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Apology and Reconciliation in Settler States

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A thesis submitted in partial fulfillment of the requirements for the Doctor of Philosophy degree in Philosophy

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Abstract

This dissertation offers a normative account of how we should conceive of reconciliation between Indigenous people(s), states qua states, and their non-Indigenous citizens. It mines pre-theoretic understandings of reconciliation to determine appropriate governing norms for reconciled relationships, the normative expectations that attend these, and what processes or initiatives might be necessary to achieve them. In liberal democratic settler states like Canada, Australia, the United States and New Zealand the desirability of reconciliation is acknowledged by all parties. However, considerable ambiguity surrounds the concept ‘reconciliation.’ This is problematic because concepts influence social discourse, and the rhetoric of reconciliation not only guides public policy by prioritizing some goals over others, it also influences the process of building healthy relationships by demarcating the contours of this discourse. This makes the need for clarity with respect to the concept acute. Yet a priori judgements about the content of reconciliation are unwarranted in intercultural political contexts. Accordingly, this work takes as its first point of reference an intriguing instrument of reconciliation almost universally thought to be involved in the process: official apology for historical and enduring injustices perpetrated by settler states against Indigenous people(s). In the broadest terms, the project offers something akin to a transcendental argument: if apology of this kind is involved in reconciliatory projects, what does its use say about the process and aims of reconciliation? Chapter 1 explores how to make sense of official apology for historical and enduring injustice by grounding contemporary non-Indigenous citizens’ reparative responsibilities in the context of reconciliation. Chapter 2 delves into official apology, asking what it should look like, from whom it should come, and what it should aim to do. Chapter 3 sheds light on the process of reconciliation by examining the means by which the goals of apology can be promoted through substantive initiatives that simultaneously demonstrate apologetic sincerity. Finally, chapter 4 offers necessary conditions for reconciliation as an outcome. It argues that since apology seeks both to circumscribe the range of reasonable interpretation of history and to enact or engender reciprocal attitudes of respect and trust, so too should these elements feature in any defensible conception of reconciled relationships in the settler state context.

Keywords

Reconciliation, Apology, Political apology, Official apology, Historical apology, Historical injustice, Indigenous, Aboriginal, Colonialism, Settler-colonialism, Settler-state, Redress, Philosophy, Ethics, Intergenerational justice.

Summary for Lay Audience

In countries like Canada, Australia, the United States and New Zealand the desirability of a reconciliation between Indigenous people(s) and their non-Indigenous citizens is acknowledged by all parties. However, considerable ambiguity surrounds the concept 'reconciliation.' This is problematic. Concepts influence social discourse, and the rhetoric of reconciliation not only guides public policy by prioritizing some goals over others, it also influences the process of building healthy relationships by demarcating the contours of this discourse. This makes the need for clarity with respect to the concept acute. This dissertation explores how we should conceive of reconciliation in this context. It mines our understandings of reconciliation to determine what reconciled relationships might look like in practice, and how these relationships might be achieved. De-contextualized judgements about the content of reconciliation are unwarranted in intercultural political arenas. Accordingly, this work takes as its first point of reference an intriguing instrument of reconciliation almost universally thought to be involved in the process: official apology for historical and enduring injustices perpetrated by settler states against Indigenous people(s). If apology of this kind is involved in reconciliation, what does its use say about the process and aims of reconciliation? Chapter 1 explores how to make sense of official apology for historical and enduring injustice by exploring contemporary non-Indigenous citizens' roles and responsibilities in the context of reconciliation. Chapter 2 delves into official apology, asking what it should look like, from whom it should come, and what it should aim to do. Chapter 3 sheds light on the process of reconciliation by examining the means by which the goals of apology can be promoted through substantive initiatives that simultaneously demonstrate apologetic sincerity. Finally, chapter 4 draws conclusions about what the preceding three have to say about reconciliation as an outcome. It argues that since apology seeks both to circumscribe the range of reasonable interpretation of history and to enact or engender reciprocal attitudes of respect and trust, so too should these elements feature in any defensible conception of reconciled relationships in the settler state context.

Dedication

For Ciara

Land acknowledgment

I acknowledge that Western University is located on the traditional territories of the Anishinaabek, Haudenosaunee, Lūnaapéewak and Attawandaron peoples, on lands connected with the London Township and Sombra Treaties of 1796 and the Dish with One Spoon Covenant Wampum. Local First Nations communities include the Chippewas of the Thames First Nation, the Oneida Nation of the Thames, and the Munsee Delaware Nation.

Growing up as a settler here in London I never knew the names of these peoples, nor did I appreciate the longstanding relationship they have with this land. I did not know many Indigenous people, nor did I understand the historical genesis of the challenges many are facing. I understood Indigenous peoples through the lens of elementary school history classes, realizing only later that these offered crude caricatures of their rich and vibrant cultures. I wish to acknowledge these lands and their stewards because I respect and honour them, and I am grateful that I have had the opportunity to pursue a fulfilling life here. I commit to helping to redress the wrongs of the past and present in the interest of reconciliation.

Acknowledgments

I would like to thank my supervisors, Richard Vernon and Tracy Isaacs, without whom this dissertation would never have come together. Their thoughtful comments, helpful advice and valuable suggestions were as important to the success of this project as was their unwavering encouragement. Their patience in reading interminable earlier drafts is similarly commendable, and a testament to their commitment as mentors. There are no words that I could use to thank them in a way that would convey just how grateful I am for the time they devoted to me and this project. I am a better writer and scholar because of them.

