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To cite this article: Seth Goldwasser & Alison Springle (2023): Trauma, trust, & competent testimony, *Philosophical Psychology*, DOI: [10.1080/09515089.2023.2247011](https://doi.org/10.1080/09515089.2023.2247011)

To link to this article: <https://doi.org/10.1080/09515089.2023.2247011>



Published online: 19 Aug 2023.



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Trauma, trust, & competent testimony

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ABSTRACT

Public discourse implicitly appeals to what we call the “Traumatic Untrustworthiness Argument” (TUA). To motivate, articulate, and assess the TUA, we appeal to Hawley’s (2019) commitment account of trust and trustworthiness. On Hawley’s account, being trustworthy consists in the successful avoidance of unfulfilled commitments and involves three components: the actual avoidance of unfulfilled commitments, sincerity in one’s taking on elective commitments, and competence in fulfilling commitments one has incurred. In contexts of testimony, what’s at issue is the speaker’s competence and sincere intention to speak truthfully. The TUA targets trauma victims’ competence rather than their sincerity. According to the TUA, empirical evidence shows that trauma undermines victims’ trustworthiness with regard to speaking truthfully about their trauma by undermining their competence to remember the relevant event. We argue that what the evidence shows is rather that remembering traumatic events involves a distinct “mode of manifesting” the competence to remember particular events from the personal past. Trauma victims are competent to speak truthfully about their trauma and ought to be trusted at least with regard to the central details of the event. By suggesting otherwise, the TUA threatens an insidious form of epistemic injustice which Hawley’s account helps us locate.

ARTICLE HISTORY

Received 15 November 2022
Accepted 22 May 2023

Keywords

Memory; hawley; trauma;
trust; trustworthiness;
competence

1. Introduction

Victims who survive violent crimes like sexual assault or domestic or police violence often continue to suffer trauma long after the crime occurred. Long-term trauma also affects military service members and police officers who have been the victim of or witnessed violence first-hand. Trauma affects not only the ongoing emotional well-being of victims, but also cognitive processes such as attention, planning, problem-solving, and memory. Trauma associated with violence is thus a common long(er)-term secondary harm of the violent crime. What’s more, when victims share information about their traumatic experiences, they are at risk of suffering

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further harm. Sharing a traumatic experience can itself be retraumatizing insofar as it involves reliving (parts of) the traumatic experience.¹ In this paper, we argue that trauma victims may additionally suffer epistemic harms when attempting to give testimony about their traumatic experiences. For victim testimony – be it in legal (law enforcement, court of law), therapeutic/medical, or social (friends, families, colleagues, peers, or the more general public), or private (the victim’s personal understanding of her own experience) contexts – is often met with distrust.^{2, 3} *Prima facie*, at least in some such cases, this distrust likely constitutes a form of testimonial injustice (Fricker, 1987, 2007; Hawley, 2011, 2017).

However, according to what we call the “Traumatic Untrustworthiness Argument” (hereafter TUA), there are perfectly good, non-prejudicial grounds for distrusting trauma victim testimony. The TUA is concerned with the relationship between traumatic memory, testimony, and trustworthiness. The basic idea is this: Testimony that speaks to facts about a personally experienced trauma draws on memory of said facts (henceforth “traumatic memory”), and there are common characteristics of traumatic memories that may make their testifiers *seem* untrustworthy regarding the facts of the trauma.⁴ As a result, victims are often treated as untrustworthy with respect to testifying about their traumatic experiences. The TUA turns this line of reasoning into an argument: things *are* as they *seem*—characteristics of traumatic memories do render them less reliable, so, trauma victims are not sufficiently competent to speak truthfully about their traumas, so, their testimony is not to be trusted. The TUA thus grants that victims experienced *some* trauma but denies that victims are trustworthy sources of information about the facts surrounding their traumas. As an example of the kind of reasoning supported by the TUA, during the confirmation hearings of Supreme Court Justice Bret Kavanaugh in 2018, we (the authors) recall hearing statements conveying roughly the following sentiment:

I believe that *something* [traumatic] happened to her [Dr. Christine Blasey Ford],
I just don’t believe Bret/Judge Kavanaugh raped her.⁵

According to the TUA, all else being equal, we should refrain from believing or acting on testimony from trauma victims concerning their trauma.

As we construe it, the TUA is concerned with *declarative memories for particular events from the personal past*.⁶ This set of declarative memory crosscuts Tulving (1972)’s classic taxonomy of memory. Declarative memories for particular events from the personal past include experiential memories consisting in the construction of scenes of particular events from the personal past—usually discussed under the heading of episodic memory (Tulving, 1972, p. 385). The set of declarative memories likewise includes the subset of non-experiential declarative memories—usually discussed under the heading of semantic

memory—concerned with those events (Tulving, 1972, p. 386).⁷ Finally, we focus on declarative memories for particular events from the personal past *specifically of traumatic events*. Following the American Psychological Association, we understand trauma to be “any disturbing experience that results in significant fear, helplessness, dissociation, confusion, or other disruptive feelings intense enough to have a long-lasting negative effect on a person’s attitudes, behavior, and other aspects of functioning” (VandenBos, 2015, p. 1104). And, following the Diagnostic Statistical Manual of Mental Disorders 5th Edition, we understand a traumatic event to consist in “actual or threatened death, serious injury, or sexual violence” (2013, p. 271). Traumatic events cause trauma and, in neurally intact subjects under normal conditions, normally result in declarative memories of the event. These memories often themselves elicit the feelings associated with trauma. Remembering a traumatic event, both reexperiencing it and recalling factual details, is often traumatic or retraumatizing.⁸

We argue that the TUA is nevertheless unsound. Moreover, in seeing where it goes wrong, further aspects of the nature of the epistemic injustice at issue in the context of traumatic memory will be brought to light. However, before the TUA can be evaluated, it needs to be more precisely formulated. To this end, we appeal to Katherine Hawley’s (2019, pp. 8–12) commitment account of trust and trustworthiness. On Hawley’s account, trustworthiness is a matter of successfully avoiding unfulfilled commitments. When we judge others to be (un)trustworthy, we are judging their sincerity with respect to their intention to fulfill commitments that they’ve incurred and their competence to successfully fulfill those commitments. Distinguishing sincerity and competence allows for a more precise formulation of the TUA and allows us to bring what motivates the argument to the fore, namely, distrust of victims’ competence to remember or speak to their trauma.

After describing the key features of Hawley’s commitment account in §2, we give a precise formulation of the TUA and provide the reasons for which it cautions distrust toward victims with regard to their competence to speak truthfully about their trauma in §3. In §4 we argue that a key premise of the TUA is false. In particular, we appeal to empirical evidence showing that traumatic experiences do not impugn traumatic memory nor victims’ competence to remember the relevant event(s).⁹ So, the argument is unsound. The empirical evidence shows, as well, that trauma affects the manifestation conditions for the competence to remember truly in a way that leads to what we call a distinct “mode of manifesting” that competence. With that in mind, we provide some suggestions concerning how best to probe those memories. We conclude in §5 by noting an underappreciated aspect of epistemic justice that the Hawleyan approach to the TUA helps bring to light, namely, the implicit ableism at work in discrediting trauma victims by forcibly making them pitiable.

