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## Official Apologies and the Quest for Historical Justice

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**CONTROVERSIES IN GLOBAL  
POLITICS & SOCIETIES**

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the Quest for Historical Justice

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# Official Apologies and the Quest for Historical Justice

Michael R. Marrus

This essay examines apologies that are offered on behalf of public bodies in response to historic wrongs. Martha Minow notes that “apology depends upon a paradox. No matter how sincere, an apology cannot undo what was done, and yet ‘in a mysterious way and according to its own logic, this is precisely what it manages to do.’” Is there magic at work in apologies? Or, at least, successful apologies? The context of this essay is the insufficiency of justice seeking in the world, and the unhealthy, sometimes long-mouldering residue left behind by generations that have ignored great wrongs or failed to address them properly. “It should be recognized that in a perfect society victims are entitled to full justice,” says South African judge Richard J. Goldstone, who goes on to note that in real societies this is not, has not been, and will not be possible. Therefore, societies may need to find unconventional solutions in a continuing quest for justice. For historic wrongs, I argue in this essay, apologies are worth considering.

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## I. Introduction

“Never apologize, never explain” — so goes the adage attributed to, among others, Talleyrand, Benjamin Jowett, Benjamin Disraeli, Lord Fisher, Evelyn Waugh, and (in a slight variation) John Wayne (Gleason 2003; Lazare 2004, pp. 255–6).<sup>1</sup> Nothing could be further

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1. In a classic American film on the Indian Wars, *She Wore a Yellow Ribbon* (1949), John Wayne says, through his character, the crusty cavalry commander Captain Nathan Brittles: “Never apologize, Mister. It’s a sign of weakness” (Weisberger 2003). One other example: The Canadian women’s suffrage campaigner and activist Nellie McClung perhaps best summed up the politician’s bloody-mindedness on the matter: “Never retract, never explain, never apologize — get the thing done and let them howl.” See Canadian Studies Webcentre (n.d.).

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from the temper of our time of millenarian contrition, I will argue in this paper. It is as if, with no one claiming definitive responsibility for the expression, these historical personages are acting out what the expression commands by declaring themselves pugnaciously at odds with contemporary discourse. We are, I contend here, awash in apologies, both trivial and highly consequential. Reaching backwards and forwards, hard and soft, macro and micro, and extending across cultures, apologies have become a familiar part of our relational landscape. In particular, apologies have emerged as an instrument for promoting justice for historic wrongs. In what follows, I propose that, notwithstanding excesses, such apologies are worth incorporating into the project of justice seeking, which seems to be one of the hallmarks of our age.

Apologies are a “political enthusiasm,” writes the novelist and critic Marina Warner. “The theme of ‘apology’ is in the air: governments are saying it to former colonial subjects, or to political prisoners in post-dictatorships; former terrorists to their targets; banks and businesses to looted or polluted clients; churches and cults to victims of abuse,” she notes (Warner 2002). A grassroots example: following the victory of George W. Bush in the American presidential election of November 2004, a website suddenly appeared, *sorryeverybody.com*, which permitted Americans “to offer apologies to the rest of the world.” Within hours of its being announced on CNN, the site was swamped, presumably both by visitors and what one report cited as a “torrent of apologies” (*Mail&Guardian Online* 2004).<sup>2</sup>

Another sign of success: there is now a satirical novel on apologies. British writer Jay Rayner’s *The Apologist* (published in the United States as *Eating Crow*) tells the story of an unhappy restaurant critic who discovers, after meeting an old girlfriend whom he once jilted, that he has a spectacular talent for making apologies. Eventually, he’s hired by the UN to be their Chief Apologist, and he travels the world in a private jet, facilitating apologies for colonialism, slavery, and various other historic wrongs. In this amusing fantasy, the tone is set by the UN Secretary-General, who proclaims the “dawn of the empathetic era,” in which “the world can get back in touch with its emotions.” Unsurprisingly, there is an academic behind it all — Professor Thomas Schenke, “the founding father of a new and exciting strand of

2. When I last checked [www.sorryeverybody.com](http://www.sorryeverybody.com) (March 25, 2006), I noted a 256-page book collecting these apologies, *Sorry Everybody: An Apology to the World for the Re-election of George W. Bush*, selling for \$12.71.

international relations theory known in diplomatic circles as ‘Penitential Engagement.’” The fictitious Schenke’s books track the growing popularization of international apologies: His first penitential work was an academic tome, *Grievance Settlement within a Global Context*. His sequel: *More Grievance Settlement within a Global Context*. But there were also two follow-ups for the mass market: *A Very Sorry Business: Further Apologies for Home and Hearth*, and *Sorry Situations: Perfect Apologies for Weddings, Funerals and Bar Mitzvahs* — published by “Heartfelt Editions” (Rayner 2004, pp. 237, 303, 354).<sup>3</sup>

The real academics certify apologies’ importance. University of San Diego law professor Roy Brooks, in a 500-page book entitled *When Sorry Isn’t Enough*, refers to our “Age of Apology”; Janna Thompson, an Australian philosopher who has written an important work on historical justice identifies an “epidemic of apology”; historian Elazar Barkan refers to an “avalanche of apologies”; and ethicist Lee Taft, writing in the *Yale Law Journal* on apologies’ role in civil litigation, speaks about an “apology mania” (Brooks 1999; Thompson 2002; Barkan 2000; Taft 2000).<sup>4</sup> “Apology has barged into the realm of international politics,” say Mark Gibney and Niklaus Steiner, making the point that apologies are not only a real-life phenomenon, but a booming academic subject as well (Gibney and Steiner 2004). Psychiatrist Aaron Lazare, author of *On Apologies*, offers some quantitative evidence: “I compared the number of articles in two of the most influential U.S. newspapers, the *New York Times* and the *Washington Post*, containing the world ‘apology’ or ‘apologize’ during the five-year period of 1990–1994 with that of 1998–2002 . . . The two newspapers combined had a total of 1,193 such articles during the first five-year period, compared to 2,003 articles during the latter five-year period” (Lazare 2004, p. 6).<sup>5</sup>

This essay examines a particular class of apologies, those that are offered on behalf of public bodies — nations, governments, or institu-

3. See the satirical “Penitential News,” on a website publicizing this book: <http://www.the-apologist.co.uk>.

4. For a feminist analysis, see Orenstein (1999); and for an impressive and sophisticated “game theoretic signaling model,” see Ho (2005).

5. Google, however uncertain as an arbiter, nevertheless confirms the point. When submitted to inquiry on March 25, 2006, “apologies” yields over 45 million results. (“Globalization,” to take a well-worn term, produces about 102 million.) And even with refinements, apologies do well: “public apologies” produces 16.7 million results, and “official apologies” generates just over 8.1 million.



tions — in response to historic wrongs.<sup>6</sup> My starting point is that there is more to be said about these than the dismissals with which I began this essay. Martha Minow notes that “apology depends upon a paradox. No matter how sincere, an apology cannot undo what was done, and yet ‘in a mysterious way and according to its own logic, this is precisely what it manages to do’ ” (Minow 1998, p. 144, drawing on Tavuchis 1991, p. 5). Is there magic at work in apologies? Or, at least, successful apologies? Given their frequency, it would be well to find out.

## II. Public Apologies for Historic Wrongs

### A Wave of Apologies

Recent years have seen a wave of official apologies, or near apologies, for wrongs committed in the distant past — and sometimes the far distant past. Chosen largely at random, to illustrate the great scope and character of these declarations, I note: Tony Blair’s 1997 regrets for British government inaction during the Irish Potato Famine in the mid-nineteenth century; Danish Prime Minister Poul Nyrup Rasmussen’s apology for the forced relocation of Inuit people in 1953 and a similar apology by Premier Danny Williams on behalf of the Government of Newfoundland and Labrador; Palestinian leader Mahmoud Abbas’ apology to the Kuwaitis for Palestinian support for former Iraqi dictator Saddam Hussein’s invasion during the 1990–91 Gulf War; the IRA’s apology for a 1973 killing of an alleged informer — later understood to have been a mistake; President Bill Clinton’s apology for Western failure to act during the 1994 genocide in Rwanda; France’s acknowledgement of the massacre of thousands of Algerians at Sétif in May 1945 — an atrocity seen as the great spur to Algerian nationalism; a Canadian government apology in 2001 for military executions during the First World War; a German government apology for the colonial-era massacre by German soldiers of tens of thousands of ethnic Herero people of Namibia; and Israeli Prime Minister Ariel Sharon’s apology for his part in the climate of incitement that led to the assassination of his predecessor, Yitzhak Rabin.

To be sure, along with these are *refusals* to apologize for historic wrongs — perhaps a further indication of the popularity of the phenomenon because demand seems easily to outstrip the supply.

6. For reasons of time and space I have not been able to give full enough attention to cross-cultural themes in apologies — something omitted in most discussions of this topic. On this issue see the classic article by Wagatsuma and Rosett (1986). I have also learned much from Renteln (2005). See also Lazare (2004, pp. 31–4), Olshtain (1989), Hickson (1986), and Zhang (2001).

Thus, despite requests to do so, Soviet and later Russian leaders have never apologized for the massacre of thousands of Polish officers in the forest of Katyn in 1940; the Israelis refused the invitation of Egyptian Foreign Minister Mahmoud Riad in 1968 to apologize for their “aggression” the year before; American historian Eugene Genovese failed, in 1994, to persuade fellow left-wingers to apologize for their complicity in the crimes of Communism; and Canadian Prime Minister Pierre Trudeau famously characterized apologies as efforts to fix history, and he refused to have anything to do with them.<sup>7</sup> Australian Prime Minister John Howard would not apologize for the European settlers’ treatment of the aboriginal population in that country; and President George Bush, Sr., declined to apologize for the Americans’ use of the atomic bomb against Japan in 1945 (Political Apologies n.d.; Govier and Verwoerd 2002a, p. 140). For Bush, his unwillingness was apparently a general principle: “I will never apologize for the United States of America, I don’t care what the facts are,” he declared during the 1988 election campaign (Weisberg 1998).

