist legality, securitization, and individual psychopathology. The disproportional exposes these circumscriptions of statist reason as the effective infinitization of state violence. It is both the polarity between infinity and closure in the excusing of violence and their particular complicity that makes the measuring of situated violence by its experiential-material excess an ethical urgency.

The intrinsic limits of antagonistics can provoke an irruptive event, a defamiliarizing ethical response and adherence to transformation not divorced from, but neither confined to, antagonistic tactics, teleology, and closure. To break with the conflated conditions/relations of antagonism something has to be removed from the closure of this figuration; an opening to exteriority has to be prized apart through discourse and act, through the witness of the abjected, the historicization of the dehistoricized, and from the overflowing magma of signification by force. Much of this occurred in TRC hearings but was ultimately treated as an affective surplus and episodic catharsis to be overcome through the hearings, fiscal reparation and national reconciliation.¹⁹

The state's killing, disappearance, torture and secret burial of the victim, presupposes the repetition or readability of the target/victim as the repetition of sovereignty. Readability insists on the identity of victimage with productivity, information, mastery, control of space/time, and calculability. With its pharmacopoeia of law, evidence, archives and confessional therapeutics, transitional justice does not abstain from this presumption of the readability of the victim. However, the victim can return beyond these grids of intelligibility as illegible in relation to the former, as the surplus immanence of the disproportionality of terror and war. The *anabasis* of the victim entails the separation of victimage from an automatism of equivalency as an adequation machine that institutes parity based on the exchangeability of political codes, body parts, deaths, and wounds whether for power or law. The *anabasis* of the victim stands for a historical asymmetry to any project of reportioned violence which erects the

victim as a static sublimating ideality through commensuration.

The automatism of humanitarian traumatropes resides in the repetition of the victim through definitive naming. Derrida calls this mode of political appellation and archivization a “writing on cinders” in which ashes constitute the fragile texture of the survivor’s singularized mediacy (1995, 30). Cinders index the subject burnt by violence, the disappearance or mutilation of the (dis)embodied that originated as a target *present t o* or *fabulated by* an assailant and the remainder and trace of the surplus uncoded materiality of the shapelessness shaped by violent subtraction. The victim of violence can return with or without a body, voice, and face as a de-mediatized remediation of historicity, but in all these (mis)arrivals the *anabasis* of the victim is constituted in the *ashes* of what has been consumed by violence. The performative naming or iteration of the victim-survivor traces over the trace-work of cinders and risks dispersing the ashes of the remainder in the effort to fix and to hold to a stable identity of victimage which is always to hold onto the illocutionary force of appellation. The decision to name the victim-survivor (by self or other) is ethically situated at the precarious faultline formed by conferral, effacement, and a right to opacity. The right to opacity recognizes the subjugated as always harboring the inassimilable and the disproportional as a historical event, as a radiating force beyond the axis formed by humanitarian justice and today’s humanitarian wars on terror.²⁰

Allen Feldman, Associate Professor of Media Studies at New York University, is a cultural anthropologist who teaches visual culture. He is the author of *Formations of Violence: The Narrative of the Body and Political Terror in Northern Ireland* (University of Chicago Press, 1991), numerous essays on political violence as visual and performance culture, and the forthcoming book *Archives of the Insensible: War, Terror, and Aisthesis as Dead Memory* (Duke University Press, 2012).

Notes

¹ This essay is the first part of a larger chapter of the same name in my forthcoming book, *Archives of the Insensible: War, Terror and Aisthesis as Dead Memory*. The second part of the chapter presents an ethnography of political torture as addictive racialized labor discipline in South Africa, drawing from my fieldwork at TRC amnesty hearings and with traditional Xhosa healers.

² Witnessed by the author. Ethnographic fieldwork in South Africa took place in 1997, 1998, and 1999, where I attended human rights violation, amnesty, and reparations hearings; interviewed TRC witnesses at hearings and TRC witness handlers, translators, evidence handlers, police investigators, and legal staff in Cape Town, Durban; and conducted fieldwork and oral history research with TRC witnesses and families in Cape Flats, and Katlehong, Gauteng.

³ For discussions and analyses of racialized violence and witnessing see Feldman 2003; 2004.

⁴ I first discussed traumatropism in an earlier abbreviated version of this essay (Feldman 2003). In *History and its Limits: Human, Animal, Violence*, Dominick LaCapra entitled a chapter with this term but merely invoked it, treating it as reducible to trauma studies, which I contest (see my discussion below).

⁵ See Promotion of National Unity & Reconciliation Act 34 of 1995, Section 20(3). Norgaard's full criteria were (a) the motive of the person who committed the act; (b) the context in which the act took place, and in particular whether the act was committed in the course of or as part of a political uprising, disturbance or event, or in reaction thereto; (c) the legal and factual nature of the act, including the gravity of the act; (d) the object or objective of the act, and in particular whether the act was primarily directed at a political opponent or State property or personnel or against private property or individuals; (e) whether the act was committed in the execution of an order of, or on behalf of, or with the approval of, the organization, institution, liberation movement or body of which the person who committed the act was a member, an agent or a supporter; and (f) the relationship between the act and the political objective pursued, and in particular the directness and proximity of the relationship and the proportionality of the act to the objective pursued.