2. Hawley's framework

It may seem obvious that the tendency to distrust trauma victim testimony is (at least often likely) a tendency toward committing testimonial injustice, as it may seem obvious that such distrust stems (at least primarily) from sexist, racist, etc. attitudes or motives, be they implicit or explicit. While we grant that in some cases this may be obvious, it isn't always. Nor is taking this for granted a wise approach from the point of view of publicly engaged philosophy. The reason is that effective public engagement plausibly requires a charitable interpretation of public attitudes. In the present context, this seems to require us to assume that, given that a significant portion of the public appears to hold attitudes of distrust toward at least some trauma victim testimony, they don't see their doing so as unjust. And most importantly, we think it is possible to reconstruct an implicit empirical argument on which those harboring these attitudes of distrust might be relying, namely, the TUA.¹⁰ If this argument is sound, there are perfectly good, non-prejudicial grounds for distrusting trauma victim testimony.

But how exactly should the TUA be understood? While we postpone full articulation of the argument until the next section, in this section we appeal to Katherine Hawley's (2019) commitment framework to clarify some key concepts and to provide further motivation for taking the TUA seriously.

On Hawley's view, to trust is to believe that someone is under an obligation to perform an action and to act on the supposition that this person will perform that action (Hawley, 2019, p. 9). Commitments obligate the trusted to perform the action they're entrusted with and justify reactive attitudes toward the trusted.¹¹ To distrust is to withhold trust and reliance on the other's ϕ -ing, declining to believe that the other will ϕ despite having incurred a commitment and declining to act on the supposition that they will fulfill their commitment. One's being trustworthy consists in the successful avoidance of unfulfilled commitments and involves three components: the actual avoidance of unfulfilled commitments, sincerity in one's taking on elective commitments, and competence in fulfilling commitments one has incurred (Hawley, 2019, pp. 79–88). Perceived trustworthiness consists in judgments to the effect that the trusted is competent to avoid leaving commitments unfulfilled and is sincere in fulfilling those that she's incurred.

Hawley provides an account of assertion that is directly tied to her commitment account of trust and trustworthiness. On Hawley's account of assertion, for any given p , speakers¹² assert by simultaneously incurring the commitment to speak truthfully as to whether p and fulfilling or failing to fulfill that commitment in speaking (Hawley, 2019, pp. 50–54). This means that speakers are competent (or not) with respect to speaking truthfully as to whether p . And this in turn means that the competent speaker has a disposition to speak truthfully as to whether p that can be manifested

under a variety of conditions, that she is awake, sober, or is not otherwise restrained from communicating, and that she is not, say, stuck in a completely soundproof room. In contexts of testimony, speakers' competence to speak truthfully (or the lack thereof) is exercised to incur and simultaneously fulfill (or fail to fulfill) commitments to speak truthfully.

So why is Hawley's commitment account helpful in the current context? There are at least three reasons. First, her account provides materials for a more charitable interpretation of the TUA compared to other views of trust, particularly motive-based views. In order to make the case that the tendency to distrust victim testimony likely constitutes a form of testimonial injustice, we need to better understand the nature of distrust. To this end, it may seem natural to reach for an account of trust and distrust that appeals to a speaker's intentions or motives. In fact, such a motives-based account of the tendency to doubt trauma victim testimony may seem a more plausible explanation than implicit reliance on the TUA. After all, a familiar narrative is that victims of sexual assault or domestic violence are lying for the sake of getting revenge or attracting attention, sympathy, material resources, or for some other reason, while BIPOC victims of, e.g., police violence, are often accused of lying to evade punishment for their own crimes.

However, as Hawley has observed, motives-based accounts of trust (Hardin, 2002; Jones, 1996) struggle to make sense of distrust and a lack of trustworthiness (Hawley, 2019, pp. 16–20; see also her Hawley, 2014b, §4). According to these accounts, trust involves reliance on the trusted and an imputation of the relevant motive, for instance, enveloping our interests within their own or bearing us good will. When it comes to distrust and a lack of trustworthiness, motive-based views should not have it that the distrusted or untrustworthy lack the relevant motive. Otherwise, we could reasonably distrust inanimate objects rather than merely declining to rely on them. Moreover, we would effectively distrust a huge swath of the population who very reasonably lack the relevant motive, say, because they've never met us or do not consider our interests or wellbeing in (every instance of) deliberating (Hawley, 2019, p. 18). Motive-based views of trust could claim that distrust involves imputing a motive opposite that of the one we impute when we trust and that the untrustworthy are apt to bear that motive towards us. But such an adverse motive is neither necessary nor sufficient for distrust or untrustworthiness. The adverse motive is not sufficient because we can trust agents who we know have that motive, say, by their communicating as much. For instance, in a sordid political campaign, a candidate needn't distrust that an opponent will attempt to impede her winning an election. This is so even if the candidate doesn't trust the opponent to actually do anything towards that end (Hawley, 2019, pp. 18–19). The adverse motive is not necessary because we can distrust or find untrustworthy agents who we know are well-meaning. The failure of

motive-based views to capture this last kind of case precludes their ability to properly formulate the TUA. Rather, they force the issue of trauma victims' motives such that the possibility of targeting the relation between victims' capacity to remember traumatic events and the corresponding competence to speak truthfully is disclosed.

Although the commitment account of trust eschews reference to motives, it takes seriously imputing other-oriented attitudes to the trusted. In particular, Hawley claims that sincerity in the form of intending to act or speak as one promises when incurring the relevant commitment is a requirement on one's fulfilling that commitment (Hawley, 2019, pp. 62–66). So, when victims speak of their trauma, they are to intend to speak truthfully and, to be trusted, their audience is to impute that intention to them. The familiar narrative that victims are exploiting the tendency to impute the intention to speak truthfully and acting from the intention to deceive gains traction in Hawley's view, just as it does in motive-based views. By distinguishing a norm of sincerity for asserting from a norm of competence in incurring and fulfilling the corresponding commitments, Hawley keeps open the possibility of targeting the relation between victims' capacity to remember and the corresponding competence to speak truthfully. By keeping this possibility open, Hawley helps clarify the appeal of the TUA, namely, the fact that it provides an argument for a seemingly reliable heuristic for determining the trustworthiness of trauma victims regarding their ability to speak truthfully about their trauma.

The second reason Hawley's view is helpful in the current context is that it allows us to fully articulate the TUA. The TUA concerns judgments of competence to fulfill incurred commitments. According to Hawley, competences comprise three components, drawn from Sosa (2010): capacity, condition, and circumstance (Hawley, 2019, pp. 40–42). Consider Bonnie, an expert botanist. When we say of Bonnie that she is competent at pruning, we mean three things. First, that she has developed and honed a disposition to remove parts of plants not requisite for growth or production, that are no longer visually pleasing, or that are injurious to the health or development of those plants. This is her capacity and the seat of her competence. Second, that, when she's clipping, she is awake, sober, her vision is not occluded, etc. These together constitute her condition. Third, that, when she's clipping, she is in a garden, park, horticultural center, etc. and not, say, in the midst of a blizzard. These are her circumstances.

The TUA assumes, quite plausibly, that the competence to remember truly is a component of an agent's competence to speak truthfully regarding the relevant event (solely) on the basis of the relevant memory. In particular, the TUA holds that the competence to remember is a component of the agent's capacity to speak to the remembered event. The TUA then argues that trauma *undermines* an agent's competence to remember by damaging

the agent's capacity to remember veridically. This effectively unseats an agent's competence to remember and, thus, greatly hinders her competence to speak truthfully regarding the relevant event (solely) on the basis of the relevant memory.¹³

Finally, the third reason Hawley's framework is helpful in the current context is that it positions us to respond to the TUA. We argue that trauma *alters* an agent's competence to remember but *without necessarily undermining it*. Our argument draws on what we call the "modes of manifesting" a competence:

Modes of Manifestation: A competence to φ exhibits distinct modes of manifestation if in some set of conditions or circumstances, C , the competence to φ is exercised only if some execution-condition F is met, while in a distinct set of conditions or circumstances, C' , the competence to φ is exercised only if some execution-condition, G , is met and $F \neq G$ and $C \neq C'$.