Despite such cases, the wave has continuing force. Making the point that apologies are in high demand, Elazar Barkan observes that they are scarcely ever rejected for being irrelevant or misplaced, but rather for being insufficient, inadequate, or insincere (Barkan 2005). These critics want more profuse apologies, not less. Certainly the most famous apologizer of recent times was the late Pope John Paul II, for whom apologies on behalf of the Catholic Church for historic wrongs were a major part of papal preparation for the new millennium. An Italian journalist, Luigi Accattoli, published a book in 1997 in which he identified no fewer than ninety-four different papal acknowledgments of the wrongs of the Church or requests for pardon for them (Accattoli 1997). These apologies reached far back in history, and included contrition about the Religious Wars, the Inquisition, Jews, women, Blacks, schisms, Martin Luther, and the Church’s denunciation of Galileo. One papal apology, for injustices to indigenous peoples in Australia, New Zealand, and elsewhere in the South Pacific, went out on a laptop computer emblazoned with the papal coat of arms, set up for the occasion in the Vatican’s ornate Clementine Hall of the apostolic palace — the world’s first “virtual apology,” as the BBC reported (BBC News 2001).

7. On his last day as prime minister, Trudeau refused, apparently heatedly, a request that he apologize to Japanese Canadians for wartime removals and internments. “I cannot rewrite history,” he said. “It is our purpose to be just in our time and that is what we have done in bringing in the Charter of Rights” (Omatsu 1992, p. 168).

Recently there has been a flurry of political demonstrations and efforts at apology relating to Japanese World War II era conduct in China and Korea, stirred in part by Chinese opposition to Japan's proposed seat on the UN Security Council and newly published accounts of its wartime conduct in Japanese school textbooks. In an effort to smooth the opposition, Japanese Prime Minister Junichiro Koizumi expressed "deep remorse" for these and other related wrongs: "In the past, Japan, through its colonial rule and aggression, caused tremendous damage and suffering to people of many countries, particularly those of Asian nations. Japan squarely faces these facts of history in a spirit of humility and with feelings of deep remorse and heartfelt apology always engraved in mind." But as one critical observer noted, this was "the 36th 'official apology' Japan's leaders have made since 1973 for their country's conduct during the Second World War and the 17th directed to China." Apparently, the problem is that powerful elements in Japanese society are not in the least disposed to follow their leaders' apologies on this matter, and they regularly manage to subvert and seemingly negate the apologetic efforts coming from the Prime Minister's Office (Goodspeed 2005).<sup>8</sup>

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Recently, the federal government of Canada and the Assembly of First Nations have announced "an historic political accord" seeking resolution of the damaging legacy of residential schools for aboriginal people. The agreement calls for various compensatory measures intended to realize "peace and healing" along with a "national apology" (Assembly of First Nations 2005). The following day's news carried an apology from the Canadian Red Cross Society for its part in a tainted-blood mishap that left thousands infected with HIV and hepatitis C through blood transfusions. "We profoundly regret that the Canadian Red Cross Society did not develop and adopt more quickly measures to reduce the risks of infection, and we accept responsibility through our plea," announced the institution's chief executive officer, Pierre Duplessis. "We accept responsibility through our plea for having distributed harmful products to those that rely on us for their health" (Killpatrick and Freeze 2005).

These and many other apologies engage wrongdoers, victims, and their successors in an effort to resolve long-standing disputes. Why are we seeing so many of them? Why do some work and not others? How do they work? And what do they tell us about justice seeking in our time? These are some of the questions I address in this paper.

8. For a rich collection of broad relevance, see Horvat and Hielscher (2003).

## What Are Apologies?

What do these apologies, on so many different subjects and articulated in such different circumstances, have in common? As sociologist Nicholas Tavuchis notes in his classic work on the subject, apologies are declarations intended to have a *remedial* effect in response to some transgression, and much of this paper offers an assessment of how they do so. As with most who have studied the phenomenon deeply, Tavuchis understands how varied apologies can be and how they might even be thought of as extended processes exhibiting remorse and culminating in reconciliation, rather than discrete events (Tavuchis 1991, p. 45 and *passim*).<sup>9</sup>

Context obviously matters. Even beautifully crafted apologies can fail and, conversely, clumsily phrased and awkwardly proffered declarations can work, sometimes magnificently. Speaking to South Africa's Truth and Reconciliation Commission in 1997, President F.W. de Klerk gave a good example of the first. De Klerk insisted, in response to arguments to the contrary, that he had already apologized for apartheid. He reiterated, effusively:

Let me place once and for all a renewed apology on the record. Apartheid was wrong. I apologize in my capacity as leader of the National Party to the millions of South Africans who suffered the wrenching disruption of forced removals in respect of their homes, businesses and land. Who over the years suffered the shame of being arrested for pass law offences. Who over the decades and indeed centuries suffered the indignities and humiliation of racial discrimination. Who for a long [sic] were prevented from exercising their full democratic rights in the land of their birth. Who were unable to achieve their full potential because of job reservation. And who in any other way suffered as a result of discriminatory legislation and policies. This renewed apology is offered in a spirit of true repentance, in full knowledge of the tremendous harm that apartheid has done to millions of South Africans. (Quoted in Daye 2004, pp. 60–1)

Taken on its own, this statement would seem to satisfy even the most exacting standards. And yet from the perspective of de Klerk's many opponents what he said was off target, failing to engage all kinds of issues that had been raised in earlier deliberations and preoccupied many of his listeners. In Russell Daye's summary, "many South Africans who had lived through decades of bloody episodes for which the former president was admitting no foreknowledge or personal

9. On the importance of the remedial, see also Goffman (1971, p. 113).

responsibility felt that he had not gone far enough. He failed to mention the many murders committed by the security forces during his presidency and the time he was a senior minister . . . His detractors convincingly argue that a president who does not know the actions of his government forces is making a choice to be ignorant” (Daye 2004, p. 61).<sup>10</sup>

We will have occasion to consider context, which needs to be part of any assessment of the effectiveness of apologies in providing a measure of historical justice. Notwithstanding such considerations, the formal elements of apologies matter. And students of the subject seem remarkably in agreement on what these are. With minor variations, complete apologies include the following four features:

1. an acknowledgement of a wrong committed, including the harm that it caused,
2. an acceptance of responsibility for having committed the wrong,
3. an expression of regret or remorse both for the harm and for having committed the wrong,
4. a commitment, explicit or implicit, to reparation and, when appropriate, to non-repetition of the wrong.

When those who successfully campaign on behalf of public apologies explain their achievement, they frequently dwell on the need to proclaim the injustice as they or their ancestors experienced it, seeking obviously to register, both with the general society as well as surviving victims, perpetrators, bystanders, or their descendants, their understanding of the nature of the wrong committed and its destructive effects, both originally and subsequently. The point may be best made with reference to the very opposite strategy, avoiding reference to the wrong, or implicitly denying it, which almost invariably leads to a failed apology. This can be most easily illustrated through the most frequent instance of failed apology, a response to some insult, to which the apologizer responds, “I’m sorry that you misunderstood me.” In cases like these there is no wrong acknowledged. And, if the words in question were genuinely experienced as a wrong, the person to whom the apology is offered can feel victimized not once, but twice:

10. On the importance of context, see Crocker (2003, p. 57).

in the first case for having been insulted and in the second for having been insufficiently astute to discern the true meaning of what was said. Injury is added to insult.<sup>11</sup>

With groups, it is the same. To the extent that apologies seek to right wrongs, the process must begin with an identification of the wrongs in question. Surprisingly, this is not always understood. In the case of the uprooting of Japanese Canadians during the Second World War, for example, restitution campaigner Maryka Omatsu recounts how painful it was to run into a wall of non-recognition. What matters, at the start, was not sympathy for suffering, but rather an acknowledgement that the suffering was *wrong*. With the Japanese Canadians, the case had to be made not only to the society at large, but to the victims and their descendants as well. “In the end it was necessary for our mental health. Initially there were feelings of denial and self-doubt. Perhaps we had somehow deserved the hardships? Then the growing response: the government was wrong. They even knew it at the time. Their own advisors told them that there was no military necessity for the removal and internment of the Japanese Canadian community. There was no altruism. It was not done to protect us” (Omatsu 1992, p. 100).<sup>12</sup>

11. An example of the I’m-sorry-you-misunderstood-me failed apology, admittedly qualified by a partial admission of error by getting some facts wrong, is *Newsweek’s* “A Letter to our Readers” of May 2005 about the alleged desecration of the Koran by American troops at Guantanamo Bay: “As most of you know, we have unequivocally retracted our story. In the light of the Pentagon’s denials and our source’s changing position on the allegation, the only responsible course was to say that we no longer stand by our story. We have also offered a sincere apology to our readers and especially to anyone affected by violence that may have been related to what we published. To the extent that our story played a role in contributing to such violence, we are deeply sorry. Let me assure both our readers and our staffers that NEWSWEEK remains every bit as committed to honest, independent and accurate reporting as we always have been. In this case, however, we got an important story wrong, and honor requires us to admit our mistake and redouble our efforts to make sure that nothing like this ever happens again. One of the frustrating aspects of our initial inquiry is that we seem to have taken so many appropriate steps in reporting the Guantanamo story. On the basis of what we know now, I’ve seen nothing to suggest that our people acted unethically or unprofessionally” (*Newsweek* 2005).

12. In a reflection on the American government’s similar apology to Japanese Americans, Representative Doris Matsui commented on its great significance for their families. “My father-in-law had the letter of apology, from the President of the United States, framed and hanging in his home. It was that important to members of their generation” (Stolberg 2005). For a comparison of the Canadian and American experiences, see Torpey (2006, chapter 3).

Justice-seeking objectives present another reason to be clear about the wrongful nature of the actions that occasion apologies. Apologies for historic wrongs are frequently seen as a tool of reparative justice, a process by which disputes may be resolved by determining, as philosopher Janna Thompson puts it, “the entitlements claimed by the successors or descendants of victims of injustice and the obligations that are thought to be entailed by those claims” (Thompson 2002, p. xi). Without agreement on the wrongs, it seems obvious, there can be no assessment of entitlements or obligations. The process of justice seeking cannot even begin.

For similar reasons, to be effective apologies must communicate *responsibility*. This was the missing element, many believe, when President George W. Bush commented on the stunning revelations of prisoner abuse by American military personnel in the Abu Ghraib prison in Baghdad. In what was no doubt a carefully crafted statement, Bush was explicit enough when he said he “was sorry for the humiliation suffered by Iraqi prisoners and the humiliation suffered by their families” — although he might have expressed sorrow for more than the humiliation; there were, after all, the acts themselves (Brumiller and Schmitt 2004).<sup>13</sup> But what was strikingly absent for many was an acceptance of responsibility. The official reason given for this was that taking responsibility had to await the results of a full inquiry. National Security Advisor Condoleezza Rice explained to an Arab television network on May 4, 2004, “the American president is reacting because no American wants to be associated with any dehumanization of the Iraqi people. We are deeply sorry for what has happened to these people and what their families must be feeling. It’s just not right. And we will get to the bottom of what happened.” Similarly, Deputy Secretary of State Richard Armitage expressed anger and sorrow at the photos of abused prisoners, but also came up short on the matter of responsibility. “I couldn’t be sorrier that some Iraqi prisoners had to suffer from this humiliation,” he said (Rothschild 2004; Gibney and Steiner 2004).