⁶ In the initial application of the Norgaard principles in Namibia, proportionality did not encompass the granting of amnesty for killing a civilian; political motivation could not justify the killing of a noncombatant (Keightley 1993, 334, 339).

⁷ In Kantian and Hegelian legal philosophy the principle of proportionality applied to the punishment of a crime by the state as the annulment of a transgression by a commensurate interdiction. Proportionality was associated with retributive justice not restorative justice, "proportionality must be understood, not strictly with reference to the gravity of the crime instigating the encounter with the state, but rather, to the confidence that the state has in knowing the perpetrator's recognition of his defeat, which implies the knowledge of the wrongfulness of his unrestrained will" (Markel 1999, 434). In this framework the TRC's assimilation of proportionality to documented political motivation inferred that acts of violence could be indemnified if they were deployed against, were politically proportionate to a perceived transgression against a declared political program, and were intended to induce recognition of the gravity of the transgression through its repetition in a counter force. This model of communicative retribution could very well include torture as an instrument proportionate to treason against the apartheid state as torture can require a degree of recognition in the form of confession; thus partisan retributive justice was implicitly indemnified by a restorative justice project.

⁸ Legal scholar Anthea Jeffery claims that the 1992 Further Indemnity Act that provided for the release of "all prisoners whose imprisonment was related to political conflict of the past and whose release could make a contribution to reconciliation" jettisoned the Norgaard principles of proportionality (Jeffery 1999). However, in my conversations with TRC legal staff and evidence analysts from 1997 to 99, they viewed the abandonment of proportionality in the vast majority of

amnesty adjudications as an informalized covert policy decision between 1996 and 97 in which they had not been consulted. Proportionality was supposed to apply to all amnesty applicants in or out of jail, which would have include people not formally identified with a gross violation of human rights based on prior legal convictions.

⁹ In 2004 at a symposium on the TRC at NYU, which I chaired, I queried Alex Boraine, former deputy chairperson of the commission, why proportionality had been silently omitted from the amnesty protocol. I received a dismissive response from Boraine and from another panelist Judge Dennis Davis of the High Court, Cape Town who gruffly asserted that proportionality “was unworkable;” though this response did not account for the public silence around its abandonment.

¹⁰ The following statement from General Magnus Malan, former minister of defense, is illustrative of the theodicy of communism that justified the scope and degree of the violence of the security forces: “Although it is difficult to appreciate the threat which communism posed to the free world, and South Africa in particular, especially after the demise of communism in Eastern Europe during 1989, for purposes of a proper analysis of the policies and actions of the South African government during the 1980s... The threat was the expansion of Marxism by fomenting revolution in southern Africa. Its aim was perceived to be, first, the overthrow of the white regimes in southern Africa so that the militant Africa bloc could realize its aspirations with regard to the destruction of so-called colonialism and racialism and the establishment of Pan-Africanism. In its desire to destroy alleged racism, the Arab bloc can, with certain exceptions, be regarded as the partner of the Africa bloc in its hostile actions...” (recorded by the author at a TRC hearing on the army.)

¹¹ This trajectory is ethnographically documented in my forthcoming book *Archives of the Insensible: War, Terror, and Aisthesis as Dead Memory*, in a chapter of which this essay is a part.

¹² The marginalization of the racial predication of state violence is illustrated in Anthea Jeffery’s *The Truth About The Truth Commission*, which conflates the increasing unworkability of apartheid institutions and the impending loss of economic viability with transformations of the culture of the white minority and their representative fractions in the state security apparatus. The same report stresses the rise of inter-ethnic, communal violence in the 1990s and its higher casualty rates while ignoring the historical role of the state in the creation of antagonistic communalized identities and its clandestine arming of ethnic-sectarian organizations.

¹³ See Feldman 2003, where I discuss the homology between South African labor discipline violence and political torture.

¹⁴ The cultural determinism that predicated the slave body as the site of violent truth production was homologous to the sheer physical determinism of the ordeal of the touchstone of violence; this homological circle between method and body situates the subjugated body on the nether

side of truth and deception until tortured.

¹⁵ Stathis Gougaris translates the term over-performance from the ancient Greek *hyperdramein* and associates it with singularized and anomic action: “One can interpret/perform (*hermeneuein*) the law; but one cannot outperform it (*hyperdramein*)” (2003, 150).

¹⁶ Supporting this was the public fascination with and media stardom of specific perpetrators of state violence such as Dirk Coetzee, Eugene de Kock (dubbed “Prime Evil”), Ferdi Bernard, Lothar Neethling (South Africa's “own Dr. Mengele”), Wouter Basson, and Craig Michael Williamson as personifications of evil.