Consider Bonnie the botanist's competence to prune. Bonnie can manifest this self-same competence (successfully) in ways that differ markedly from one another in their presentation. Their presentations differ by virtue of differences in Bonnie's condition and circumstances which reflect her expert care of different flora. That is, what successful pruning involves in each case requires meeting a different "execution-condition." For example, pepper plants require bottom pruning, rose bushes require soft pruning throughout the year, lilac requires hard pruning in the winter, dogwoods require thinning, and so on. What pruning involves also depends on the age of the plant and different plants require different amounts of precision or coarseness, gentleness or force, etc. There are a number of different pruning shears and saws as well as distinct techniques for their use. And, of course, timing is key to pruning that results in flourishing growth. Each instance of Bonnie's manifesting the competence to prune under these various conditions and circumstances meets different execution-conditions, as different types of plant place different conditions on what has to occur for a (successful) manifestation of the competence to occur. We will argue that what goes for the competence to prune applies, *mutatis mutandis*, for the competence to remember particular facts from one's personal past.

So, against the TUA, we argue that rather than damaging the agent's capacity to remember veridically, trauma alters the agent's condition and the circumstances of encoding and retrieval such that recalling a traumatic memory constitutes a distinct "mode of manifesting" the competence to remember. This is a difference that makes a difference. For we can accommodate changes to the mode of manifestation of a competence far more easily than we can replace a memory capacity. Indeed, if trauma effectively removes an agent's capacity to remember facts about a traumatic event then the agent effectively lacks the corresponding capacity to speak to that event.

She is thus hopeless to fulfill the relevant commitments. Things are very different if the capacity to remember is preserved. For then, so long as trauma does not alter the agent's condition and circumstances in a way that precludes the manifestation of the competence, the agent can (at least in-principle) still fulfill commitments to speak truthfully regarding the traumatic experience (see §4.3).

In short, we appeal to Hawley's framework because it allows us to construe the TUA charitably. We also appeal to it because, as we will see in the next section, it allows us to articulate the TUA more precisely. And, finally, we appeal to it because it helps us to critically assess the TUA, which we'll do in §4. We'll also appeal Hawley's account of testimonial injustice in §5.

3. The TUA

The TUA concerns cases in which victims experienced a trauma and argues for the situational permissibility of distrusting victim testimony concerning facts about their traumas. Recall the example from the introduction. One of the sentiments expressed by some of those who didn't believe Dr. Christine Blasey Ford's testimony about Justice Kavanaugh was that they believed that Dr. Ford had suffered some trauma in her past, but they did not believe that she was capable of reliably reporting facts about what happened to her. They believed that she had suffered some trauma because a therapist who had seen Dr. Ford had notes corroborating her having been sexually assaulted in high school. So why didn't they believe Dr. Ford's testimony? A common complaint was that Dr. Ford was referring to an event that occurred some 36-years prior to the time that she was making the accusation against Kavanaugh in 2018. For some, including former President Donald Trump, the fact that Dr. Ford had waited 36-years to share what had happened to her was a reason to doubt her sincerity. But of course, there are many reasons why rape victims and victims of sexual assault do not share what happened to them. Some 63% of sexual assault cases are not reported to the police. Indeed, after Dr. Ford's testimony, Twitter was flooded with #WhyIDidntReport tweets from sexual assault victims explaining why they hadn't reported their assaults. Among the reasons victims tend not to report, in addition to being afraid of blame and shame, is the fear of having to relive the experience. Memories of sexual assault are emotionally very painful and dysregulating. A proponent of the TUA would agree and claim that such pain and dysregulation plausibly undermines veracity.

The TUA assumes, we think reasonably, that attempts to remember underwritten by a deficient competence make their subject untrustworthy concerning the relevant memory-based assertions. The TUA then claims that a competence to remember veridically is deficient in

cases of traumatic memory due to the context of encoding and retrieval as well as to the affectively valenced content of the memory. However, this is not yet to say exactly what it is about traumatic memory that, according to the proponent of the TUA, is supposed to make it especially worrisome. There are several “pathways” that characterize what it is about traumatic memories that is supposed to cause a trauma victim to lack the competence to speak truthfully about her trauma. The reactions just discussed regarding Dr. Ford’s case bring out one such characteristic:

- (1) **Delayed Expression:** Due to the emotional content of the memory itself or to emotional distress related to the act of recall, victims often delay sharing what happened to them, sometimes for many years, compromising their capacity to veridically recall these memories.

The thought is that victims will tend to repress their traumatic memories because they are too painful to bear. As a result, traumatic memories do not undergo maintenance via repeated retrievals and reconsolidation. And since there’s often a significant temporal gap between the traumatic event and the time the victim shares (expresses) her traumatic experience, her traumatic memories are likely to have undergone significant decay.

If Dr. Ford’s memory of her assault had indeed decayed, this would help explain other features of her testimony often cited as grounds for distrust noted in Rachel Mitchell’s “analysis” of Dr. Ford’s testimony. Mitchell was the prospector that republican members of the Senate Judiciary Committee hired to question Dr. Ford and review evidence. Her “analysis” (released 1 October 2018) described Dr. Ford’s memories as not “consistent” and as lacking in “key details.” Mitchell also emphasized Dr. Ford’s inability to remember anything at all about getting home on the night that she was assaulted. In other words, Dr. Ford’s capacity to remember what had happened to her was distrusted on the grounds that her testimony changed over time (*Inconsistency*), that her memories for details of the event were spotty (*Spottiness*), and that there were gaps in her memory of the event such that she lacked access to whole chunks of time (*Gappiness*).

- (2) **Inconsistency:** The fact that victims’ reports of their traumatic experiences are often inconsistent from one telling to the next is evidence that those traumatic memories are poorly grounded in the historical facts (otherwise they’d be more robust and less variable) and, thus, that victims are likely to be incompetent to speak truthfully about those facts.
- (3) **Spottiness:** The fact that victims are often unable to veridically remember a number of details about the traumatic event is evidence of poorly functioning memory and, thus, incompetence with regard to speaking truthfully about those facts.

- (4) **Gappiness:** If victims fail to remember whole chunks of time, this is evidence of poorly functioning memory and, thus, incompetence with regard to speaking truthfully about those facts.

The “pathway” between traumatic memory and testimony that these three characteristics pick out may be related to *Delayed Expression* and, thus, to the emotional content of traumatic memories. However, a different causal pathway involves stress. The idea is that *Inconsistency*, *Spottiness*, and *Gappiness* occur as a result of the way that stress (duress) undermines memory processing. Given that traumatic memories result from highly stressful experiences and retrieving them is likewise highly stressful, traumatic memories are likely to bear these three characteristics. These characteristics, in turn, are taken to be evidence of a malfunctioning memory capacity.