Classified with non-retributive justice seeking, apologies elaborate on matters that are largely irrelevant to conventional criminal proceed-

13. It is unclear whether Bush understood his remarks as an apology, however. Asked about the matter in response to some television interviews with Bush a few days before, White House Press Secretary Scott McClellan said, “The president is sorry for what occurred and the pain it has caused.” When asked why Bush had not himself apologized, McClellan replied, “I’m saying it now for him” (Hunt 2004b).

ings, except perhaps the phase of a trial devoted to the determination of sentence. I am speaking here about apology's expressions of remorse and the commitment, whenever appropriate, to non-repetition of the offence and, perhaps, to better relations in the future. An apology is "a statement of aspiration," one writer put it (Weisberg 1998). Put otherwise, apologies introduce an idealistic element into the resolution of conflicts, emphasizing commitments in the future along with acknowledgements of wrongful actions in the past. Mindful of this forward-looking element, some analysts see apologies as part of a process, rather than a definitive resolution. To be credible, commitments may have to be repeated; they may also have to be accompanied by actions, which may involve new declarations, then further actions, and so on. In his *Guilt of Nations*, Elazar Barkan underscores the theme that is often incorporated in apologies themselves: the past cannot be undone, great wrongs can never be truly made right, and what is said will always be incommensurate, in some sense, to the injustices perpetrated. Addressing the needs of victims, in keeping with a new trend in criminal law, apology gropes for improvement, not perfection — or, as Marina Warner puts it, drawing on Augustine's *Confessions*, apology "adds to the sum of justice in the world" (Warner 2002).

### **What Are Official Apologies?**

Apologies for historic wrongs are symbolic acts, in which officials of various sorts communicate on behalf of wrongdoers — to the victims themselves and/or their successors, and/or the public at large, and/or, quite often, other officials representing some or all of these. More often than not, therefore, representatives apologize to other representatives. Given the importance of the symbolic in these transactions, the risk of getting it wrong is considerable, and those seeking to make successful apologies must be highly attentive to what is said or done, and how, and by whom.

Consider one of the most successful apologies, West German Chancellor Willy Brandt's dropping to his knees in Warsaw, in December 1970, before the monument to the Warsaw Ghetto Uprising of 1943. Brandt's spontaneous gesture — denoted ever afterwards in German as the *Kniefall*, conveying its simple power and eloquence — was, as historian Jeffrey Herf notes, "the first time that a West German chancellor had so publicly acknowledged and expressed remorse and atonement for what the Germans had



done to the peoples of Eastern Europe and the Soviet Union during World War II.”<sup>14</sup> Brandt, who actually said nothing at the time and whose gesture seems to have been spontaneous, found just the right vehicle to communicate remorse, with undoubted effect on his Polish and Soviet audience. Although somewhat controversial at the time (*Der Spiegel*, the German weekly, had a cover story entitled, “Should Brandt have kneeled?”), Brandt’s act passed into the history of successful apologies. Thirty years later, German Chancellor Gerhard Schroeder recalled how “this image of Willy Brandt kneeling had become a symbol. A symbol of accepting the past and of understanding it as an obligation for reconciliation. As an obligation for a common future. Like so many Germans and Poles I will never forget this image. It has come to be a reminder and a political credo for entire generations” (*Facing History and Ourselves* n.d.).<sup>15</sup>

For many, Brandt’s gesture carried particular conviction because of his impeccable credentials as an anti-Nazi, underground or exiled during the Hitler years, much of which he spent in active opposition to the regime. But he was thereby vulnerable to right-wing accusations at home that he was not a patriotic German, and hence not in a position to apologize on behalf of his country. In the end, Brandt succeeded, underscoring both the power of symbolism as well as the complexity of apologizing in a representative capacity.

Official apologies are what Tavuchis identifies, in his typology, as statements relayed “from the Many to the Many.” The “Many” are collectivities, “founded and sustained by human purposes, efforts, and discourse, but with an independent existence, history, and identity as

14. For reasons having to do with the Soviet domination of Poland at the time, Warsaw’s monument to the Ghetto Uprising of 1943 stood for much more, in Polish society, than the victimization of Jews. On the *Kniefall* see Brandt (1994, p. 214), Herf (1997, p. 345).

15. I know of no study of whether reminders of apologies can be excessive. Brandt’s *Kniefall* could be a candidate. A looped film recording of his gesture plays continuously at the German Historical Museum in Berlin. John Borneman provides additional evidence: “In a book of 22 written testimonials to Brandt following his death, over half mention his Warsaw apology. . . . Many German secondary schools teach the apology as an integral event of self-definition. It frequently comes up on television talk shows, especially by members of the first postwar generation, the ‘68ers’, who identify the apology as one of the few times they were actually proud of a German statesman, or by extension, were themselves proud to be German” (Borneman 1999).

defined by custom or law” (Tavuchis 1991, p. 99).<sup>16</sup> Through representatives, these collectivities are declared to have done wrong. Unlike interpersonal apologies, in which the accent is on identifying individual responsibility and communicating remorse authentically, official apologies seek, as Tavuchis says, “to put things on record, to document as a prelude to reconciliation” (Tavuchis 1991, p. 109).<sup>17</sup> To do so, official apologies often involve public ceremonies, carefully documented declarations, and sometimes even legislated pronouncements. Disagreements and misunderstandings do arise, from time to time, over the representative character of official apologies: Who is entitled to speak for whom? What level of representation is appropriate? And how do collectivities take responsibility for wrongs committed generations ago? We shall come to these questions shortly. But however these queries are answered, it should be plain how important it is to communicate effectively, especially when the goal is creating a considered record.

What happens when the historic continuity implied in these collectivities seems conspicuously broken? Can representatives still apologize for historic wrongs? This issue arises in a class of official apologies that has received special attention of late — those that are part of a process of transitional justice which, however defined, includes an effort to reach just solutions to historic wrongs after periods of intense conflict and change of regimes (Boraine 2004).<sup>18</sup> During transitions from authoritarian to liberal, democratic regimes, as societies struggle to come to terms with the past, apologies can play an important role. New political leaders, often those who championed transition or were

16. Sometimes interpersonal apologies can be presented as having “official” status — a seeming intention of South Africa’s Truth and Reconciliation Commission, whose architects had great hopes that such apologies might prove contagious, and promote a kind of grassroots movement of political forgiveness. As Russell Daye observes, “The hearings of the commission . . . were set up so that interpersonal interactions were given a special place as moments of import in the transformation of the nation. Hearings in which a perpetrator or two faced a cluster of victims were given the status of a parable in the text of the nation’s reconstitution.” Daye describes his own reaction to witnessing such dramas as moving “back and forth between a feeling that I was witnessing a sacred ritual and disgust over the voyeurism of it all” (Daye 2004, pp. 70–1).

17. Rather than using the term “official apologies,” which I find most helpful, Tavuchis refers to “collective apologetic speech.” Tavuchis also makes the useful point that sorrow and sincerity, which play such an important role in interpersonal apologies, are much less important in official versions (Tavuchis 1991, p. 117).

18. See also Teitel (2000, p. 84). For a critical review of recent literature, see Dyzenhaus (2003, pp. 163–75).

the embodiments of discontinuity, communicate official apologies for the wrongs of the previous regime, and when certain conditions are satisfied they can relay credibly a message of historic responsibility.

To do so was the challenge faced by Chilean President Patricio Aylwin, when, in 1991, following nearly two decades of military rule and gross violations of human rights, the anti-Pinochet campaigner received the report of Chile's National Commission of Truth and Reconciliation, headed by Raúl Rettig, a distinguished senator and attorney, on human rights violations under military rule. However the Rettig Report is judged (and opinions differ), its formal presentation to the Chilean people marked an important moment in the transition from the Pinochet regime. Culminating a series of symbolic gestures of justice seeking since his inauguration a year before, President Aylwin presented, in a televised broadcast from the presidential palace in Santiago to the nation, the 1350-page document, chronicling murders, torture, and disappearances perpetrated by the Pinochet regime. Aylwin made the case for establishing the truth about human rights violations as a precondition for democracy. Notwithstanding the transition over which he was presiding, he insisted that the Chilean state bore responsibility for the crimes of the past. "The state agents caused so much suffering and the responsible bodies of the state could not or did not know how to preclude or sanction it, while the society failed to react properly. The state and society as a whole are responsible by action or by omission," he said. "That is why I dare, in my position as President of the Republic, to assume the representation of the whole nation and, in its name, to beg forgiveness from the relatives of the victims. This is why I also ask solemnly of the armed and security forces, who have participated in the excesses committed, that they make gestures to acknowledge the pain they caused [and] to contribute to the lessening of that pain" (Roniger and Sznajder 1999, p. 101).

Ruti Teitel considers that "transitional apologies" such as Aylwin's help solve the dilemma of historic accountability — that the new order will either wash its hands of the past or will fail adequately to distinguish itself from what has gone before. "When the new truth regime is presented and the successor regime's representative apologizes to the people on the nation's behalf for acts committed under the predecessor regime, what is implied is a certain continuity of the state and of the rule of law. The transitional apology allows for the continuity of state responsibility, even as it also affords discontinuity — a letting go of the past" (Teitel 2000, p. 84). Successor regimes seek, in

Mark Osiel's phrase, to achieve "the authoritative correction of memory," either through truth commissions or official apologies that often flow from such inquiries. In some cases, for reasons that have to do with the balance of forces in play, political calculations, or even idealism, this process is judged more likely to serve the process of liberalization and democratization than the traditional remedies that the law provides (Osiel 1997, p. 277).

### What Are Historic Wrongs?

Societies have always done wrong. What is relatively new, widespread, and growing is what Janna Thompson calls "reparative entitlement" — the notion not only that something can be done to repair injustices committed long ago, but also that something *ought* to be done (Thompson 2002, p. x). Much of this article is devoted to examining why justice seeking for historic wrongs through apologies has emerged on the global stage, and what the effects of these efforts have been. But it is useful to dwell for a moment on the kinds of wrongs that occasion these official apologies because they help define the disposition to respond and the formulation of the apologies that result.