¹⁷ This discussion of the impasse of the Real in relation to political code and violent enactment originates in my analysis of violence in Northern Ireland within the framework of the Lacanian concepts of the Symbolic, Real, and Imaginary which in part independently paralleled (though in a much more limited frame of reference) Alain Badiou's Lacanian-influenced theorization of the event as a subtraction from the official legibility of political situation in the late 1980s, a convergence which is even more explicit in his book on ethics with which this essay is in dialogue (Feldman 1991, Badiou 1988, 2002).

¹⁸ Derrida writes “Will this be possible for us? Will we one day be able, and in a single gesture, to join the thinking of the event to the thinking of the machine? Will we be able to think, what is called thinking, at one and the same time, both what is happening (we call that an event) and the calculable programming of an automatic repetition (we call that a machine)?” (2005, 72).

¹⁹ For a further discussion of anti-procedural, antiphonal, and collectivized witnessing at the TRC, see Feldman 2004.

²⁰ On the right to opacity see Glissant 1981.

Works Cited

Badiou, Alain. 1988. *L' être et l'événement*. Paris: Editions Seul. Translated by Oliver Feltham as *Being and Event*. 2006. London: Continuum Books.

-----, 2002. *Ethics: an Essay on the Understanding of Evil*. Translated by Peter Hallward. London: New York.

-----, 2006. *Being and Event*. Translated by Oliver Feltham. London: Continuum Books.

Critchley, Simon. 1992. *The Ethics of Deconstruction: Derrida and Levinas*. Oxford: Blackwell Publishers.

Derrida, Jacques. 1981. “Economimesis.” *Diacritics* 11, no. 2: 3-25.

-----, 1988. "Afterword: Toward an Ethic of Discussion." In *Limited Inc*, translated by Samuel Weber, 111-160. Evanston, Illinois: Northwestern University Press.

-----, 1995. "Eating Well or the Calculation of the Subject." In *Points...: Interviews 1974-1994*, translated by Peggy Kamuf et al, 255-287. Palo Alto, California: Stanford University Press.

-----, 2002. *Without Alibi*. Translated by Peggy Kamuf. Palo Alto, California: Stanford University Press.

-----, 2005. *Paper Machine*. Translated by Rachel Bowlby. Palo Alto: Stanford University Press.

DuBois, Page. 1991. *Torture and Truth*. New York: Routledge.

Feldman, Allen. 1991. *Formations of Violence: the Narrative of the Body and Political Terror in Northern Ireland*. Chicago: University of Chicago Press.

-----, 2003. "Strange Fruit: the South African Truth Commission and the Demonic Economies of Violence." *Social Analysis* 46 no.3: 234-265.

-----, 2004. "Memory Theatres, Virtual Witnessing, and the Trauma-Aesthetic." *Biography* 27 no.1: 163-202.

-----, 2011. *Archives of the Insensible: War, Terror, and Aisthesis as Dead Memory* (Durham: Duke University Press).

Foucault, Michel. 2003. "*Society Must Be Defended*": *Lectures at the College de France, 1975-1976*. Translated by David Macey. New York: Picador.

-----, 2010. *The Government of Self and Others: Lectures At The College De France, 1982-1983*. Translated by Graham Burchell. New York, Palgrave Macmillan.

Godzich, Wlad. 1983. "The Domestication of Derrida." In *Yale Critics: Deconstruction in America*, edited by Jonathan Arac and Wallace Martin, 20-42. Minneapolis: University of Minnesota Press.

Glissant, Edouard. 1981. *Le Discours antillais*. Paris: Seuil.

Gougaris, Stathis. 2003. *Does Literature Think? Literature as Theory for an Antimythical Era*. Stanford, California: Stanford University Press.

Jeffery, Anthea. 1999. ["VI. The Need for Comprehensive Findings."](#) In *The Truth About the*

Truth Commission. Johannesburg: South African Institute of Race Relations.

Keightley, Raylene. 1993. "Political Offences and Indemnity in South Africa." *South African Journal of Human Rights* 9, no.3: 334-357.

LaCapra, Dominick. 2009. *History and its Limits: Human, Animal, Violence*. Ithaca: Cornell University.

Markel, Dan. 1999. "The Justice of Amnesty? Towards a Theory of Retributivism in Recovering." *The University of Toronto Law Journal* 49, no. 3: 389-445.

Promotion of National Unity & Reconciliation Act 34 of 1995, Section 20(3).

Schürmann, Reiner. 1984. "Legislation-Transgression: Strategies and Counterstrategies and Counterstrategies in The Transcendental Justification of Norms." *Man and World* 1 no. 7: 361-398.

Rose, Gillian. 1981. *Hegel Contra Sociology*. London: Athlone Press.

TRC (Truth and Reconciliation Commission) Amnesty Committee. 1999. [Decision 22](#).