A *Slate* article entitled “Why Don’t Cops Believe Rape Victims?” brings out two further characteristics of traumatic memories that are often treated as grounds for distrust:

When Tom Tremblay started working for the police department of Burlington, Vt., 30 years ago, he discovered that many of his fellow cops rarely believed a rape victim. This was true time after time, in dozens of cases. Tremblay could see why they were doubtful once he started interviewing the victims himself. The victims, most of them women, often had trouble recalling an attack or couldn’t give a chronological account of it. Some expressed no emotion. Others smiled or laughed as they described being assaulted. “Unlike any other crime I responded to in my career, there was always this thought that a rape report was a false report,” says Tremblay, who was an investigator in Burlington’s sex crimes unit. “I was always bothered by the fact that there was this shroud of doubt” (Ruiz (2013)).

Police officers like Tremblay on the one hand believe that sexual assault victims are indeed trauma victims—“I knew this was a truthful report, and I couldn’t prove it” (Ruiz, (2013)). But on the other hand, they distrust those victims’ testimony because victims (a) struggle to recall an assault, (b) are unable to give a chronological account of the assault, and (c) exhibit seemingly incongruous emotional affect. Characteristics (2)-(4) plausibly account for (a). However, (b) and (c) bring out two additional common characteristics of traumatic memories:

- (5) **Disorganization:** The fact that victims’ reports of their traumatic experiences are often temporally disorganized is evidence of poorly functioning memory and, thus, incompetence with regard to speaking truthfully about those facts.
- (6) **Emotionality:** Because traumatic memories are highly valenced, retrieving them results in high emotional arousal which undermines agents’ competence to speak truthfully about facts, especially those they find highly emotionally stimulating.

Plausibly as a result of the duress associated with processing (in particular, encoding and retrieving) traumatic memories, trauma victims

often struggle to provide organized, chronological accounts of traumatic events that they try to recall (*Disorganization*). This, in turn, seems to indicate that their memory is malfunctioning and, thus, that they are incompetent to speak truthfully about their trauma. In addition, traumatic memories are, as one would expect, highly emotional. But intense emotional arousal doesn't always manifest in ways that we're used to seeing. Sexual assault victims do not express the kind of affect police officers expect of a victim of a violent crime, and instead behave in other strange (one wants to say "hysterical" or "dissociative") ways, for instance, laughing or smiling as they describe being assaulted or becoming unresponsive when the traumatic experience becomes salient in the conversational context (*Emotionality*).¹⁴ The relevant "causal path" probably depends on when, in relation to the time of the traumatic event, the testimony is given, and probably reflects dissociative and other trauma responses that can impact but do not originate in memory processing. In the next section, we discuss empirical evidence concerning whether traumatic memories really do exhibit characteristics (1)-(6).

The characteristics (1-6) of traumatic memory just described pick out types of what we call "deficiency conferring properties." Such properties are (thought to be) a product of the context of encoding and retrieval or qualify the affective quality of mnemonic content. The presence of these characteristics, either alone or in combination, is often sufficient to make their testifiers seem untrustworthy regarding the facts of the trauma. This is because these characteristics are thought to be evidence of malfunction in victims' capacity to remember. In presenting them, we mention how they are supposed to bear on the victims' capacity to remember and the corresponding competence to speak truthfully about their trauma. To make things precise, here is the TUA in standard form:

Traumatic Untrustworthiness Argument (TUA)

P1. To the extent that a subject's competence to remember some event is deficient, to that extent they are untrustworthy concerning their memory-based assertions about that event.

P2. Each of the following deficiency conferring properties are indicative of some degree of deficiency of a subject's competence to remember some event: inability to recall central details of an event, inconsistencies or incompleteness in the content of the memory or its narrative structure, and increased probability of confabulation.

P3. Traumatic memories are (a) characteristically encoded and recalled under duress and (b) highly negatively valenced and (a) & (b) (probabilistically) cause realizations of the deficiency conferring properties mentioned in (P2).

C1. To the extent that traumatic memories realize the deficiency conferring properties mentioned in (P2), the trauma victim's competence to remember the traumatic event is likely to that extent deficient.

C2. To the extent that the victim's competence to remember the traumatic event is deficient, to that extent those victims are untrustworthy concerning their memory-based assertions about the traumatic event.

(P1) expresses what we take to be a fairly uncontroversial heuristic for (dis)trusting subjects with respect to the deliverances of their memories. (P2) spells out deficiency in the capacity to remember as mentioned in (P1) by listing properties of the remembering subject or her memory which provide some defeasible evidence in favor of applying the heuristic. Characteristics (1)-(6) pick out properties of this kind. (P3) relates the formation and retrieval of traumatic memories to the deficiency conferring properties listed in (P2). (P3) is the target of our argument against the TUA. (C1) draws from (P2) and (P3) the inference that traumatic experiences are likely to result in a deficient capacity to remember the corresponding traumatic event. (C2) then draws out from (P1) and (P4) the corresponding heuristic to be applied to trauma victims' memory-based assertions about their trauma.

Recall that the focus of the TUA is declarative memories for particular events from the personal past, specifically those that result from traumatic experiences. Going forward, we bracket the significance of traumatic memories (for the victim) and second-order affective responses to the emotionally valenced content of those memories (see fn.5).¹⁵ We focus on cases of victim testimony regarding the factual details and first-order emotional content of a traumatic event where the TUA would recommend distrusting the victim with respect to those details. Cases of victim testimony regarding the factual details of a traumatic event are more readily assessable from the standpoint of the empirical literature on memory as well as from Hawley's framework. On the TUA, quantifiable measures of veracity of recall and the graded ability to make memory-based assertions dovetail in such cases. Specifically, the evidential value of victim testimony degrades as a function of the victim's incompetence to speak about the relevant event and, per (P3), this is empirically measurable (in part) by tracking the characteristic features listed above and their supposed impact on retrieval.

In the next section, we deny (P3) by showing that, *contra* the TUA, it does not enjoy empirical support. Rather, what the empirical evidence shows is that the traumatic experience alters the victim's condition and the circumstances of encoding and retrieval. The result is that the mode of manifestation of the competence to remember truly as well as that of the competence

to speak truthfully about the relevant event are different in cases of recalling a traumatic event.

4. Evaluating the TUA: empirical evidence

Our main target is (P3) of the TUA, namely, the claim that traumatic memories are (a) characteristically encoded and recalled under duress and (b) highly negatively valenced and that (a) & (b) (probabilistically) cause realizations of the deficiency conferring properties mentioned in (P2). This premise requires empirical support. Accordingly, we begin this section by considering empirical findings that might support the claim that the relationship between traumatic memories and duress causes traumatic memories to be *Inconsistent*, *Spotty*, *Gappy*, or *Disorganized*. Specifically, we consider the relationship between memory and duress by looking at post-traumatic stress disorder (PTSD) and the ways in which stress impacts processing of mnemonic content (§4.1). Next, we consider two ways that first-order affectively valenced content of traumatic memories might cause them to instantiate deficiency conferring properties, namely, through increasing the likelihood of *Delayed Expression* and through increasing susceptibility to developing “false memories” due to *Emotionality* (§4.2). Our replies will challenge (P3) of the TUA: duress and affective valence associated with traumatic memories do *not* cause (or make it more likely for) such memories to instantiate deficiency conferring properties. We do this in two ways. First, we show that affective valence can actually prevent memories from instantiating deficiency conferring properties. Second, we show that the duress associated with traumatic memory encoding and retrieval does not generate deficiency conferring properties.