The apologies considered here are for wrongs that are historic in two respects: first, through the gravity of the wrongdoing in the consciousness of the victims and their successors; and second, through the wrongdoing having occurred in the historical past, often the distant past, usually considered out of reach of criminal proceedings or other conventional modes of dispute resolution. Because of the historic nature of the grievances, there is an element of the extraordinary in the acknowledgement of the wrong committed, the acceptance of responsibility, the expression of remorse, and the commitment to set the matter to rest. Doing this on a wide scale through apologies is relatively new. The great weight of tradition and practice has rather, until recently, been on the side of letting bygones be bygones — together, although usually with diminishing vehemence, with calls for revenge (Elster 1990, pp. 862–85).<sup>19</sup>

What are the characteristics of the historic wrongs considered here? First, across societies and cultures, the wrongs for which historic apologies are proffered are almost invariably grave violations of

19. Often with historic wrongs fears of exposure to legal liability can impede the proffering of apologies even when there is a desire to do so. For a recent discussion of this problem and some strategies for dealing with it see Ombudsman of British Columbia (2006, pp. 11–14).

human rights. Whether through the uprooting or massacre of populations, the eradication of cultures, the massive application of torture, gross instances of medical malpractice, or the dispossession, persecution, and enslavement of populations, the wrongs to which we refer are enormities that would, if committed today, be violations of international human rights conventions and the practices of liberal, democratic societies. Some of these wrongs, slavery for example, fell within legal boundaries defined in perpetrator societies, however outside universal norms that might have existed at the time; others, such as lynching, were illegal even within conventions of the day. All are now considered outrages. Such wrongs are far-reaching, and persist in the memories of victim groups long after the initial wrongdoing has ceased. Material effects also persist. Habits of discrimination continue. Sometimes, victimized societies remain marginalized and without resources. In addition, there is the less tangible harm. Violations of human rights, though long past, still ravage the identities of victimized groups and individuals because human rights are so fundamental to the human condition; trauma, shame, self-denigration, and then consciousness-building around the cause of rectification not only continue to shape the lives of victims, their effects persist in succeeding generations.

Second, the wrongs considered here remain “unfinished business” in their societies — more like running sores than open wounds. Conventional legal remedies have proven inadequate. “Historical claims,” Dinah Shelton notes, “cannot be based upon the remedial paradigm of individual perpetrator, individual victim and proven quantifiable losses” (Shelton 2003, p. 291). Generally, the pattern is that the wrong was unacknowledged at the time and emerged as a national issue only years later through the campaigns of survivors, descendants of victims, and their supporters. Typically, efforts to resolve outstanding issues have failed. Then, historical distance discourages further efforts. And yet, the thirst for justice persists, remarkably. Difficulty does not mean abandonment of the claim. In case after case, those wronged, or their descendants, or the descendants of descendants, make the case that the damage continues, and hence that reparation is imperative. “There is something intractable about historic injustices,” observes political scientist Peter Digeser (Digeser 2001, p. 53).

Third, these wrongs often concern aboriginal people and are understood as the result of a continuing historical process, rather than

specifically determined or localized wrongdoing. Over and over again those who challenge the continuing abrogation of aboriginal treaty rights, the eradication of native communities or forced assimilation insist that these wrongs were part of a concerted and systematic policy of appropriation. Accepting these contentions in an apology on behalf of the government of Canada in 1998, Jane Stewart, the Minister of Indian Affairs and Northern Development, impugned generations of Canadian policy-makers. One of her main themes was the interrelationship among many wrongs, the cumulative effect of which was the eradication of aboriginal sovereignty. “Sadly, our history with respect to the treatment of Aboriginal people is not something in which we can take pride,” Stewart said.

Attitudes of racial and cultural superiority led to a suppression of Aboriginal culture and values. As a country we are burdened by past actions that resulted in weakening the identity of Aboriginal peoples, suppressing their languages and cultures and outlawing their spiritual practices. We must recognize the impact of these actions on the once self-sustaining nations that were disaggregated, disrupted, limited or even destroyed by the dispossession of traditional territory, by the relocation of Aboriginal people, and by some provisions of the Indian Act. We must acknowledge that the result of these actions was the erosion of the political, economic and social systems of Aboriginal people and nations. (Stewart 1998a; Stewart 1998b)

Finally, historic wrongs are seen, through their persistence as grievances, as damaging to present-day institutional credibility and civic responsibility. What was done is held to be the very antithesis of present-day values and commitments. American President Bill Clinton made this point when he addressed survivors of the so-called Tuskegee syphilis study — venereal disease experiments conducted for four decades on black sharecroppers in Alabama without their consent and without attention to their medical needs. This was, as survivor advocates later noted, “the longest nontherapeutic experiment on human beings in medical history.” By the time the federal government formally addressed the matter, in May 1996, more than sixty years had passed since the first subjects became ensnared in a medical nightmare. The apology followed upon a formal investigation, a Senate hearing, civil litigation, and an out-of-court settlement. Clinton then had the wit to bring the matter to a close. To a handful of survivors, their families, and dignitaries assembled in the East Room of the White House, the President spoke generously, and sought, through his apology, to document the wrong, to make a broader admission, and to

extend a commitment to doing better in the future. His words are a model of the genre:

The eight men who are survivors of the syphilis study at Tuskegee are a living link to a time not so very long ago that many Americans would prefer not to remember, but we dare not forget. It was a time when our nation failed to live up to its ideals, when our nation broke the trust with our people that is the very foundation of our democracy. It is not only in remembering that shameful past that we can make amends and repair our nation, but it is in remembering that past that we can build a better present and a better future. And without remembering it, we cannot make amends and we cannot go forward. So America does remember the hundreds of men used in research without their knowledge and consent. We remember them and their family members. Men who were poor and African American, without resources and with few alternatives, they believed they had found hope when they were offered free medical care by the United States Public Health Service. They were betrayed... To the survivors, to the wives and family members, the children and the grandchildren, I say what you know: No power on Earth can give you back the lives lost, the pain suffered, the years of internal torment and anguish. What was done cannot be undone. But we can end the silence. We can stop turning our heads away. We can look you in the eye and finally say on behalf of the American people, what the United States government did was shameful, and I am sorry. (Clinton 1997)<sup>20</sup>

Understandably, historic wrongs are seen and described in a present-day idiom, reflecting a current understanding of the wrong. Thus the term “genocide,” unknown at the time, is applied to the massacre of aboriginal populations and the assault upon their cultures. The lynching of Afro-Americans in the United States has been termed “an American form of terrorism” — something that would have puzzled the perpetrators as well as those who opposed them (Evans 2005).<sup>21</sup> It could hardly be otherwise, of course, for apologies are explicitly intended to express present-day reflections on these historic wrongs.

### III. Making Sense of the Avalanche

#### “A Surfeit of Memory”

“Can there be too much memory?” historian Charles Maier asks, as part of a reflection on the uses of history in our own time (Maier 1988, p. 161; Maier 1993, pp. 136–51). He believes so. Considering how we

20. See Jones (1993).

21. For a full report, see also Thomas-Lester (2005).

locate contemporary societies in history, Maier and others have identified “a retreat from transformative politics.” What characterizes this retreat is an absence of any shining vision of the future, a utopian project, or a commitment to radical improvement. Instead, there is a near-obsessive focus upon the past, past wrongs, past catastrophes, past sufferings, and lessons that we must draw from all of these. In this environment, justice is much more concerned with settling old quarrels than speculating about tomorrow. Communities ruminate on their heritage, rather than their ambitions. Groups draw direction from where they have been, rather than where they want to go. Memory becomes the guide: what matters is that societies be true to themselves, which is to say what has gone before.

Borrowing from Nietzsche’s gloomy reflections about the uses of history, Maier entitles his discussion, “A Surfeit of Memory”: “the surfeit of memory . . . testifies to the loss of a future orientation progress toward civic enfranchisement and growing equality. It reflects a new focus on narrow ethnicity as a replacement for encompassing communities based on constitutions, legislation, and widening attributes of citizenship. The program of this new ethnicity is as symbolic as it is substantive. It aspires preeminently to the recognition by other groups of its own suffering and victimhood” (Maier 1993, p. 150).<sup>22</sup> The phenomenon extends broadly. Democratizing regimes are admonished to “come to terms” with the victimization of others as the only road to a better future for all. An entire academic industry, “transitional justice,” has emerged to help them do so. Established democracies also have their memory work to do: skeletons in the closet, groups outcast; wrongs to right, and compensation to be paid. And for both, landmarks of memory point the way: truth commissions, official investigations, trials, monuments, memorials, museums — and, as we argue here, apologies.

English writer Ian McEwan captures splendidly the tone of shrinking from benevolent improvement in his much-discussed new novel *Saturday*. McEwan’s hero Henry Perowne, a London neurosurgeon,

22. Maier speaks of a “great exhaustion of civic culture at the end of the second millennium of the Christian era. In that exhaustion, the salvageable political future reduces itself to ethnicity and perhaps ultimately even kinship.” One result: “ethnic grievances have become the currency of politics,” and “getting others to pay their respect is a version of national recognition. Respect must be paid, ambassadors must be exchanged, compensatory deals must be arranged, victims must be remembered. In the twilight of Enlightenment aspirations to collective institutions, we build museums to memory, our memory” (Maier 1993, pp. 148–9).



spies a man cleaning the street, and ponders his own condition in life: “After the ruinous experiments of the lately deceased century, after so much vile behaviour, so many deaths, a queasy agnosticism has settled around these matters of justice and redistributed wealth. No more big ideas. The world must improve, if at all, by tiny steps . . . It’s not a visionary age” (McEwan 2005, p. 74). Contemplating the big picture, the appropriate mood is gloom, mixed with a sense of human insufficiency. “For the professors in the academy,” he says a bit later, “misery is more amenable to analysis: happiness is a harder nut to crack.” Picking through the effects of what John Torpey and others have called “the collapse of the future” (Torpey 2003), professors Jeffrey Olick and Brenda Coughlin have identified what they called a “politics of regret.” “In many places in the world today,” they write,

the past is very much present on the public agenda, but it is more often a horrible, repulsive past than the heroic golden ages so often the part of public discourse in previous centuries. Political legitimation depends just as much on collective memory as it ever has, but this collective memory is now often one disgusted with itself, a matter of “learning the lessons” of history more than fulfilling its promise or remaining faithful to its legacy. Observing this transformation, we identify a new principle of legitimation, which we call the politics of regret. (Olick and Coughlin 2003, p. 38)

Historians debate the origins of political regret, and theorists have pondered how this temporal orientation relates to the broader project of modernity. Social analysts worry about how appropriate is this orientation to the past, and what messages and objectives are communicated through what has been somewhat irreverently termed the “memory industry.”<sup>23</sup> What concerns us here is how this new legitimating principle relates to justice seeking through apologies, a particular mode of historical consciousness in which spokesmen articulate responsibilities for that which societies have come to regret.