Thanks as well to my examining committee members, Cindy Holder, Carolyn McLeod, Charles Jones and Dennis Klimchuck, for their wonderfully supportive engagement with my work. It was an honour to have these scholars review the dissertation, and their thoughtful insight will be invaluable when I revisit the themes and arguments of this work in the future.

I also benefited greatly from the faculty here in the philosophy department, where I always felt supported and where I managed (somehow) to come to grips with areas of philosophy which had previously escaped me. A special thanks is due to my advisor, Dennis Klimchuk, who had the patience to read earlier drafts of chapters and who never failed to offer friendly and useful suggestions. Thanks also to Eric Desjardins, who helped me to clarify my ideas at the earliest stages of the project. And a warm thanks to Charles Weijer who, although not involved with this project, nonetheless offered valuable mentorship and helped to build my confidence as a scholar.

I am grateful for funding I received from the Rotman Institute of Philosophy, Western's Department of Philosophy, Faculty of Arts and Humanities and (by extension) from the taxpayers of Ontario and Canada. Not everyone has the privilege of pursuing graduate studies. I strive every day to remember my privilege, to be grateful, and to not take the opportunities I have had for granted.

There are a number of people from my non-academic life who have my unending gratitude. My dad, for always giving me the (questionable) advice to continue studying what I found interesting. My mother, who, though now long gone, offered such a unique and comforting love that without her it's unlikely I'd ever have had the capacity to do much of anything. My

friend Will, for always reminding me that I'm not as stupid as I look. My partner, Taylor, whose love I could not have done without, whose support was unfailing, and who deserves a medal for her support (which I will provide). And I thank my wonderful sister, Ciara, for her endless support, encouragement, and (where appropriate) withering criticism.

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Preface

While most often seen in discussions of post-conflict resolution and transitional justice, the term ‘reconciliation’ is equally deployed in the political contexts of liberal democratic settler-colonial states characterized by historical and enduring injustice suffered by Indigenous people(s). My dissertation’s focus is on this latter context. Its guiding question is: *what does (or should) reconciliation look like in settler states?* Countries like Canada, Australia, New Zealand and the United States now ostensibly reject the logic of settler colonialism. Yet the legacies of colonialism remain – if indeed it can really be considered over. Nobody denies that the historical and enduring injustices perpetrated against Indigenous people(s) contribute to fraught relationships in contemporary times. Nearly everyone agrees that a reconciliation between Indigenous peoples(s), settler states and their non-Indigenous citizens is desirable. In each of these countries the rhetoric and methods of reconciliation are in use. Yet a key unresolved question hovers over reconciliation projects: what exactly *is* reconciliation in this context? Normatively, how should we conceptualize it?¹ Answering this question is the goal of this dissertation.

A challenging obstacle to the study of reconciliation is that there is no consensus on the definition of the term. While scholars agree that its core meaning concerns the creation or restoration of ‘right’ relationships (Philpott 2012, 5), they cannot agree on what else is involved. As the primary source of the panoply of interpretations, scholars in the field of transitional justice have variously defined reconciliation as a process or an outcome (or both), as a top-down state-mediated initiative or a grassroots citizen-driven project (or both), as a political value, an ethic, a stand-in for social harmony, or a concept of justice unto itself. Different accounts prioritize socio-structural, relational or identity-related changes (Nadler 2012, 4). Perspectives range from the religious, psychological and philosophical to the juridical, historical or political (Rettberg and Ugarizza 2016, 521). Sometimes reconciliation is thought to reduce to ‘simple coexistence’ between groups formerly at odds (Crocker 2000); sometimes it is thought to entail affective change in individuals amounting to forgiveness (Tutu 1999). The questions around the concept, say Sarkin and Daly (2004), are

¹ Some scholars take issue with the prefix ‘re’ in this context, arguing that, to *reconcile*, parties to reconciliation must have once been in a harmonious relationship (e.g. Chrisjohn and Wasacase 2011, 199). In many settler states, they note, such a situation never obtained. The point is well taken, but for the purposes of this dissertation I will ignore the solecism.

“dizzying” (671):

Is it national unity? Is it peace? Is it healing? Is it relationship building? Is it stability? Is it harmony? Is it developing a democracy that ensures the fullest sense of inclusivity and opportunity, as well as access to resources for those who reside in the country? Is it all of these? Or none? (665).

Even with a definition in mind, many questions remain concerning, for instance, how to promote reconciliation, whether it is fundamentally illiberal, how it relates to justice, and whether it is even a desirable project. As Prager (2003) notes, “the problems involved in understanding the dilemmas of reconciliation are so daunting that anyone in search of rigour and clarity would probably head off in the opposite direction were it not for their enormous intrinsic importance” (10).

Thus, while the term ‘reconciliation’ is widely used, it is little understood (Dwyer 2003, 92). Indeed, the concept of reconciliation in scholarly literature is surprisingly amorphous (see Radzik and Murphy 2019; Bhargava 2012; Meierhenrich 2008). There are at least three things that explain why there is no agreed understanding of reconciliation. The first confounding problem is that equivocation in the literature between reconciliation considered as a *process* and reconciliation considered as an *outcome* tends to obscure the parameters of the debate. Another reason the concept remains contested is that it is often understood as “reducible,” or a concept comprised of many others (DeGreiff 2008, 122; Schaap 2005, 11). As is evident from the literature, just which concepts comprise reconciliation is far from clear. Another barrier to understanding reconciliation is that its meaning may be sensitive to context. That is, circumstances may dictate what reconciliation involves, and hence what the term means in any given situation (C. Murphy 2010, 9). For these reasons, it is hard to neatly describe ‘reconciliation’ in a simple formula.