To be clear, we are not denying that traumatic memory can be inconsistent, spotty, gappy or disorganized. Rather, we are denying that these properties are properly considered deficiency conferring in a way that justifies distrust toward specifically traumatic memories. Finally, we claim that while the empirical evidence does suggest that stress impacts the encoding and retrieval of traumatic memories, the TUA misrepresents the effects of this impact by treating it as undermining a victim’s capacity to truly remember facts about her traumatic experience. Instead, the effects of the impact of stress on encoding and retrieval should be understood as modifications of the victim’s condition and the circumstances related to her competence to remember facts about her trauma such that her competence has a distinct mode of manifestation. This has upshots for how we go about probing traumatic memories—we cannot assume that the manifestation conditions for the competence are the same across traumatic and non-traumatic memories (§4.3).

4.1. Duress

As a first pass, one might try to support (P3) of the TUA by appealing to findings which appear to show that victims who suffer PTSD after a traumatic experience perform worse overall on episodic memory assessments (Forest & Blanchette, 2018; Zlomuzica et al., 2018). Specifically, it is sometimes reported that these memories are fragmented, lack information, or lack a narrative structure, suggesting that they are *Inconsistent*, *Spotty*, *Gappy*, or *Disorganized* (e.g., Brewin, 2011, 2016). Yet, the relevant findings have not been replicated (Engelhard et al., 2019, p. 92; Rubin et al., 2016). And other findings point in the opposite direction: it has been reported that episodic memory for traumatic events is often more vivid and clear than other memories (Brewin, 2015; Tulving, 2001, 2002; Zlomuzica et al., 2018, p. 1). Indeed, a study by Forest and Blanchette (2018) found that while there was poorer episodic memory for affectively neutral mnemonic content, “[v]ictims did not show any impairment in memory for trauma-related content” (Forest & Blanchette, 2018, p. 6). In part for this reason, Forest and Blanchette (2018) warn that “impairment and deficit words” with respect to the memories of PTSD victims “must be used with caution” because “[they] should not be understood to mean that there is a pathological level of memory function” (Forest & Blanchette, 2018, p. 7). In relation to the TUA, we can extend this warning beyond avoiding associations with mnemonic malfunction. Impairment or deficit words relating to traumatic memories must be used with caution if they are not to beg the question in favor of the TUA by eliding the possibility of the victim’s preserved capacity to remember the traumatic event without *Inconsistency*, *Spottiness*, *Gappiness*, or *Disorganization*.

Why are trauma victims proficient at episodic recall of specifically affectively valenced aspects of a traumatic event? First, our memory capacity is enhanced when we are in an especially emotional situation. This is so because the stress of traumatic events boosts activation of the amygdala and leads to stronger emotional memory (Stevens et al., 2018, p. 653). Furthermore, memory is enhanced especially for negatively valenced contents. Various studies show that we retrieve episodic memories attached to negative emotions with greater detail and veracity and with less reconstructive memory-errors (Bless & Schwarz, 1999; Kensinger, 2007; Kensinger et al., 2007). This is likely due to increased activation of amygdala during encoding or consolidation. The activity in the right amygdala correlates with enhanced visual details of memories. Indeed, the “strong correlation between the amount of activity in the right amygdala and in the right fusiform gyrus during the encoding of negative items later remembered with specific visual detail suggests that interactions between these regions

may underlie this enhancement” of episodic memory (Kensinger et al., 2007, 1883). Traumatic memory is connected to high negative arousal. As it has been observed that PTSD patients are just as good as (if not better than) healthy subjects at remembering negatively valenced content, it is not surprising that the former’s memory for traumatic events is intact (Forest & Blanchette, 2018, p. 6; Stevens et al., 2018, p. 356; Zlomuzica et al., 2018).

These studies appear to confirm a sufficient degree of coherence, consistency, comprehensiveness, and veracity of traumatic memories. They also suggest a mechanistic explanation for why traumatic memories might even be remembered better. Given this, (P3) of TUA is so far unsubstantiated—if anything, the evidence so far suggests that victims are likely *highly* competent to speak about their trauma.

A proponent of the TUA might insist that the kind of duress associated with traumatic memories nonetheless impacts memory processing such that traumatic memories are *Inconsistent*, *Spotty*, *Gappy*, or *Disorganized*. Indeed, despite the studies just mentioned, as we have seen already, it seems not uncommon that victims are unable to recount the relevant event(s) in sufficient detail or in the right chronological order. Studies have shown that increased cortisol levels due to stress correlate with higher activation of the amygdala during a traumatic event, and that higher stress levels degrade the consolidating function of the hippocampus (Haskell & Randall, 2019; Samuelson, 2011; Stevens et al., 2018). This provides a plausible explanation why victims, shortly after experiencing a traumatic event, will not be able to retrieve all of the information which has been encoded (*Spotty*), and why traumatic memories are at first often fragmented (*Inconsistent* or *Gappy*), incomplete (*Gappy* or *Spotty*), or nonlinear (*Disorganized*).

In response, while it is true that unconsolidated memory at early stages can be disrupted and is generally fragile, such memories can become resilient if given enough time. Early-stage fragility is not evidence of *Inconsistency*, *Spottiness*, *Gappiness*, and *Disorganization* in traumatic memories. Indeed, even after a few days, the hippocampus is often able to finish consolidating and the traumatic memory thus consolidated becomes more fully accessible. In fact, traumatic memories often manifest as “flashbulb memories,”—memories that are especially vivid (Haskell & Randall, 2019). Thus, stress can actually enhance memory storage such that trauma victims often have full and vivid memories, at least concerning the beginning of the traumatic event. Increased adrenaline is correlated with increased memory intensity and memory enhancement—memories of stressful or traumatic events are sometimes said to be “burned” into our minds.¹⁶ This expression, though metaphorical, is apt. Once the traumatic memory becomes more fully accessible, it is hard for the victim to forget. She is especially competent to relay the memory because she is marked by it.

It appears, then, that the neurophysiological mechanisms underlying the encoding and retrieval of traumatic memory can explain apparent *Inconsistent, Spotty, Gappy, or Disorganized* memories in a way that does not impugn the veridicality of traumatic memories. A trauma victim's competence to speak truthfully about their trauma is thus not threatened.

4.2. Valence

§3 noted one route from the affectively valenced content of traumatic memory to the claim that trauma undermines a victim's capacity to remember facts about her trauma. This route went by way of the *Delayed Expression* deficiency conferring property. The idea, recall, was that trauma victims tend to repress their traumatic memories because they are emotionally overwhelming and painful. As a result—and here is the empirical claim—traumatic memories do not undergo maintenance via repeated retrievals and reconsolidation. And since there's often a significant temporal gap between the traumatic event and the time the victim shares (expresses) her memory of her traumatic experience, a proponent of the TUA might claim that traumatic memories are likely to have decayed or suffered the memory failure known as “transience.” However, the fact that traumatic memories may be more likely to be kept private for many years does not entail that victims do not retrieve and reconsolidate them. And while trauma victims can indeed go a long time before they remember their traumas, perhaps due to suppressing those memories, there's no evidence that delayed traumatic memories are less accurate. The forgetting curve, after all, does not act on the central details of memories in the same way that it acts on peripheral details. As we've seen, because of their affectively valenced nature, the crucial facts about a traumatic event are unlikely to be forgotten.