### Global Context

In *The Guilt of Nations*, Elazar Barkan contends that a major push for

23. Tiffany Jenkins considers how this trend is exemplified in memorial museums, often launched as explicit acts of atonement, and which she calls “cabinets of misery”: “Museums that document trauma and conflict have proliferated across the globe in the past decade, and more are planned . . . This mania for memorial museums is a sign of a society with an unhealthy obsession. These new museums indicate a desire to elevate the worst aspects of mankind’s history as a way of understanding humanity today” (Jenkins 2005).

“the new global trend of restitution for historical injustices” came with the collapse of the Soviet empire and its domination of much of Europe.

In a post-Cold War world we tend to pay increased attention to moral responsibilities . . . The demand that nations act morally and acknowledge their own gross historical injustices is a new phenomenon. Traditionally *realpolitik*, the belief that realism rather than ideology or ethics should drive politics, was the stronghold of international diplomacy. But beginning at the end of World War II, and quickening since the end of the Cold War, questions of morality and justice are receiving growing attention as political questions. As such, the need for restitution to past victims has become a major part of national politics and international diplomacy. (Barkan 2000, pp. x, xvi–xvii)

Elaborating, Barkan suggests that Cold War conflicts, so long as they lasted, constrained the case for repairing of the crimes of slavery, colonialism, apartheid, and humanitarian violations, and that claims to redress these wrongs have been considerably strengthened with the end of the bipolar political confrontation. At the same time, the end of Communism signalled the discrediting of utopian politics of all sorts, producing a “faltering of all political communities with collective aspirations,” as Charles Maier puts it (Maier 1993, p. 148). Now, with the retreat from new visions for the future, attention has shifted to the rectification of past wrongs.

“The pursuit of reparation for various injustices in the past has become a central feature of the human rights discourse and practice in recent years,” John Torpey observes (Torpey 2004, p. 171). Born in the ashes of the Second World War, the international movement for human rights has drawn upon a growing consensus among political élites and other concerned individuals that rights were universal, that there was an obligation to promote them, and that doing so was a proper objective of diplomacy and international organizations. An increasingly widespread human rights culture, what has been called “the developing moral consensus” on the subject, has encouraged mobilization to rectify wrongs. Part of this has involved an appetite for apologies, and a dialogue between victims’ representatives and those from whom apologies are demanded. The result is an ever-expanding, international conversation on the subject — all part of what veteran human rights analyst Louis Henkin calls “the age of rights” (Henkin 1990; Govier and Verwoerd 2002a, p. 161).

Trends in international law have lent support to the notion that grave violations cannot be left unaddressed, like sleeping dogs, but must be

publicly acknowledged and subject to restitution, even if only symbolically. This is precisely the drift of the law of remedies that constitutes one of the striking advances in international law in recent years (Shelton 2004). Several writers have drawn upon the UN International Law Commission's 2001 articles on reparations that insist upon no legal stone being left unturned. "Every breach of an international obligation carries with it a duty to repair the harm cause," writes Dinah Shelton, articulating what she calls "the core of [the commission's] provisions on reparations" (Shelton 2002, p. 835). Elaborating, the commission identified three kinds of reparation — restitution, compensation, and satisfaction. Among the latter, article 37 gives apology the UN's international law imprimatur: "Satisfaction may consist in an acknowledgement of the breach, an expression of regret, a formal apology or another appropriate modality" (International Law Commission 2001).

The globalization of communications seems also to have helped popularize apologies. One obvious effect is emulation, when an aggrieved group learns of a successful apology in an analogous area and is encouraged to ask for its own. Aaron Lazare suggests two others: "First, neighbours who interact on a continual basis have more disputes to settle than those who live, literally, 'oceans apart' . . . Second, the very nature of our instant global communications, our being continually exposed to the world, diminishes the possibility of secret behaviours that others regard as offensive. These uncensored communications can reveal thoughts and attitudes that the originator would rather have kept secret, and for which an apology may now be expected" (Lazare 2004, p. 12).

For those disposed to see a symbolic importance of the turn of the millennium, the approach of the year 2000 provided added reason to pursue a "coming to terms with the past." When *The Journal of Human Rights* devoted a special issue, in June 2004, to "world civility," it began with Nigerian Nobel laureate Wole Soyinka's reflections on a worldwide "fever of atonement" approaching the year 2000 (Colonomos and Torpey 2004, p. 140). Susan Dwyer noted "a global frenzy to balance the moral ledgers" as the great turning approached (Dwyer 2003, p. 91). There was no escaping the religious cast to many such efforts. Somewhat obscurely, Jacques Derrida identified the Christian motifs, suggesting that these had become generalized in the global commitment to the acknowledgement of wrongdoing (*Le Monde des débats* 1999).

Pope John Paul II set the tone, defining his own program for papal apologies in an apostolic letter, *Tertio Millennio Adveniente*, in November 1994. For the Catholic Church the theme of millennial passage, he made clear, was penance and reconciliation: “It is appropriate that, as the second Millennium of Christianity draws to a close, the Church should become more conscious of the sinfulness of her children, recalling all those times in history when they departed from the spirit of Christ and his Gospel and, instead of offering to the world the witness of a life inspired by the values of faith, indulged in ways of thinking and acting which were truly *forms of counter-witness and scandal*” (emphasis in original). Concretely, the Church had to set right specific wrongs that Catholics had committed. The Church “cannot cross the threshold of the new millennium without encouraging her children to purify themselves, through repentance, of past errors and instances of infidelity, inconsistency, and slowness to act” (John Paul II 1994). Dubbing this process “the purification of memory,” John Paul II set the tone for a vast process of repentance and apologies by the leader of the Catholic Church. “As the Successor of Peter,” he declared in the Papal bull inaugurating millennial preparations, “I ask that in this year of mercy the Church, strong in the holiness which she receives from her Lord, should kneel before God and implore forgiveness for the past and present sins of her sons and daughters” (John Paul II 2000). And, a sign that he was serious, the Pope made it clear that the apologies would be hierarchically screened: it was up to the sovereign pontiff, not individual members of the hierarchy, to apologize on behalf of a church of one billion people (International Theological Commission 1999).

### **Reparations Advocacy**

Once launched, the campaign to repair historic wrongs has built up steam and has become a familiar part of the legal-moral landscape. In litigious environments, courts seem to welcome ever more imaginative efforts to establish historic responsibility. Through such vehicles of civil litigation as the Alien Tort Claims Act, American courts have been particularly welcoming. Relatives of Holocaust victims in France, to take only one example, are seeking to sue the French national railway system for wartime deportations to the death camp of Auschwitz. “I want a judgement (so) that the French national railways may be condemned for crimes against humanity,” declared one applicant. “We have to clean up the past” (BBC News 1999). In their introduction to the special issue of *The Journal of Human Rights* on “world civility,”

Ariel Colonomos and John Torpey identify ready campaigners, sometimes called “entrepreneurs of memory,” “committed to advancing the ideas of human rights, to healing memories, and to securing reparations for past wrongs” (Colonomos and Torpey 2004, p. 140).

Lawyers will recognize in these efforts a widespread new attention in litigation to the rights and interests of victims. Consistently, in the past, victims were excluded from proceedings against war criminals and those charged with gross violations of human rights; survivor testimony and the survivors’ “narrative” was deemed to have no special place in justice seeking and was even thought to hinder the quest for convictions. Increasingly, in proceedings against perpetrators of historic wrongs, victims are asserting their demand to put the crimes they suffered on the record — and to do so before the survivors all pass away. Here is a new task for the law, or what has been termed “therapeutic jurisprudence” — seeking healing by registering, through the authority of the state, the victims’ balanced understanding of their victimization. A central purpose of this process is to dispel the victims’ shame and self-blame, so often associated with victimization (Petrucci 2002, pp. 347–8, 351–2, 359).<sup>24</sup>

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Reparations and apologies, when they are included in settlements, fit neatly within this new emphasis in legal process. To be sure, trials cannot always be counted on to articulate healing interpretations to the satisfaction of victims and their advocates. Long-established legal procedures and the rules of evidence, not to mention the need for fairness to the accused, often stand in the way of establishing such narratives (Marrus 2002; Osiel 1997).<sup>25</sup> This is where, as we shall elaborate below, apologies fit: apologies address victims’ concerns in a way that does not make inappropriate demands of legal process, and apologies address, often through negotiated agreements, the specific needs of victims and the groups that represent them.

Unquestionably, the Holocaust and Holocaust-era litigation have provided powerful models for restitution for historic wrongs. Indeed, one can hardly speak of the role of guilt and national obligation, and the consequent collective atonement, compensation, memorialization,

24. “The striking prevalence of therapeutic language in contemporary discussion of mass atrocity stands in contrast to contemporary debates fifty years ago” (Minow 1998, p. 22). See also Weissmark (2004), Neckers (2002), and Bandes (1999–2000).

25. For an excellent presentation of a different view, see Douglas (2001). See also Bloxham (2001).

commemoration, reparation, and healing, *without* thinking of the great impact of Holocaust motifs and reparative programs. Beginning at the end of the Second World War, but extending to our own time, we have been witness to crucially important example setting in this regard — not only by Germany, but by virtually every country that had even the most remote association with the destruction of European Jews. Along with countries, the process has extended to institutions — banks, bureaucracies, churches, and corporations. For the Holocaust, there seems to be an inexhaustible pressure to “come to terms with the past,” whether for perpetrators, collaborators, or bystanders. This is a dynamic process, for which everyone can point to instances in which restitution has not yet been satisfactorily forthcoming. And so, while obviously successful in many respects, the campaign is continuous, with a continuing example to other groups that seek similar kinds of reparative justice.

Holocaust restitution through the courts has involved the most dramatic breakthroughs, and hence it is here that the emulation of Holocaust justice seeking may be most explicit. “The most significant legacy of the Holocaust restitution litigation may be that it has now become a model for dealing with [victims of] other historical wrongs,” observes jurist and litigator Michael Bazylar, one of the pioneers of restitution seeking on behalf of Holocaust victims. “The ongoing struggle of these victims and their representatives is to obtain the results achieved by the Holocaust restitution campaign: some form of monetary compensation coupled with historical recognition and apology” (Bazylar 2003, p. 306).<sup>26</sup> Ironically, given the United States’ reluctance to embrace universal criminal jurisdiction and international conventions on human rights, American courts have pioneered efforts to achieve restitution for the Holocaust through civil litigation. American law, says one authority, Burt Neuborne, “has become *Lex Americana*, imitated throughout the world, with the Holocaust restitution cases becoming the principal model for victims and their representatives seeking to right past wrongs” (quoted in Bazylar 2003, p. 328).