Without knowing precisely what reconciliation is, it is difficult to see how to promote it. The lack of conceptual rigor surrounding the concept is problematic given the prevalence of attempts to achieve reconciliation in settler states like Canada, where it is an urgent societal priority. The varied understandings of reconciliation employed in the scholarly literature on the topic make dialogue difficult, as authors often speak past one another. In this context, definitions matter: it is only with a clear understanding of reconciliation that we can hope to achieve it. While one might think we could look for guidance on the definition of

reconciliation from the various Truth and Reconciliation Commissions lately undertaken, such as those in Canada or South Africa, it turns out that TRCs do not always offer ready definitions, or indeed very useful ones. The *Summary of the Final Report of the Truth and Reconciliation Commission of Canada* (2015a) characterizes reconciliation as an “ongoing process of establishing and maintaining respectful relationships” (6). While it is surely not wrong to say that this is a part of reconciliation, a definition like this “yields little insight as to what exactly a reconciled relationship will look like, and how exactly Canadians can work to achieve it” (Shelley 2014, 15). True, the commission goes on to specify ways and means, as well as to list 94 *Calls to Action* that implicitly promote a vision of reconciliation (2015b). Yet the commission’s wide-ranging recommendations, comprehensive elaboration on the multivalent character of the process, and ambiguous definition of reconciliation combine to create the sense that reconciliation can mean pretty well whatever one wants it to. This definitional deficit (or surplus) was even more pronounced in the proceedings of South Africa’s truth commission. Hamber and van der Merwe (1998) identify five distinct notions of reconciliation employed by the commission, each espoused and promulgated throughout the proceedings and apparent, if only implicitly, in its report. The result, they argue, “is that very seldom is anyone in South Africa talking about the same thing when they refer to reconciliation” (561).

This ambiguity may be surprising, but it is understandable. For if the world is any guide, one thing is certain: there is no fixed meaning of ‘reconciliation.’ Any appropriate characterization is sensitive to context (Hayner 2011, 189). In every country where the rhetoric of reconciliation is employed, the word means something different (Sarkin and Daly 2014, 666). This is an empirical fact we should embrace. While some scholars attempt to offer a definition that can cover wide variety of contexts, these definitions suffer from their generality (C. Murphy 2010, 15). Unitary understandings pay insufficient attention to societal particularities and offer little guidance on what sorts of attitudinal, interpersonal, institutional or political changes might be needed (24). Any adequate notion of reconciliation must be complex and context-specific (see Kofi Annan Foundation 2018, 6). Reconciliation is complex because, in addition to its core meaning, it can comprise a constellation of related concepts and ideas that address the layers of repair required (Meierhenrich 2008, 225). It is context-specific because these related concepts and ideas are suggested by the nature of the

harms that stand in the way of right relationships, the analysis of which can offer prescriptions for repair (C. Murphy 2010, 23-24). This is why “[r]econciliation is not an elusive concept, for it has a strong, constant core relating to the mending of relationships; but its shape, perimeters and nuances shift and adapt to the contour of socio-political relationships at any given time” (Kofi Annan Foundation 2018, 17). Seen this way, it is no wonder that there is no agreed definition of reconciliation, nor is this lack of agreement necessarily problematic. ‘Reconciliation’ in the political world is a sort of placeholder for varying ideas related to the creation or restoration of right relationships in each context (Quinn 2009, 182). If ‘reconciliation’ is a placeholder, just what it is holding a place for depends on context.

Considering that scholars cannot agree on what reconciliation is, it is surprising that many nonetheless agree on the fundamental role that apology for historical wrongs – not just their enduring effects – must play in any national reconciliation process in settler states.² This seems odd, for if we do not know what reconciliation is, then it is not clear why scholars think apology promotes it. But it makes more sense when we consider that achieving reconciliation requires that we pay appropriate attention to the wrongs of the past (see Ivison 2000; Truth and Reconciliation Commission 2015a, 6). Acknowledgement of the wrongs committed by the state, its institutions and/or its members is widely considered a pre-condition for reconciliation (e.g. Govier 2003; Waziyatwain 2011). Apology, requiring as it does an airing of the historical record, is one way to do this (see Tavuchis 1991, 98-117). Intuitively, apology and reconciliation are remarkably close cognates. While the latter could come without the former and vice versa, there are conceptual connections that are hard to ignore. Exploring these connections makes for a fruitful philosophical investigation into the nature of reconciliation. For this reason, the reader should take note that it is the operating intuition of this dissertation that official apology is a part of the process of reconciliation in settler states characterized by historical injustice. That is its fundamental premise.