Another route open to the proponent of the TUA is to invoke evidence of so-called “false memory syndrome” which was widely discussed in 1990s in the context of court cases allegedly involving childhood sexual assault. While the empirical validity of this syndrome is dubious, there may remain something compelling about the idea that traumatic memories might be especially liable to be so-called “false memories” (Loftus, 1997, 2003). In a false memory, one seems to remember an event that did not actually occur in their personal past, where one acquires the relevant information from the suggestions of others as opposed to associative processes in the mind (Garry et al., 1996; Hyman & Billings, 1998; Loftus & Pickrell, 1995; Otgaar et al., 2009, 2013, 2021; Wade et al., 2002). The question, then, is whether there is reason to think that the conditions for implanting a false memory are more likely to be satisfied where traumatic memories are concerned.

A proponent of the TUA might answer in the affirmative, appealing to one way in which the affectively valenced content of traumatic memories cause the realization of some deficiency conferring property onto those memories—*Emotionality*. The proponent of the TUA might argue that because the contents of traumatic memories are highly emotional, recalling them may activate victims' emotional arousal. When we are highly emotional, our grip on reality becomes fragile—we act in ways that don't make sense, say, laughing as we describe some horrible event or becoming unresponsive when asked about it, and we might be highly impressionable. In which case, being instructed to vividly imagine traumatic events could more easily lead to later experience that fictional episode as a memory than being instructed to vividly imagine contents that are not highly emotional, as in the infamous cases in which adults supposedly became erroneously convinced that they had been sexually abused as children as a result of being asked certain questions (Otgaar et al., 2021, p. 3).

Though it's worth noting that recalling affectively valenced content need not cause a person to become emotional, let us grant that such content is likely to lead to (strong) second-order affective responses. Still, why think emotional arousal increases susceptibility to false memories? In other words, why buy *Emotionality*? One reason might be the old idea that emotion and reason are simply at odds with each other. We question this view shortly. In the meantime, though, it's not immediately clear how it is supposed to support the claim that traumatic memories, because of their characteristic emotionality, are especially liable to be replaced by false memories or modified in ways that render them unreliable. What's needed is a connection between emotion and suggestibility or impressionability. Perhaps a proponent of the TUA would point to propaganda and advertising to suggest that susceptibility to suggestion and manipulation is in part a function of emotional arousal. Tying this back to traumatic memory, they might suggest that the emotionally discordant behavior exhibited in bouts of hysteria or dissociation are signs of emotional arousal that allow for suggestibility and thus susceptibility to belief implantation.

However, it is important to recognize that the Loftus studies do not directly address the sorts of cases we are considering, where an agent is actually in possession of a traumatic memory. In the Loftus studies, memories are implanted into, as it were, empty spaces—the events the memories concern are events that are supposed to have occurred at some earlier period in life about which we have little in the way of existing memories to compete with the implanted memory. But the TUA is concerned with cases in which the relevant spaces are not empty. Rather, they are occupied by traumatic memories.

At this point, the proponent of the TUA might draw on the fact that traumatic memories exhibit a lack of (peripheral) details, gaps, and some

temporal inconsistencies to suggest that false memories might fill-in spots and gaps in an ill-fated effort to minimize *Inconsistency*, *Spottiness*, *Gappiness*, or *Disorganization*, and perhaps to ease a victim's cognitive dissonance. This may well backfire, leading to (further) distortions of the traumatic memories. This suggestion, however, is entirely speculative. And the evidence at hand suggests that the gaps in traumatic memories that implanted memories might fill are unlikely to significantly influence the reliability of traumatic memories with respect to the central details of the traumatic event. As we've seen, central details, which typically go hand in hand with highly affectively valenced information, are what tend to be best remembered. What we are liable to forget are the peripheral details. In light of this, the spots and gaps in a traumatic memory are likely to correspond to peripheral rather than central details (for instance, how Dr. Ford got home the night she was assaulted). It's likewise the peripheral details that typically account for whatever *Inconsistency* there is in reports of traumatic memories. In contrast, and against both *Delayed Expression* and *Emotionality*, the central details of traumatic memories—again, the details that are most closely connected with emotional valence—tend to be robust (see §4.1 above). So, the gaps in traumatic memories that implanted memories might fill are unlikely to significantly influence the central contents of traumatic memories.

Finally, there's reason to think that the idea that victims of traumatic experiences are especially susceptible to the implantation of false memories is in fact a mechanism for silencing victims that plays on historical prejudices about the epistemic reliability of women, children, and members of the BIPOC community (Dallam, 2002; Raitt & Zeedyk, 2003). Indeed, there's reason to think that the very idea that emotions have negative epistemic value (as *Emotionality* suggests) or that they are entirely arational is at least largely an expression of the sort of hermeneutical injustice that underwrites testimonial injustice of the sort we've been considering (Jagger 1989). At the very least, it is far from obvious that this is the right way to think about emotions. Most contemporary philosophical and psychological views of emotions treat them as involving perceptual or cognitive components or aspects (Lazarus, 1991; Nussbaum, 2001, 2004; Roseman, 1984, 2001; Roseman et al. 1996; Scherer, 1993, 2001; Solomon, 1973, 1997). And this more positive conception of the epistemic value of emotions isn't an entirely new idea: Aristotle held such a view. Finally, a more positive conception of the epistemic value of emotions fits with our empirical understanding of emotions. Afterall, the biological role of emotions is partly informative: fear helps creatures avoid things that can injure or kill them, affection helps them maintain social bonds, etc.¹⁷ So the claim that false memories are more likely to be implanted where traumatic memories are concerned because of the latter's highly emotional (affectively valenced)

content rests on a dubious and possibly prejudicially-based view of the emotions. The false memory defense of the TUA, then, is not only unpromising but also dangerous insofar as the TUA is supposed to provide a non-prejudicial basis for doubting the veracity of trauma victim testimony.

4.3. *Conditions & circumstances*

The neurophysiological and psychological evidence we have so far considered suggests that trauma victims are not in general worse at remembering traumatic events such that their competence to speak truthfully about those events is threatened. Not only do some studies suggest that trauma victims can clearly and coherently remember the initial traumatic experience, they can also later remember new trauma-related content in the same way as non-victims (Forest & Blanchette, 2018; Zlomuzica et al., 2018). Traumatic memories are neither *Inconsistent*, *Spotty*, *Gappy*, nor *Disorganized*, nor are they subject to deficits incurred by *Emotionality* or *Delayed Expression*. This suffices to undercut the conclusions (C1-C2) of the TUA by undercutting (P3). There is no reason to think the premise is true and, in fact, some reason to think that it's false. So the neuropsychological evidence does not warrant skepticism about a victim's capacities to remember traumatic events. In which case, victims are just as competent to speak about their traumatic experiences as non-victims are to speak about the events relayed by their (emotionally valenced) memories.