The Holocaust is important, moreover, not only as an example of contending with a catastrophic past, it has also helped define a widespread sense about human evil, defining a hitherto scarcely appreciated potential for almost limitless destructiveness and cruelty. Holocaust

26. See also Eizenstat (2003) and Buergenthal (2004).

historiography has emphasized how widespread was participation in persecution and mass murder, how extensive were the social, national, institutional, and religious involvements in this great crime — and, by implication, how extensive can be the process of restitution seeking. Increasingly, Holocaust monuments, commemorations, and even Holocaust litigation have driven home this message: anyone might have been a perpetrator, and, by extension, everyone has something to atone for. Recently, a Memorial to the Murdered Jews of Europe was opened in Berlin, designed by the great American architect and theorist Peter Eisenman. As described at its opening by *The New York Times*, the Berlin monument, with its 2,711 stark, concrete pillars, grapples with “the delicate, almost imperceptible line that separates good and evil, life and death, guilt and innocence.” “The memorial’s central theme is the process that allows human beings to accept such evil as part of the normal world — the incremental decisions that collectively led to the most murderous acts.” When they leave, one suspects, the monument’s visitors will be ripe for apologies. “I don’t want people to weep and then walk away with a clear conscience,” Eisenman explains (Ouroussoff 2005).

One additional theme of reparations advocacy has restitution and apologies as expressions of accountability (Borneman 1999). Partly, suggests lawyer and anthropologist Alison Renteln, apologies result from laws authorizing or even requiring disclosure of information (Renteln 2005). From this perspective, apologies emerge as a conceded measure of responsibility for wrongdoing that becomes evident in circumstances of transparency. The point emerged in close questioning of then National Security Advisor Condoleezza Rice, who insisted that President George W. Bush had not been negligent in failing to respond effectively to terrorism threats before September 11, 2001. Before an audience that included relatives of persons killed in the Twin Towers, Rice refused some of the latter’s demands to apologize, insisting that “there was no silver bullet that could have prevented” the attacks. “Accountability, ma’am, accountability,” called out one of the relatives present, expressing her dissent (Hunt 2004a). In liberal societies, enjoying powerful scrutiny by the media as well as democratic stakeholders, political leaders are expected to act transparently. “Machiavelli’s Prince is no longer Kissinger’s Nixon,” Geoffrey Robertson observes. “He must be seen to worship occasionally at the human rights altar, to say ‘sorry’ for past violations and to justify any present violations by reference to the exception and defences provided by international law” (Robertson 1999, p. 97).

## IV. Do Official Apologies Work?

### The Terms of Inquiry

My concern in this section is whether official apologies for historic wrongs “work” in two interrelated respects. The first has to do with communication: Do these apologies effectively relay the sentiments intended? Do apologies for historic wrongs convey to those who receive them an authentic acceptance of responsibility for wrongs committed in the past, and do the commitments to rectification ring true? To attempt an answer, one must have in mind not only the victims and their representatives, of course. Nicholas Tavuchis terms an apology “a secular ritual of expiation” (Tavuchis 1991, p. x). Many different parties participate in the ritual — spokesmen for wrongdoers, representatives of victims, descendants of each, if any, not to mention the partially implicated and their offspring, the bystanders, etc. How do these diverse communities respond to apologies? Are the rituals convincing?

Second, what are apologies supposed to achieve beyond communicating authentic sentiments, and how well do they do it? To be sure, objectives vary. Graham Dodds suggests, persuasively for me, that apologies such as we are considering here are essentially political, in that they make claims about how groups of people should relate to one another (Dodds 2003, pp. 135–60). For individual or small group behaviour some questions about social efficacy can be answered by systematic, controlled surveys, follow-up studies, and careful assessment of the data. However, when it comes to collective interaction at a societal level such investigations are difficult, and seldom resolve the questions. Moreover, even for interpersonal apologies, studies on efficacy are few and far between; and for our apologies, involving large and often ill-defined populations, they are virtually non-existent (Regehr and Gutheil 2002, pp. 425–30). As with so many political issues, evaluations of collective apologies are, more often than not, a matter of judgment, based upon experience and moral preference, rather than scientific determination.

This may be why many — mistakenly in my view — seem satisfied by quick estimations of apologies’ plausibility and effectiveness. This may also be the reason that, quite commonly, apologies’ success is attributed to their magical or mysterious properties.<sup>27</sup> It does seem to me

27. On magic and mystery see, for example, Tavuchis (1991, p. 5), Minow (1998, p. 114), and Warner (2002).



that we can do better than this, however. While I agree that reliable empirical studies as to efficacy may be difficult or even impossible, closer analysis is clearly called for. Ultimately, apologies for historic wrongs are efforts to resolve disputes justly. The discussion that follows is about what this means, and whether justice can indeed be served by the process.

### Apologies and Transgenerational Justice

Critics of official apologies charge they are cheap and superficial, offered gratuitously by people who were not themselves responsible for crimes to people who were not themselves victims. As well, some do not like apologies because they are said to promote collective guilt and self-doubt — seen as unhealthy for national identity (Osiel 1995, p. 592).<sup>28</sup> Others reject apologies as a means to evade sterner forms of justice. Notably, critics of South Africa's Truth and Reconciliation Commission have expressed the fear that truth or reconciliation might trump justice, or that apologies and forgiveness privileged a scenario that was heavily influenced by Christian affinities with confession and absolution.<sup>29</sup> And then, there is chronology. "How far back should we go?" is pointedly asked, as if posing the question were itself enough to refute the principle of seeking justice for historic wrongs. "Everyone living today if they go back far enough can find ancestors who were oppressed and victimized," observes Tyler Cowen (Cowen 2002). One can almost hear the anticipated response: "Enough's enough. Better move on."

Particular instances may seem egregious. How meaningful can it be for the twentieth-century Pope John Paul II to express contrition about how Galileo was treated in the seventeenth century — especially when the pontiff's remarks are addressed to God, rather than to the scientific community? Why should the Canadian government

28. Often associated with the political right, such criticism has focused recently on Bill Clinton, who has been termed "a master of careful contrition" and who issued noteworthy official apologies for historic wrongs on several occasions. Clinton bashers in the United States Congress have seized upon this inclination to apologize as a demonstration of weakness of character or even of a lack of patriotic enthusiasm. In response to Clinton's 1998 expression of regret for American participation in the slave trade, for example, Republican Party Congressional Representative Tom DeLay said: "Here's a flower child with gray hairs, doing exactly what he did back in the '60s: he's apologizing for the actions of the United States" (Stolberg 2005).

29. For a convenient discussion, see Verwoerd (2003). For a recent discussion of forgiveness particularly within the framework of Jewish traditions, see Schimmel (2002).

apologize for the wartime execution of deserters in 1917, seemingly applying our standards, not those of the time, to a problem of military justice? And how can a British prime minister, who presumably represents immigrants from Bangladesh along with the descendants of British civil servants from the 1840s, declare present-day English responsibilities for the Irish Potato Famine? Chronology clearly matters. Whereas when it comes to the war in Iraq the dispute on apologies turns on precisely what Tony Blair should say, or not say, or whether apology is appropriate given one's view of the issue at hand; when it comes to the Potato Famine and the other examples of historic wrongs the real issue is whether apologies are possible at all. Unsurprisingly, some throw up their hands. "Learning to live with the sins of our forebears is more important than grand public acts of contrition," writes Daniel Szechi, suggesting that the mature response is simply to leave things alone (Szechi n.d.).

In the face of these misgivings, it may be useful to begin exploring the efficacy of apologies by referring to what states already do, following principles to which they are largely already committed. For it may well turn out that apologies for historic wrongs carry weight when they do not break, as they are sometimes assumed to do, with practices that we actually value and follow. Janna Thompson begins her inquiry on this matter with reference to treaties — contractual agreements in which states bind themselves over time. About treaties she has a laconic observation: "Governments, most people agree, should keep their promises" (Thompson 2002, p. 4). Treaties are *transgenerational* promises, she observes. Nations undertake to keep these commitments, even as time passes, as individuals acquire or lose citizenship, as immigrants come and emigrants go, and even despite internal differences on how to interpret original commitments fairly. "Since agreements persist from one generation to another," Thompson then argues, "so too do reparative entitlements and obligations." Transgenerational commitments include obligations to avoid injustices or, put positively, to maintain "relations of respect." And what works for nations applies also to other institutions: "Responsibilities with respect to deeds of the past belong . . . to associations capable of making and keeping transgenerational commitments" — although there may be room for disagreement about the responsibilities of particular institutions, be they lower levels of government, churches, corporations, and the

like. The main thing is that obligations, and hence rights, persist across generations (Thompson 2002, pp. 35–6).<sup>30</sup>

From here, it should not be too much of a leap to contemplate convincing apologies for historic wrongs. As Jeremy Waldron notes, “our moral understanding of the past is often a way of bringing to imaginative life the full implications of principles to which we are already in theory committed” (Waldron 1992b, p. 5). Apologies involve taking responsibility for breaches in transgenerational obligations. With Thompson and others, I believe that such transgenerational obligations exist, and from these flow responsibilities in the event that such obligations are not discharged. The important thing is to define what the breaches of obligations are, and to make sure that responsibility for them is carefully circumscribed in what is said. To be successful, the apology will have to incorporate both the wrong and the responsibility in acceptable ways. The latter may be difficult to ascertain and, to be accepted, may require negotiation and agreement. “Responsibility,” after all, can be direct or indirect, full or shared, heavy or light. One of the virtues of the apology genre is that the degree and character of responsibility can be specified, if necessary with great precision — although, to be sure, those for whom the apology is intended might not necessarily agree with what is said.