Assuming the necessity of official apology for historical injustice is a methodological choice driven by the insight that the content of the concept of reconciliation cannot – or should not – be derived from a vacuum. Context matters. A common way of defining

² For example, see: Govier 2003; Minow 1998; Thompson 2009; Howard-Hassman and Gibney 2008; Gibbs 2009.

reconciled political relationships is to begin by asking what healthy political relationships look like, then to elaborate on the norms which best govern them (Radzik and Murphy 2019, sec. 2). This approach follows the usual method of concept-formation, where scholars first determine a conceptual ideal, and then ‘operationalize’ it: “[t]he conceptual analysis of reconciliation must be prior to the strategic analysis of reconciliation,” says Meierhenrich (2008, 214). However, notwithstanding how perennial disagreements over the nature of reconciliation suggest it has not worked, this method of establishing a definition works to foreclose contextually determined understandings of the concept. This dissertation aims at an experimental inversion of the normal process of concept formation, an inversion which requires that the reader grant me the hypothesis in the following conditional for the sake of our study: *if* official apologies for historical and enduring injustice are a part of reconciliation in settler states, then whatever effective official apology requires, whatever its normative foundations presume, whatever it aims to achieve – all will shed light on the concept of reconciliation, considered both as a process and an outcome. The basic idea is that the very fact that official apologies are employed in this context means that apology has something to say about the process and aims of reconciliation in settler states.

While presupposing that apology is involved in reconciliation is a methodological choice, it nonetheless has considerations in its favor. Aside from the obvious fact that apology is generally thought to be involved in reconciliation – as evidenced by its widespread use in these contexts – there is a counterfactual argument that lends the idea support. Suppose settler states eliminated all the lingering effects of historical wrongs, and suppose compensation, reparation and restitution were made to victimized Indigenous people(s). Would we then say that the accounts had been settled? Surely not, for settler states would still not have cleared what Vernon (2003) calls the “respect account” (2003, 545; see also Gill 2000, 23; Flemming 2008). Beyond making good on losses suffered through wrongdoing there is an element of disrespect attendant on the perpetration of wrongdoing (J. Murphy 1988, 25). Only apology can address this in an explicit way (Zutlevics 2002, 72). Perhaps this is why some consider apology to be an *obligatory* component of reparative projects of this kind (Thompson 2008, 34; Boxill 1972, 118). Another reason that apology seems appropriate for this context is that reconciliation in settler states – whatever it is – demands that we view history with a broad lens if we are to address the legacies of

colonialism (Spinner-Halev 2007). Apology is singularly suited for this purpose. By its very nature it straddles past, present and future; in paying attention to the past, it looks towards the future (Coicaud and Jonsson 2008, 77; Freeman 2008, 58; M. Murphy 2011, 54). These considerations suggest that the intuition that apology is involved in reconciliation is not misplaced.

Of course, building a dissertation on a conditional is a risky business. If apology is not a part of reconciliation, the entire edifice falls. But the conceptual obstacles to official apologies – especially those for historical wrongs – have so much in common with those associated with the project of reconciliation that, even if the reader were unwilling to grant the conditional’s hypothesis, this dissertation’s conceptual analysis will nonetheless shed light on reconciliation more broadly. Apologies are used to address those harms that stand in the way of right relationships. In identifying those harms that should feature in apology, we can at least identify some of the barriers to reconciliation. Furthermore, a study of collective-level apology can offer a clearer picture of individual culpability in the context of collective harms. This will help to delimit the reparative responsibilities of non-Indigenous people even if the reader is unwilling to grant me my hypothesis. These findings, then, will enable us to navigate some of the “dilemmas of reconciliation”³ that recur in the literature.

Official apologies of the kind I discuss in this dissertation are a species of ‘collective apology,’ or apologies delivered on behalf of a group as opposed to an individual. They are officially endorsed, publicly delivered apologies offered by a representative of a state (or one of its institutions) to groups, nations or collectives that were victims of state wrongdoing.⁴ Official apologies to Indigenous peoples for historical injustice have been issued with increasing frequency in the past few decades. In 1993 the United States Congress apologized

³ The title of the influential edited series by Prager and Govier 2003.

⁴ Apologies of this kind are variously termed ‘official,’ ‘public,’ ‘historical’ or ‘political’ apologies. Some scholars make distinctions between these, which suggests we should be careful with our language (e.g. Hassman 2012; Kampf 2013; Coombs 2013). For instance, a ‘public’ apology can come from a celebrity, a corporation or a government official. A ‘historical’ apology can come from a university, a professional sports team or a religious figure such as the Pope. A ‘political’ apology can come from a delinquent politician, a party, a government or a state. Many authors who explore the type of apology I discuss in this work term them ‘political’ apologies because they arise in political contexts and generally have some political purposes. However, I choose to use the term ‘official apology’ for two reasons. First, it connotes that such apologies are somehow collective in nature and delivered in an official capacity by a representative of a state or an institution. Second, it does not foreclose the possibility that these apologies have aims and functions that go beyond the expressly political.