However, the neurophysiological evidence *does* warrant care in the way we go about gathering information from victims about traumatic events. Duress and the affective valence of the memory are likely to affect the victim's condition and her circumstances during encoding and retrieval. The mistake of the TUA is to assume that what is affected is the victim's capacity to remember, the seat of her competence. Instead, what the evidence suggests is that the competence to remember a traumatic event has a distinct mode of manifestation compared to the mode of manifesting the competence to recall a non-traumatic event. Just as Bonnie will employ different tools and types of cut when pruning at different times of year when attending to a pepper plant or dogwood rather than a rose bush or lilac, we ought to try to find the appropriate circumstances and conditions for the effective retrieval of traumatic memories. Remember Tom Tremblay, the police officer mentioned back in §3? Tremblay was bothered by the fact that, although he sensed that sexual assault victims were telling the truth, "there was always this thought that a rape report was a false report," a "shroud of doubt" (Ruiz, (2013). Tremblay was so bothered, in fact, that he did his research. He now works as a consultant, sometimes alongside David Lisak, a clinical psychologist, to train civilian and military law

enforcement to understand victim and offender behavior (see also Lisak et al. 2010). They teach an open-ended, narrative approach to interviewing victims that involves asking victims to describe in their own words sensory details, e.g., what they heard or smelled and how they felt, what they remember from the assault. Not only do such sensory details provide evidence that may corroborate a victim's account (if, say, the victim correctly identifies her assailant's ringtone or cologne), they can also trigger more memories. For example, Lisak recalls a victim's memory of her assault was initially cloudy. However, when she was asked to describe what sounds she heard, her recollection of the sound of her assailant's footsteps as he walked around her apartment triggered a second memory of hearing her assailant talking on his phone with a car mechanic. The victim was able to remember enough about the conversation that police were able to locate the mechanic. The mechanic then confirmed that he had indeed spoken with the assailant (Ruiz, (2013)).¹⁸

Another tactic for accommodating the distinct circumstances or conditions for retrieval of traumatic contents concerns the timing and frequency of interviews. Interviewing victims immediately after a traumatic experience could undermine a victim's competence to speak about their trauma. Due to the effects of increased amygdala activity on the hippocampus or of the time required to consolidate, what a victim can recall immediately after a trauma is not the same as what she can recall even after a few days. The burn is still taking shape, as it were. As a result, reports taken immediately after a traumatic event may fail to match the report given in court which, in turn, may arouse suspicion in a jury (Haskell & Randall, 2019). At the same time, reports taken much later are subject to the forgetting curve, severely reducing the details recalled. While the forgetting curve mostly applies to peripheral rather than central details, such details can be important for finding and convicting perpetrators. Ideally, reports should be taken after consolidation has occurred but before too much has been forgotten.¹⁹ This suggestion is applicable to gathering testimony in general, as parity in competence to speak about a memory would suggest. The difference is that the competence to speak about traumatic events appears to take a bit more time to form. So, trauma victims should be interviewed at a delay, not immediately after the event.

In addition, some questions may be better probes than others when it comes to assessing what happened on the basis of a traumatic memory. For example, during a sexual assault trial, victims are often asked what they were wearing or how they behaved in the hours before the assault. This information would not necessarily be stored as trauma-related content but instead as neutral or even positively valenced content. According to Forest and Blanchette (2018), traumatized victims might be worse at remembering positive and neutral content; but inability to remember such details doesn't

impugn the veridicality of the more central details of the event nor of the details that are associated with the negatively valenced content of the memory.²⁰ Victims are not competent to speak about every detail of a given event. But, then again, no one is. Requiring that victims be able to speak competently concerning neutral or positively valenced yet innocuous content would impugn all declarative memory. That questions ought to be tailored to probe for information that the speaker is most likely to remember and not in order to show that traumatic memories are not perfectly (read: infallibly) reliable should be non-controversial. Our additional suggestion is that the type of information to probe for is as one would expect on the assumption that victims are competent to speak about the traumatic event, namely, core details and negatively valenced content connected to those core details.

To sum up, the empirical evidence from the study of traumatic memory suggests that trauma victims are especially competent to remember negatively affectively valenced content and are competent to speak truthfully as to their trauma. The differences between traumatic memory and non-traumatic memory involve differences in the mode of manifestation of the competence to remember. Indeed, as Haskell & Randall's as well as Tremblay's and Lisak's work demonstrate, providing the appropriate conditions and circumstances can result in highly vivid veridical sensory memories of the event. This mode of manifestation differs markedly from the more reflectively distant, semanticized mode that we're used to with non-traumatic memories. The markedly different way in which traumatic memories manifest is not indicative of deficiency and does not make victims less trustworthy with respect to speaking truthfully as to their trauma.

So traumatic memories are not *Inconsistent*, *Spotty*, *Gappy*, or *Disorganized* and are not subject to *Delayed Expression* or *Emotionality* where these are defined as deficiency conferring properties. But this is consistent with acknowledging that traumatic memories are often marked by inconsistencies, spots, gaps, and disorganization that *may well be deficiency conferring for other modes of manifesting* the competence to remember particular facts about one's personal past. For these properties mark the absence of features—consistency, non-spottiness or non-gappyness, etc.—that may well figure into the execution-conditions for these other modes of manifestation. *But that does not mean that every mode of manifestation of the competence to remember particular facts from one's personal past must have these features* (or have them to the same extent or in the same way) among their execution-conditions. So the TUA cannot conclude that the sorts of inconsistencies, spots, gaps, disorganization, etc. that are characteristic of traumatic memories (as distinct from paradigmatic non-traumatic memories) are deficiency conferring.

5. Conclusion: trauma & testimonial injustice

If the TUA were sound, then so long as distrust in trauma victim testimony is based on the heuristic that the argument defends, it does not constitute a form of testimonial injustice. Importantly, the TUA is not committed to denying that there is any epistemic injustice at play here. As Hawley understands epistemic injustice, it consists in unfair distrust *or challenges to being trustworthy stemming from circumstances* (Hawley, 2014a, 2017). According to the TUA, the cognitive impacts of trauma—in particular its impact on declarative memory—is a secondary harm of trauma. So by Hawley's view of epistemic injustice, insofar as this includes challenges to being trustworthy stemming from circumstances, a proponent of the TUA may claim that this secondary harm is epistemic in nature: it is properly considered an unfair challenge to being trustworthy insofar as it undermines a victim's competence to speak truthfully about her trauma. And according to the TUA, this impact is devastating: it effectively destroys a victim's capacity and thus competence to speak truthfully about her trauma. So while the trauma's impact on a victim's competence to remember is a kind of epistemic injustice, distrusting trauma victim testimony because of that trauma is not. In this way, the TUA can grant that epistemic injustice is in play when they advocate distrusting trauma victim testimony, but they will claim that the injustice precedes and is not the result of distrust.

We have argued that the TUA misconstrues the nature of the impact of trauma on memory. In so doing, the TUA likewise mislocates the epistemic harm. Trauma does not effectively destroy a victim's capacity and the competence to speak truthfully about her trauma. Rather, it impacts her condition or the circumstances in which her competence to speak truthfully about her trauma manifests by determining a different mode of manifesting for traumatic memories. The trauma victims suffer is indeed an injustice, and some of its cognitive impacts, e.g., anxiety and depression, are secondary harms. But the impact trauma has on a victim's declarative memories of her traumatic experience is not among them. Distrust is the (or at least an important) source of epistemic harm. For it is the distrust that the TUA advocates that isn't fair. Indeed, if we are right, then rather than avoiding testimonial injustice, the TUA adds a further ableist dimension to it.

Those who distrust trauma victim testimony on the basis of prejudicially grounded attributions of insincerity respond to victims who attempt to give testimony about their traumas with contempt (Dr. Ford had to hire a private security detail, among other precautions). The TUA does not question victim sincerity. Rather, it denies that trauma victims have the competence to speak truly about their traumas. Accordingly, the TUA does not support taking an attitude of contempt toward trauma victims who attempt to give testimony about their traumas. Rather, it supports taking a different reactive

attitude toward victims who attempt to give testimony about their traumas, namely, pity. The TUA provides an instance of what Stramondo (2010) refers to as “an ideology of pity” toward disabled people. According to Stramondo, this ideology of pity “helps naturalize the socially constructed harms of disability by regarding them as sad, but inevitable” (Stramondo, 2010). Likewise, the TUA helps normalize testimonial injustices against trauma victims by treating trauma as a condition that sadly but inevitably renders victims untrustworthy regarding the facts of their trauma.