This does not necessarily require a detailed description of the wrongs and a precise circumscribing of responsibility — although apologies may do so. Eloquent but very broad gestures of contrition, as we have seen with Willy Brandt’s *Kniefall*, communicate powerfully and can sometimes bridge both extensive passages of time and differences of opinion about the terms of apologies. Silences or ambiguities can be useful. In Brandt’s case, the lack of specificity seems actually to have facilitated communication of the main message, an assuming of German responsibility for the Holocaust and Holocaust-like crimes in Poland and elsewhere in Eastern Europe. With historic wrongs, form can count as much as content. When Prime Minister Poul Nyrup Rasmussen of Denmark apologized to the Inuit of Thule, Greenland,

30. Thompson thereby deals with the question of whether Tony Blair’s apologies on the part of the British people for the Irish Potato Famine should bind, say, recent immigrants to the country. The answer is that British transgenerational responsibilities have nothing to do with ancestry. “To have a historical obligation, it is not necessary that you be a descendant of someone who made or violated an agreement. Nor does having an ancestor who fought against the injustice make you exempt . . . You assume the responsibility when you become a citizen” (Thompson 2002, p. 36).

for the relocation of its residents more than half a century ago, what was most commented upon was that he did so in the local Inuit dialect. “Rasmussen uttered the word that he and many other Greenlanders have been waiting to hear for years: ‘utatserqatserpunga,’” the local news service observed. “For the first time,” said Aqqaluk Lunge, president of the Inuit Circumpolar Conference, “we have a prime minister of Denmark who is apologizing in our Greenlandic language. It is very important to us” (George 1999). In an opposite case, a German government effort to apologize for the genocide of the Herero people of Namibia in the early twentieth century seems to have failed, both because of the clumsy delivery and the failure to address beforehand specific demands by the Herero authorities for both apology and compensation. And so although the German spokeswoman asked the Herero for forgiveness, she seems to have caught her listeners off guard, and had to be prompted by hecklers to utter the word “apology.” The Herero chief Kuaima Rirauko seems to have been unsure exactly what to do. “I am not here to refuse your apology and admission of guilt,” he observed. “There must now be dialogue to finish the unfinished business,” he told a crowd of supporters (BBC News 2004; Kuteeue 2004).<sup>31</sup>

People may be more inclined to assume transgenerational responsibility when they appreciate that harm too can be transgenerational. Widely studied in the case of the Holocaust, the impact of severe trauma upon succeeding generations is by now broadly accepted, although, to be sure, difficult to measure, both because there is an important subjective element and because the impact differs so widely among individuals and communities (Danieli 1998). Slavery clearly has a heritage that affects some blacks today as does the Holocaust with Jews; at the same time, many descendants of victims of both are scarcely affected, if at all. For some groups and peoples, suffering caused by past injury is a living reality, often at the core of personal, communal, and political identity. Others do not want to be reminded of trauma, deny that any vestige affects them, and even contest its presence among others. Sometimes, claims of impact seem impossible for outsiders to credit. A good example would be the supposed impact of the Crusades on contemporary inhabitants of the Middle East. Whether and how to address such issues justly, through apologies, is obviously a major challenge. Once again, much depends

31. On the limits of apologies in the Hereros' case, see Torpey (2006, pp. 141–2).

not only on whether an apology is considered appropriate, but on how it is presented and what is said.

### **When Rights Fade**

“We may award compensation for the effects of wrongs done as many as ten or twenty generations ago,” ventures the philosopher George Sher, “but what of wrongs done a hundred generations ago? Or five hundred or a thousand?” (Sher 1980, pp. 3–17). From the standpoint of restitution, even ten or twenty generations strain adjudicative capacities, as this could involve wrongs that are six centuries in the past, assuming shorter life expectancies historically. And so, even discounting Sher’s generous concession, I think most people would take the point: some wrongs are so ancient as to overstretch any reasonable capacity for their rectification.<sup>32</sup> Surely, at some point, both the claims and obligations based upon them lose force. How is this point to be determined? And what happens when we reach it?

Jeremy Waldron introduces a practical perspective to the discussion of such questions, starting with what I think is the obvious point: not every claim for restitution or reparative justice presents a compelling case. Some claims, we all know and accept, “fade” with the passage of time. Legal systems accept this as an inescapable reality: “In the law of property we recognize doctrines of prescription and adverse possession. In criminal procedure and in torts we think it important to have statutes of limitations.” Only a few would disagree with the conclusion that, after the passage of several generations, “certain wrongs are simply not worth correcting” (Waldron 1992a, p. 155). Even assuming we could determine who owed what to whom, settling this would trigger a cascade of new injustices, particularly with regard to property. And even when determining transgenerational responsibility for wrongdoing, moreover, there comes a point when the chains of association between original perpetrators and some present-day collectivities may be said to have crumbled or been broken. Present-day Egyptians, for example, could not in the most remote of circumstances be held responsible for the enslavement of the Jews at the time of the Pharaohs. Serbian people nurse a mythic memory of

32. “If one person behaves unjustly, particularly in the context of a market, the injustice will have an effect not only on her immediate victim, but — via the price mechanism — on all those who trade in the market in question. Some will gain and some will lose as a result of the injustice, and any attempt at rectification — any attempt to implement the state of affairs that would have obtained but for the injustice — will involve interfering with those holdings as well” (Waldron 1992b, p. 12).

national catastrophe following their defeat at the hands of the Ottoman Turks in the Battle of Kosovo in 1389. But in what manner could present-day Balkan Muslims possibly be charged with responsibility for the destructive consequences of that defeat? In such circumstances, Waldron observes, whatever one's view of the original wrongs, rights in respect to the rectification of historical injustices may best be considered to have been *superseded* (Waldron 1992a, p. 24).

Circumstances like these condition the quest to remedy historical wrongs, limiting the possibilities for repair. However, this does not mean that when fading first appears all efforts at reparation must come to a halt. Indeed, my sense is that this is where apologies may be particularly useful. Although dealing with the past, apologies operate resolutely in the present and, as we have seen, often involve commitments to the future. In circumstances of faded injustice, apologies remind everyone of great wrongs, the effects of which usually continue in some respects. Apologies describe the wrong, certifying a public understanding of what was often previously suppressed or disparaged. Apologies address the often not negligible sense of injustice that persists even if restitution is no longer possible. And even if they cannot convey remorse, because of an attenuated sense of responsibility, apologies can certainly convey regret and sympathy for continuing effects of victimization. And finally, there is nothing to prevent the crafters of apologies from declaring that rights have necessarily faded, perhaps through language agreed upon with the aggrieved party. To be sure, at every step the parties must pass the political test: both have to want to engage in the apology transaction, and in all likelihood they must be prepared to negotiate their way to it.

Apologies often come into play because there is no other possibility for restitution — leaving aside the ambitious historic commitment, as defined by Robert Nozick, to restore conditions to what they might have been if the injustice had not taken place (Nozick 1974, pp. 152–3). Apologies have a particularly useful role to play when other means of achieving historical justice seem impossible. Apologies are a sign that a particular injustice is held to *matter*, at least enough so that it cannot be ignored. Apologies address symbols, which are often markers for the future as well as the past. The Afro-American civil rights activist Julian Bond argued this point when he promoted an apology for slavery: “Apologies don’t provide jobs, but I think there’s a place for symbolic acts . . . It wouldn’t solve the problem of race, but it would mean that we are beginning to be a bit more

realistic about it and that, as a society, we are moving away from this denial. The first step toward recovery is eliminating denial” (Weyeneth 2001, p. 32).

### Acknowledgement

Victims of historic wrongs often complain of how isolated they are from society’s ongoing discourse on justice — as if the wrongs they suffered are always in danger of disappearing from the public agenda. Victims and those who speak for them return to this point over and over again: apologies for these wrongs must convey a commitment that their particular suffering will not be forgotten. The late Holocaust survivor Simon Wiesenthal relays a fear that I think is shared by these victims — that no one will believe them. Toward the end of his memoir, *The Murderers Among Us*, Wiesenthal describes how the SS guards in the Mauthausen concentration camp would torment the prisoners by playing on precisely an apprehension that the wrongs they suffered would, in effect, disappear.

However this war may end, we have won the war against you; none of you will be left to bear witness, but even if someone were to survive, the world will not believe him. There will perhaps be suspicions, discussions, research by historians, but there will be no certainties, because we will destroy the evidence together with you. And even if some proof should remain and some of you survive, people will say the events you describe are too monstrous to be believed: they will say that they are the exaggerations of Allied propaganda and will believe us, who will deny everything, and not you. We will be the ones to dictate the history of the Lagers. (Quoted in Levi 1989, pp. 11–12)

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Why did this particular nightmare haunt the prisoners? The answer has more to do with the psychological conditions of isolated and tormented victims than it does with the specific circumstances of the Holocaust. Victims of terrible acts suffer greatly from the taunt entailed in their victimization — that those who experienced terrible wrongs do so because they do not count. And for those who do not *count*, who are less than human, society need not take notice of their suffering; and so, even if one day the perpetration is over, *no one will ever bother about them*.

Apologies, I believe, should communicate the reverse: that victims do matter, that their accounts are respected, and that they are entitled to a measure of dignity and justice — like everyone else.<sup>33</sup> One of the

33. On the importance of dignity, see Kretzmer and Klein (2002).

important achievements of apologies, when done effectively, is to allay fears of historical oblivion — a rectification that, in the view of some, is integral to the justice-seeking process. Through remembrance of victimization, those who have suffered regain that element of their identity that was thus threatened with eradication; they are restored to themselves and to membership in the community, one of the essential attributes of which is everyone's entitlement to respect (Waldron 1992a, pp. 141–2). In examining this point, we are able to understand why the opposite, denial, is so wounding — to the point that many who have not themselves suffered grievous wrongs fail to understand the fervour with which former victims react against organized attempts, such as Holocaust denial, to obliterate the record of past atrocities.

In her discussion of historic wrongs, Trudy Govier outlines how difficult it can be for survivors to overcome obstacles in the path of society's recognition of what they have been through; more often than most of us appreciate, they must clamber over “collective denial, avoidance, ignoring, ignorance, and self-deception” (Govier 2003, p. 81). For Govier, the element sought is acknowledgement — an essential element, as we have seen, of apologies for historic wrongs. What is involved, in this process, is a transaction between victims and perpetrators — or their representatives — in which there is a mutually agreed-upon understanding of what has happened. This transaction is at the centre of apologies,

because *acknowledging those wrongs will assist victims to heal, will mark a separation from the wrongdoing of the past and a commitment to reform, and may constitute a necessary step towards reconciliation*. The idea is that perpetrators or the state or both will acknowledge to themselves that they have committed wrongs and will, on the basis of this self-acknowledgement, grant public acknowledgement to victims. The victims will then receive acknowledgement, which will articulate recognition that certain sorts of acts were wrong and a commitment not to do such things again. (Govier 2003, p. 84; emphasis in original)

To be sure, apologies are only one of the means by which victims may receive acknowledgement — others included criminal trials, truth commissions, monuments, memorials, and museums. But apologies do carry certain advantages: they involve the perpetrators or their representatives, lending to the account of wrongdoing the imprimatur of confession; they can be as explicit as the two parties will agree to be, validating part or all of the victims' account; and, if done well, apologies accord publicly to the victims a measure of the dignity and respect that was once violently taken from them.