to Indigenous Hawaiians for depriving them of their right to self-determination a century earlier. In 1998 New Zealand apologized to the Ngāi Tahu for historical breaches of the Treaty of Waitangi. That same year, Canada's minister of Indian Affairs and Northern Development issued a statement of regret to Indigenous Canadians for the harms of the residential school system. In 2000, the United States Bureau of Indian Affairs apologized to Native Americans for their treatment at the hands of state institutions in the preceding 175 years. 2005 saw the government of Newfoundland and Labrador apologize to the Inuit of the Nutak and Hebron communities forcibly relocated in the 1950s. In June of 2008, Canadian Prime Minister Stephen Harper apologized to First Nations, Inuit and Métis people(s) for the harms of Canada's Indian Residential Schools system. A similar apology followed in February of that year, when Australian Prime Minister Kevin Rudd apologized to Aboriginal Australians and Torres Strait Islanders for Australia's Stolen Generations. In 2010 the United States Congress offered a blanket apology to Native Americans for the many harms of colonialism. In 2014 the Governor of Colorado apologized to the Arapaho and Cheyenne tribes for the Sand Creek Massacre. More recently, after his election in 2015 Canadian Prime Minister Justin Trudeau began a series of apologies to Indigenous people(s) in Canada for several historical wrongs. In 2017 Trudeau apologized to survivors of the Newfoundland and Labrador residential school system. In 2018 he apologized to the Tsilhqot'in nation for the murder of six community leaders in 1864. In March 2019 he issued an apology to the Inuit of northern Canada for Canada's failure to attend to epidemics of tuberculosis in the mid-20th century. And in May of that year Trudeau apologized to the Cree nation for the false conviction of Chief Poundmaker 130 years before. Even more recently, in 2020 New Zealand signed an agreement with the Moriori of the Chatham Islands, which provides for a Crown apology for land theft and forced labor. The list goes on. We are, says Marrus (2007) "awash in apologies" (75).

What is going on here? By this I do not mean to ask why this intriguing instrument of reconciliation has gained in popularity.⁵ Rather, my interest is in the theoretical mechanics of this practice. On its face, the practice of apology for historical injustice appears to make little sense. In general, to meaningfully apologize one must have 'standing;' that is, one must be

⁵ For some reflections on this question, see: Brooks 1999; Barkan and Karn 2006; Gibney and Howard-Hassman 2008; Marrus 2007.

responsible, directly or indirectly, for the transgression that is the subject of the apology (Smith 2008, 208; Winter 2015). Yet here you have an official, speaking on behalf of both the state *and* contemporary settlers considered as a category, apologizing for injustices perpetrated by individuals who are (often) no longer living to sets of people that are (often) not direct or primary victims of these injustices. *How does this make sense?*

Answering this question is not just a speculative philosophical exercise, for its solution speaks to the justification for the project of reconciliation more broadly. Apology is just one part of a multi-pronged effort at reconciliation (Volkan 2006, 116). Beyond apology lie a host of other features common to reconciliation projects, such as reparations, restitution, reform, cultural revitalization and transformative movements towards Indigenous self-determination. Achieving these forms of redress demands that contemporary non-Indigenous citizens accept reparative responsibilities non-contingently connected to wrongs in which they apparently *did not* and *do not* take part. Imposing associated burdens on contemporary non-Indigenous citizens requires justification. If we can make sense of how standing to apologize can transmit across generations, perhaps we can make sense of how contemporaries have moral obligations to redress the wrongs of the past. For if they can have standing to apologize, then surely it is worth exploring whether they are connected to historical wrongs in such a way that they are answerable for their repair.

The question of contemporaries' reparative responsibilities is a recurring theme of this study, and it is why I direct this dissertation primarily towards settlers who harbor doubts about their moral obligations in the context of national reconciliation projects. Objections to contemporaries shouldering the burden of repair associated with reconciliation come in many forms, but most boil down to the refrain 'it wasn't me, so why am I responsible?' As a settler, I have encountered variants of this refrain many times in daily life, as well as in scholarly literature and the media. It is a fair question, and one that deserves an answer – not least for the prospects of reconciliation. Given the political and demographic realities of liberal democratic settler states, national reconciliation projects in this context require broad-based support from non-Indigenous citizens. If non-Indigenous citizens are not convinced of their reparative roles, the prospects for reconciliation – whatever it is – appear very dim. My intuition is that answering this question in a satisfactory way – a way that will stimulate support for reconciliation – requires addressing settlers on their own terms within familiar

frameworks of liberal justice. Doing so may be the best way to reveal to them the moral significance of the historical and enduring injustices associated with settler colonialism and, consequently, their moral obligations in the context of reconciliation.

Before beginning our investigation, a preamble on some of its constraints and limitations is necessary. As a settler who has not suffered any of the injustices we will explore, I do not want the reader to have the impression that I think I have all the answers. Indeed, I have very few definitive answers, and those I offer will be contested by both Indigenous and non-Indigenous alike. In the first place, then, the reader should keep in mind that the scope of this dissertation is narrow. I do not aim to offer sufficient conditions for reconciled relationships. I do not aim to describe political solutions for reconciliation. I do not aim to offer a framework suitable for addressing every wrong in need of righting. Instead, I seek only to explore what the use of official apology for historical injustice says about the *governing norms* of reconciled relationships in settler states. While the political realities of settler states mean that reconciliation has a distinctly political character, I will avoid offering a vision of political reconciliation so far as is possible. This is because it is simply not appropriate to determine the political outcomes of the process of reconciliation pre-politically. Nor would it be appropriate for a settler to pontificate on these outcomes in isolation from broader political dialogue. So, while reconciliation is in part a political project, it is better to understand my dissertation as a study of the normative parameters of any political reconciliation that might attend these. I discuss the concept through the lens of ethics, not politics. As I argue, the use of apology suggests several necessary governing norms for reconciled relationships. But it says little more than that. How long will reconciliation take? What exactly will the political architecture of settler states look like in 20, 50 or 100 years? What else is involved in reconciliation, both as a process and an outcome? How can Indigenous people(s) achieve full justice? This dissertation cannot answer these questions and does not attempt to. However, provided that we keep in mind that the conditions I offer are not sufficient, the conclusions offer a frame of reference that can help us (or, more likely, our descendants) identify when reconciliation has been achieved.