Just as Hawley’s framework allowed us to develop and clarify the reasoning of the TUA, it also helps us see where it and potentially analogous forms of reasoning go wrong. Epistemic injustice is a matter of unfair distrust. One way that this can occur is if perceived trustworthiness fails to correspond to actual trustworthiness. Perceived trustworthiness consists in judgments to the effect that the trusted is competent to avoid leaving commitments unfulfilled and is sincere in fulfilling those that she’s incurred. Misattributions of insincerity underwrite one way in which one’s trustworthiness can be unfairly misperceived—misattributions of incompetence are another. Attributions of incompetence may masquerade as empirically justified and thus “natural” when epistemic competences manifest in unexpected ways. But inferences from such unexpected modes of manifesting to the deficiency or absence of an epistemic capacity and, thus, a lack of competence, constitute a form of epistemic intolerance—a failure to recognize diverse forms of epistemic competences as competences at all (see Catala, 2020; Catala et al., 2021). The framework provided by Hawley’s commitment account of trust and trustworthiness is to this extent a bulwark against epistemic intolerance: it allows us to acknowledge traumatic memory as a form of epistemic competence—a kind of declarative memory for primary trauma with a mode of manifestation that differs in certain respects from those of other declarative memories for particular events from the personal past.

Notes

1. See Walsh (n.d.) on the phenomenology of traumatic memory as itself a traumatizing being “stuck in time.”
2. Leigh Gilmore, *Tainted Witnesses: Why we doubt what women say about their lives* (Gilmore, 2018); *The Limits of Autobiography: Trauma and Testimony* (Gilmore, 2001).
3. This seems to be especially prevalent in two kinds of cases: (i) when the victim is BIPOC, and (ii) when the victim is a woman, the crime sexual or domestic in nature, and the accused is a cisgender white man.
4. That said, the TUA is not just concerned with the factual details of a traumatic memory. Its scope is wide and concerns the victim’s overall experience of the event, her first-order affective response(s) to the event, her second-order affective responses

to the emotionally valenced content of the memory, and its overall significance (especially for her self-narrative).

5. For an example of this sort of sentiment as relayed by a sexual violence researcher, see Tsanchz (2021: 22:15.57, 40:30.17). <https://www.meghantschanz.com/episode-161-her-research-shows-that-some-men-use-sexual-assault-allegations-to-their-benefit/>
6. We remain neutral on whether memory is factive (Bernecker, 2017), on whether declarative memories for particular events from the personal past must be appropriately causally connected to those events (Martin & Deutscher, 1966; *cf.* ; De Brigard, 2014; Michaelian, 2016), and on whether episodic memories, as such, present themselves as representing past experiences, that is, represent themselves as authentic (Bernecker, 2010, 2015).
7. Recall of particular events from the personal past tends to be episodic. However, these memories lose experiential or imaginistic content the more they are recalled as part of a process sometimes called “semanticization” (Irish & Piguet, 2013; Aronowitz, *forthcoming*). Moreover, it’s possible to recall an event from one’s personal past without ever entertaining any experiential or imaginistic content.
8. It’s worth noting that the TUA is not restricted to memories formed on the basis of experiencing a particular kind of traumatic event. Rather, its scope includes traumatic memories that result from experiencing a natural disaster, experiencing or witnessing violence, experiencing or witnessing sexual or physical assault, witnessing or receiving news of the death of a loved one or caretaker, and so on. Given the wideness of scope of the TUA with respect to mnemonic content, memory type, and type of traumatic event, its plausibility depends in part on the caution it recommends being limited and contextual. For instance, the TUA might not caution against trusting victims of sexual assault with respect to their (first- or second-order) affective response to the event or with respect to the significance that they draw from the event. But, as the examples we use throughout suggest, it is a common experience of victims of assault to be treated with some measure of distrust regarding their portrayal of particular factual details of the event.
9. Our argument here expands on work done in Springle et al. (2023) showing that empirical evidence of the veridicality of recall of traumatic memory suggests that traumatic memory is as reliable as non-traumatic memory, *contra* the TUA.
10. We grant the possibility that the TUA or parts thereof can be made explicit in cases where (dis)trust of trauma victims is made salient in public discourse, either as an earnest attempt to reconstruct the argument or merely as cover for prejudicial, e.g., racist, sexist, transphobic, ableist, etc., attitudes.
11. Hawley does not give a full account of commitments. Moreover, while commitments typically give us obligations and obligations (nearly always) give us commitments, Hawley elects to distinguish the two and to keep commitments central to the account rather than obligations (Hawley, 2019, p. 11). Finally, commitments can be incurred and fulfilled explicitly, as in cases of issuing a verbal promise, or implicitly, as in cases where one’s role in an institution, e.g., one’s being a professor, brings with it certain commitments.
12. Going forward, we use “speaker” and “testifier” interchangeably.
13. Going forward, we drop mention of the fact that the relevant capacity to speak truthfully is memory-based and concerns the traumatic event, except where clarity dictates.
14. In fact, a purported cause of Dissociative Identity Disorder (DID) is severe physical or sexual abuse. DID patients suffer dissociative amnesia concerning significant stretches of their past and, when remembering, describe the event(s) of abuse as not

having happened to them but as having happened to another person (American Psychiatric Association, 2013, pp. 291–307).

15. We take second-order affective responses to include chronic affective responses to trauma including Major Depressive Disorder as well as Complex Post-Traumatic Stress Disorder. Unfortunately, due to considerations of space, we hold off addressing this issue for another occasion. We would like to thank an anonymous reviewer for pressing us to clarify this.
16. Distracting oneself during the traumatic experience may explain why memories of the beginning of a traumatic event are especially vivid and veridical while memories of the middle or end of the event may be less so as well as why memories of such events may be fragmented. This is consistent with victims remembering the central facts about the full event (Haskell & Randall, 2019, p. 21).
17. We use these examples because they are simple and the kinds of emotions that the mind and biological sciences have spent more time studying. We do not endorse a reductive view of human emotions, many of which are complex, diverse, culturally specific, normatively laden, etc. where the value of such features cannot be (or at least cannot easily be) reduced to their contribution to biological fitness.
18. In addition to eliciting memories of sensory details, there are more embodied methods of triggering victims' memories, e.g., reenactments. We hope to explore implications of embodied accounts of memory (e.g., Rowlands, 2010, 2015, 2017) for understanding issues of epistemic justice in the context of traumatic memory in future work.
19. It may be advantageous to take several reports at later intervals to see which details are retained as central. Changes in the report over time (including loss of detail) and during semanticization occur for non-traumatic memories and should not by themselves be seen as undermining the veracity of the memory.
20. It doesn't follow from these studies that victims of trauma are always worse at remembering neutral or positive content. Also, the content used in these studies were completely independent from the trauma—the results might be different if we ask for the non-traumatic content of events occurring before the trauma.

Acknowledgements

We would like to thank Rebecca Dreier for her contributions to earlier drafts of this manuscript. We would also like to thank attendees of the 2022 bi-annual PSA meeting, the IPM3, and the 2022 SPP/ESPP joint session for excellent comments and questions. Finally, we would like to thank two anonymous reviewers for their excellent feedback.

Disclosure statement

No potential conflict of interest was reported by the author(s).

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