This is why students of apologies so often insist that they must involve two parties, in dialogue with each other. From a literary point of view, Jacques Derrida notes that apologies are possible only when there is a common language (*Le Monde des débats* 1999, p. 9). Martha Minow refers to the process of apologizing as being communal in nature. “An apology is not a soliloquy,” she insists (Minow 1998, p. 114).<sup>34</sup> (It is this condition that is conspicuously missing from the apologies of John Paul II, whose contrition is expressed to God, and not to those who were wronged.)

### Reconciliation

Janna Thompson distinguishes between the “reparative approach” to wrongdoing (concerned with “apology, forgiveness, contrition, atonement and reconciliation”) and the more “legalistic” commitment to “rights and obligations, restoration and compensation” — what she terms the “restorative approach.” To be sure, neither is completely independent of the other; there can be overlap, and it is possible to contemplate these strategies pursued simultaneously. But while Thompson accepts that the restorative approach can certainly be pursued for historic wrongs, she also recognizes that there are circumstances in which it just will not work. Crucially, those killed cannot be brought back to life; the tortured may never be healed; material restitution becomes increasingly difficult with the passage of time, and compensation sometimes impossible to calculate or to effect. Restorative objectives will increasingly end up “beyond human powers” (Thompson 2002, pp. 47–8). We may then have no alternative other than reparation, in which case (if the parties agree) the reconciliation could emerge a major goal.

Achieving reconciliation means the construction of a common discourse or understanding about what has happened, something that two parties can “live with” — the term itself suggesting not only negotiation and compromises before eventual agreement but also continuing interaction on the matter. Reconciliation, it must also be noted, comes in varying degrees. In “thinner” versions, the two parties could agree not to kill each other; in “thicker” versions, they could show mutual respect and agree to work together; and at the “thickest,” the former enemies could commit themselves to friendship and solidarity (Crocker 2003, p. 54). Let me stress, at this point, that there is no legitimate authority that can or should command reconciliation or

34. See also Golding (1984–85, p. 132).

reparation at any level. Jews do not have to reconcile with Nazis, or for that matter ex-Nazis. Blacks do not have to break bread with racists. However, since we are dealing here with historic wrongs, where it is frequently the generations of successors who are grappling with “unfinished business,” there is a considerable recognition of the utility and desirability of reconciliation, if not its independent value. Moreover, as we have regularly found with wrongs that were perpetrated long ago, there may be few alternatives to relations of repair. Within countries, certainly, the parties may have no alternative but to live together. The alternative may simply be to nurse grudges — an unhappy option for the study of which psychologists have even developed a subspecialty: “grudge theory” (Baumeister, Exline, and Sommer 1999, pp. 79–104).

Reconciliation, Thompson adds, may be woven into our assumptions about historic obligations in a more general sense, making this approach “congenial,” if not imperative. “If we are morally motivated to accept historical obligations because of a belief that our successors ought to keep our agreements and maintain respectful relations with those nations with whom we interact, then we will be drawn to an approach to reparative entitlements and obligations that focuses on repairing the harm done by injustice to respectful relationships,” she writes. Consistency prescribes a goal, Thompson suggests, to which we ought to be attentive: re-establishing “relations of respect” — that is, reconciliation (Thompson 2002, pp. 52–3). Judging by the frequency with which themes of reconciliation appear in apologies, this goal is widely embraced as one of the purposes of the exercise. People do seek it out. Looking across cultures and trying to establish commonalities, Alison Renteln refers to apologies as “rituals of reconciliation” (Renteln 2005, p. 9).

Proponents of this objective make the case that reconciliation is not a second-best alternative, and not at all the same as forgiveness, which implies dissolving the sense of grievance that accompanies great historical wrongs. Nor is it an agreement about a single line of interpretation. Reconciliation is rather a mechanism by which parties agree to live together with some kind of common understanding.<sup>35</sup> For Susan Dwyer, who has studied the process in the South African context, the accent is on the shared appreciation of the destructive character and the historical wrong but also a conceding that, realistically, reconcilia-

35. See Rosoux (2001, p. 323) about the value of “le récit polycentrique.”

tion “may often fall short of justice.” Described somewhat technically, it is the resolution of tensions between different beliefs through some commonly crafted narrative — inscribed in an apology which both parties accept. The parties manage “bringing apparently incompatible descriptions of events into narrative equilibrium”; they achieve a process of “narrative incorporation” (Dwyer 2003, pp. 96, 100–9).<sup>36</sup>

To achieve this, reconciliation implies becoming familiar with the other’s point of view. As Bulgarian President Zhelio Zhelev observed in this context, “It is illusory to want to turn the page before one has read it” (Rosoux 1998, p. 111). From there, reconciliation has to be negotiated and therefore apologies for historic wrongs more often than not promote an extended processes of give and take — itself a sign of reconciliation, even if not friendship (Jaworski 1994, p. 187; Lazare 2004, p. 204; Shelton 2003, p. 302). However, no one can be coerced. Either party must have a right to slow down or to stop the process.

Central to this exercise is the element of trust, likely to be integral to the process. Issues of apology, trust, and reconciliation, observers note, are closely interrelated. “Trust,” say two students of reconciliation, “is an attitude of confident expectation, an expectation that the person, persons, or groups trusted will act, in the context in question, in a competent and acceptably motivated way, so that despite vulnerability, the trusting person or persons will not be harmed” (Govier and Verwoerd 2002b, p. 199). Particularly for former victims, who often have the best of reasons to distrust, but also for former perpetrators or their successors, who often fear that they will be the objects of revenge, there are very good reasons to put trust at the centre of the reconciliation process.

### Validating Norms

In addressing individual cases, apologies for historic wrongs read into the historic record official abhorrence of particular kinds of

36. To this reader, at least, Dwyer’s conclusions *do* sound rather like second-best, even if inescapable: “Reconciliation . . . will be a morally second-best option only if there is some other strategy a nation could undertake that would be better. For example, if justice, in the sense of fair and comprehensive trials and punishment, could be effected, reconciliation will rightly be judged morally inferior. But the availability of realistic alternatives is precisely what is in question in most of the situations in which reconciliation is being recommended. Whether the establishment of truth commissions and efforts at reconciliation are morally inferior responses to violent pasts depends on the availability of other morally acceptable options. Where no such options exist, calls for reconciliation need not be impugned” (Dwyer 2003, pp. 107–8). “Need not be impugned” — agreed. But second-best, perhaps.

wrongdoing. Of course, with crimes located far in the past a universal consensus on these matters probably already exists. But not necessarily. In contemporary international law, where human rights standards sometimes need all the strengthening they can get, validating norms is no trivial matter. Diplomatic apologies, Richard Bilder notes, “may conceivably affect the formation or reinforcement of customary international law, the interpretation of treaties, or perhaps ‘estop’ a state from challenging the existence of an alleged rule for the ‘violation’ of which it apologized” (Bilder 2005, p. 18). Tavuchis makes a related point: apologies “serve to recall and reaffirm allegiance to codes of behaviour and belief whose integrity has been tested and challenged by transgression” — although to be sure, with apologies for historic wrongs the challenge is usually inactive, and the transgression may be only a dim memory (Tavuchis 1991, p. 13).

Formulating apologies also can involve rumination both on why the original violation occurred and also what prevented, for so long, an acknowledgement of what had happened. Apologies set a bar for good conduct in ambiguous or difficult situations, for which there is not necessarily a clear guide to action. “We did not act quickly enough after the killing began,” declared Bill Clinton in his 1998 apology over Rwanda. “We should not have allowed the refugee camps to become safe havens for the killers. We did not immediately call these crimes by their rightful name: genocide” (Gibney and Roxtrom 2001, p. 923). Apologies are valuable, all this is to say, because they promote discussion and transparency and invite public consideration of decision-making on matters of grave violations. They challenge both cover-ups and mythmaking that screen the public from historic wrongs often committed in their name. “Discovering the truth can function as a kind of justice in itself,” observes historian Robert Weyeneth, reducing thereby “the number of permissible lies in a society” (Weyeneth 2001, p. 33).

## V. Conclusion

Effective apologies, especially official apologies delivered by representatives, are usually imbued with qualifications. Apologies are not an exclusive means of justice seeking. Sometimes they are part of a package, to be added to measures of retributive justice and material restitution, compensation, or reparation. As such, they can present themselves as part of a protracted, broadly-gauged process of atonement, which may involve continuing obligations in the future. Sensibly, they often begin with recognition that, at the end of the day, they are powerless fully to rectify a historic wrong. Notwithstanding

their occasional success, their operation is not magical. Pain cannot be washed away. People cannot be brought back to life. Damage cannot always be repaired. Apologies cannot undo what has been done — obvious points, but seen as important nevertheless to declare, and now almost invariably included in the apology script.

Responding to critics, those who promote historical justice present minimalist arguments: apologies are better than the alternative, which is normally ignoring the issue altogether, or leaving the field to the victims' less palatable options of vengeance or the sullen cultivation of old wounds; apologies help still the call for violence, which may be a serious temptation; apologies can always be rejected and probably will be so if they are deficient in important respects; apologies allow perpetrators to save face, and thus permit an acknowledgement of wrongdoing that might otherwise have been suppressed; apologies validate claims of victims, usually long ignored or stubbornly denied; apologies certify acknowledgement and responsibility, which is highly valued by victims, even if this is not everything they seek; apologies are part of a process that can lead to better things, even while accepting that societies have failed to resolve disputes for too long; apologies encourage reconciliation, which is a respected goal of justice seeking; and apologies reinforce positive norms, helping to solidify a human rights consensus. Canadian Prime Minister Brian Mulroney, in his 1988 apology for Japanese Canadians, won respect when analogized with interpersonal apologies: "We have all learned from personal experience that as inadequate as apologies are they are the only way we can cleanse the past so that we may, as best we can, in good conscience face the future" (*House of Commons Debates*, September 22, 1988, quoted in Alter 1999, p. 9).

It makes sense to end this review of official apologies for historic wrongs with this appreciation of apologies' limits even as we note their possibilities and good intentions. For the entire context of this discussion has been the insufficiencies of justice seeking in the world, and the unhealthy, sometimes long-mouldering residue left behind by generations that have ignored great wrongs or failed to address them properly. "It should be recognized that in a perfect society victims are entitled to full justice," says South African judge Richard J. Goldstone, who goes on to note that in real societies this is not, has not been, and will not be possible (quoted Minow 1998, p. ix). Therefore, societies may need to find unconventional solutions in a continuing quest for justice. Under the right circumstances and appropriately delivered, apologies may be well worth considering.

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