My study is further delimited by certain constraints for a defensible conception of reconciliation that emerge from scholarly literature on this topic. This time, however, the constraints are more welcome, for instead of acting as limitations they serve to frame the

outlines of a defensible definition. The field of transitional justice has made significant advances in our understanding of reconciliation, chiefly (but not only) by clarifying the dimensions of any useful or appropriate view. Theories of reconciliation from scholars working in this field differ widely. For example, May (2011) offers a very robust account involving, among other things, ‘civic friendship,’ solidarity and positive attitudes towards others. Verdeja (2012) considers reconciliation a condition of mutual respect among former enemies, requiring reciprocal recognition of moral worth and dignity. C. Murphy (2010) suggests that reconciliation requires the establishment of the rule of law, ‘political trust,’ and securing fundamentally important capabilities for individuals. Philpott (2012) argues for an ‘ethic’ of reconciliation best understood as a concept of justice. Moellendorf (2007) considers reconciliation to be a political value based centrally on the idea of political equality among citizens. The list of compelling and valuable interpretations of reconciliation is long.

I mention the above views only in passing, not to presage an in-depth discussion of them, nor to criticize them – for they all have important things to say about reconciliation, some of which I discuss later. Rather, I mention them here to draw attention to a limitation of looking to the transitional justice literature for insights into reconciliation in settler states. For it might initially seem tempting to consider these and other views in some detail and, by a process of eliminative induction, decide which best applies to our context given its particularities. However, this would be a misguided strategy for the simple reason that all rely on an implicit assumption: namely, each is premised on the idea that the establishment of a cohesive society under the auspices of the state is a desirable – or necessary – outcome.

We can see the problem with this presupposition by reflecting on the criticisms of official apology – and the reconciliation agenda itself – that will be discussed in more detail in this dissertation (chap. 3 and 4). The fundamental problems with the way reconciliation projects have manifested in settler states are that they serve to reify state sovereignty, limit Indigenous aspirations to self-determination, invite Indigenous peoples to unwanted citizenship, and divert attention from the broader issues facing Indigenous people(s).⁶ Far from erasing colonial patterns of oppression and subordination, reconciliation promotes them

⁶ I discuss these worries in detail later, but notable critics include Alfred 2011; Coulthard 2007; 2014; Corntassel and Holder 2008; Dominello 2017; Henderson and Wakeham 2009; Henderson Youngblood 2002; see Nobles 2014.

in disguised form (Jung 2018; Elgersma 2012). As we will see, support for these concerns comes from extant settler state apologies.⁷ From the perspective of those Indigenous peoples, groups or nations seeking autonomy, meaningful reform and redress, any account of reconciliation that promotes what some argue amounts to “democratic reciprocity” (Guttman and Thompson 2000), “liberal social solidarity” (see Crocker 2000) or “social cohesion” (Quinn 2009) will be more than suspect. It will be objectionable.

These concerns suggest the first requirement of a defensible conception of reconciliation appropriate to settler states: it cannot presuppose that the outcome of reconciliation consists in a unified national consciousness, political unity, undivided sovereignty, or the necessity of a political arrangement under the auspices of the settler state. Apologies will often fail to achieve their moral goals when they communicate a presupposition that the state is justified in exercising what it has long held to be its sovereign powers over Indigenous people(s) (see Muldoon and Schaap 2012). So too will reconciliation projects fail to be embraced by Indigenous people(s) should they begin with a conception that immediately and imperiously limits what can be achieved.

In this context, it is not appropriate to prescribe a political architecture for reconciliation in any detail pre-politically (Schaap 2005, 8-11). This is partly for the reason mentioned in the preceding paragraph, and partly because it would defeat the purpose of meaningful or potentially transformative political dialogue. The contours of any political resolution to the problems plaguing settler states should be subject to negotiation lest this resolution undermine the very intent of reconciliation. That is why this dissertation seeks to uncover only the governing norms that will foster and maintain these yet to be determined political relationships. This means that our conception of reconciliation must be flexible enough that it can apply to a variety of political outcomes. This will respect the requirement that our concept not license political question-begging, where the outcome is presupposed by the content of the concept. It will also allow for a flexibility that some argue is required for the process of reconciliation (e.g. Govier and Verwoerd 2002a, 186; Woolford 2004, 431).

That the political outcomes of the process of reconciliation are subject to negotiation between parties suggests a further requirement. As some have noted, analysis of extant

⁷ For example, see: Dorell 2009; Funk-Unrau 2013; James 2008; Moran 1998; Reilly 2009a; 2009b.

definitions of reconciliation shows that it often manifests as “peculiarly Western” (Sampson 2003, 181). “In fact,” notes Elgersma (2012), “at its core, reconciliation is a Western concept with religious connotations rather than an Indigenous concept” (92). In a context where assimilative practices have caused significant harm to Indigenous peoples, employing a hegemonic conception of reconciliation based wholly on Western thought would demonstrate disrespect and evidence a persisting colonial mindset. Notions of reconciliation, then, require intergroup dialogue and assessment against diverse cultural frameworks (Tsosie 2006, 207). This means that a defensible conception must be broadly acceptable from a variety of cultural perspectives and worldviews. As will be apparent, it should therefore offer thin, or minimal, conditions that describe cross-cultural values.

While this dissertation respects that the process of reconciliation may be at least as important as the outcome, it is nonetheless true that we need some guidance on where we are headed. That is, a useful conception must specify the type of improvement in relationships aimed for (C. Murphy 2010, 23-24). Transitional justice scholars agree that reconciliation is a ‘spectrum’ or ‘scalar’ concept (Radzik and Murphy 2019, sec. 2; see Verdeja 2012). On one end of the spectrum are those conceptions considered ‘minimal,’ such as non-violent coexistence (e.g. see Bhargava 2012). On the other are those considered ‘maximal,’ such as forgiveness (Tutu 1999). These views are normatively ‘thin’ or ‘thick,’ respectively (Crocker 2006, 64). To illustrate, thin views emphasize tolerance or institutional arrangements which prevent (further) violence, while thick views often comprise, among other things, affective dimensions such as warm feelings towards fellow citizens. We can thus frame this desideratum as a requirement for guidance as to where on the spectrum our conception of reconciliation as an outcome lands; or whether the sought-after improvements are institutional, attitudinal, political and so on. Govier and Verwoerd (2002b) refer helpfully to this question as an issue of “content” which “concerns the *kind* of reconciliation involved” (180, emphasis added).

We can flesh out further requirements for a defensible conception of reconciliation by building on those outlined above. First, since any view must stipulate what sorts of improvements in relationships are aimed for, and considering that different types of relationships are governed by different norms or expectations, it follows that our definition must specify which relationships need reconciling. For Govier and Verwoerd (2002b) this is

an issue of “quantity” concerning “the level at which reconciliation is sought” (180). To illustrate, whether reconciliation concerns relations between individuals, between groups, between groups and institutions, or between groups and the settler state considered in the abstract will have important ramifications for what is involved. Second, this latter desideratum suggests that a useful understanding of reconciliation will offer some guidance on how to achieve it, or that it must describe reconciliation as a *process*. This is where reconciliation as an idea moves from the abstract to the concrete, offering prescriptive or justificatory arguments relating to policy. Finally, since reconciliation has two faces – as both a process and a goal – a good account will explain both, and thus it must describe the contours of reconciliation as an *outcome* so as to allow us to identify when it has been achieved.

This dissertation has four chapters. Chapter 1 approaches the study of official apology sidelong, attempting before anything else to convince settlers of their reparative roles in reconciliation. If settlers do not accept reparative responsibility, they will surely object to official apology offered in their name. I approach this issue by asking why contemporaries might be responsible for the redress of historical wrongs in the first place. Of course, reconciliation is not only about redressing historical wrongs. But if we can show how settlers are responsible for their repair, we will be on the road to unraveling the content of non-Indigenous citizen obligations in the context of the project. For our purposes, an important consequence of my answer to the question of how reparative responsibility can transmit across generations is that contemporary non-Indigenous citizens have standing to apologize for historical wrongs. Yet an equally important takeaway is that settlers – and not just states, governments and institutions – must bear the wider burdens of reconciliation if the project is ever to get off the ground. Chapter 2 puts the framework developed in chapter 1 to work, taking a closer look at the mechanics and aims of official apology, as well as the characterization of the apologizing agent(s). By seeing what apology should look like in this context, from whom it should come, and by identifying some aims that need emphasizing, the chapter offers a launch pad for the next. In chapter 3 I explore how states can promote the aims of apology through substantive reparative mechanisms in which non-Indigenous citizens should take part, and without which official apology would be empty rhetoric,

vacuous and insincere. Exploring these mechanisms allows us to glimpse necessary conditions for reconciliation conceived as a *process*.

Finally, chapter 4 explores the conclusions of the preceding chapters to offer a picture of the governing norms of reconciled relationships suggested by the use of apology. The findings of chapters 1 through 3 show that there is a moral substructure to apology and those mechanisms that promote its moral goals. Exploring these foundations allows us to approach the conceptualization of reconciliation by working backwards. The methodology of this final chapter is based on the idea that there are several things that need to be presupposed before engaging in apology *would even make sense* to the parties that offer and receive apologies in this context. That is, if the apologizers and recipients both understand the ritual of apology, and if both parties recognize what makes for a good or bad one, then they must share an understanding of its purposes. By engaging in the social practice of apology, then, parties tacitly acknowledge the value of its goals. Consequently, within apology lies the basis for a mutually agreeable vision of ‘right’ relationships, one which is cross-culturally acceptable and does not beg the question of what these relationships should look like. Apology, I will argue, seeks both to circumscribe the range of reasonable interpretations history, and to acknowledge (or engender) attitudes of reciprocal respect and trust. The use of official apology, then, suggests that the practical implications of these outcomes constitute mutually agreeable normative expectations for reconciled relationships. These, then, are necessary conditions for reconciliation as an *outcome*.

Before proceeding a final note on a baseline assumption I am making is in order. Given the diffuse adoption of reconciliation rhetoric in settler states, it is perhaps surprising that both the character and desirability of reconciliation is hotly debated. Even the legitimacy of the project is contested.⁸ Yet an important insight to keep in mind is that these criticisms depend on specific understandings of the term ‘reconciliation.’ One must have a concept in mind in order to criticize it, so here the importance of conceptual clarity becomes even more apparent. Regan (2010) notes that there are in fact two basic ways ‘reconciliation’ can be understood. The first is “to restore to friendship or harmony”; the second is “to cause to submit to or accept something unpleasant” (60). Many scholars, capitalizing on the

⁸ Jung 2018 offers a useful taxonomy of objections.

homonymic word, identify state-engineered reconciliation projects as reflecting the latter definition as opposed to the former (e.g. Alfred 2011, 168; see Short 2005; Woolford 2004). Instead of the creation of ‘right’ relationships, some argue, reconciliation is about convincing Indigenous people(s) to resign themselves to ongoing internal colonialism. Thus, while in the transitional contexts of societies emerging from violent conflict the desirability of reconciliation is rarely questioned, this unanimity is not paralleled in settler states in the (ostensibly) postcolonial era.

This worry will receive some attention in chapters 3 and 4. However, although I do not mean to dismiss the significance of the reconciliation-as-resignation criticism, this dissertation will nonetheless proceed on the assumption that whatever reconciliation means will be closer to the first reading than the second. While the second reading’s upending of the term has rhetorical power – a means of hoisting the settler-state by its own petard of language – it will be more fruitful to try to understand reconciliation normatively in the way it is intended rather than the way cynics suggest it has actually manifested. That is, I am supposing that reconciliation, whatever it ends up meaning, is a desirable moral goal. In our context, the concept is meant to guide a moral and political project seeking the creation of right relationships between Indigenous people, groups, nations and settler states and their non-Indigenous citizens. That is the avowed intent of the process, no matter whether this process has been correctly executed thus far, and so that is how I will understand it at its most basic.

Chapter 1: Responsibility for Historical Wrongdoing and the Transmission Problem

Introduction: the transmission problem

Unredressed historical injustices are barriers to reconciliation between Indigenous people(s), settler states and their non-Indigenous citizens. They are barriers not just because Indigenous people(s) continue to suffer from the enduring effects of these injustices, but also because the fact that they remain unredressed is a stark reminder of the persisting colonial dynamics of modern settler states. Lack of redress demonstrates that the relationships between settler states and Indigenous people(s) are in many ways continuous with those of the past.

‘Reconciliation,’ if it is to mean anything at all, demands a change in the modalities of these relationships. Redress for historical wrongdoing is thus a prerequisite for improved relations, for a lack of redress both epitomizes and perpetuates the status quo. And while reconciliation is neither coextensive with nor reducible to redress, it is clear from any cursory look at reconciliation projects that redress is one of their principal modes of realization.

If we grant that redress for historical injustice is necessary for reconciliation, there remains a glaring conceptual problem. The question of why contemporary non-Indigenous citizens of settler states should carry the burden of redress for injustices committed in the (often distant) past is a tricky philosophical obstacle. Intergenerational contexts confound the conceptual frameworks available in the traditional philosophical toolbox. The strength of the intuition that redress is owed does nothing to tell us from whom it should come and why. As a shorthand, we can term this obstacle the ‘transmission problem:’ if the perpetrators of historical injustices are no longer alive, then it is not obvious why contemporaries should be responsible for redress. As I argue in sec. 1.2, the settler state – a subsisting, organized collectivity with agency of its own – is liable for what it has done in the past. For this reason, the transmission problem as regards the state is arguably solved as a consequence of its ontology. But this view does not fill in why *citizens* bear the burden of the state’s obligations. Appealing to the analyticity of ‘citizen’ is one familiar strategy, but I share Kukathas’ (2003) intuition that one cannot – or at least should not – impose burdens on people just because they are a member of the convenient category ‘citizen’ (169). Any impositions require a deeper moral justification. For worries about a transfer of reparative duties across generations

arise with respect to the consequences of such a move: won't impositions on non-Indigenous citizens be unfair, and effectively transgress individual autonomy (Thompson 1999, 496; 2000a, 334)? Wouldn't things like re-distributive reparations, justified by appeals to the past, impact the justness of distributions *now* (335 and 344)? Any solution to the transmission problem must answer these objections.

The difficulty here is one of connecting the past to the present in such a way that history speaks to the moral demands of today. As we will see in chapter 2, the conceptual difficulties associated with the transmission problem burst to the fore in the context of official apologies for historical injustice, where settler-states offer formal apologies to Indigenous people(s) victimized at its hands. As we saw in the preface, this practice appears to make little sense. Meaningful apologies for grave wrongs are generally thought to come only from those with 'standing,' or those responsible for the transgression at issue (Smith 2008, 208). So how can contemporaries apologize for injustices in which they played no part? For this species of official apology to make sense, the transmission problem needs solving. Official apology is thus a sort of trial by fire for any solution. If an answer to the transmission problem entails that contemporaries have standing to apologize for historical wrongs, it follows that they may be answerable for their repair. Likewise, if apology is offered, then surely it is owed. That is, if we can make sense of official apology for historical injustice, this is evidence that our solution is adequate for justifying the project of redress and its attendant burdens on contemporaries.

The most common way to assign responsibility for wrongdoing is via the liability model (Young 2011, 95 and 97-99). The 'fault principle' inherent in the model holds that one should only be held responsible in a forward-looking⁹ way if one was (directly or indirectly) causally responsible in a backward-looking way (e.g. Butt 2007, 138; Feinberg 1970, 222). This perspective parallels understandings of apology. In general, to meaningfully apologize, one must be responsible. The transmission problem arises within the context of Western adherence to the liability model. John Howard, former prime minister of Australia, succinctly

⁹ By 'forward-looking' responsibility I mean responsibility to repair harms, for example through reparations. Here reparations are a *response* to previous wrongdoing, yet these are intended to improve the conditions for parties materially affected by this wrongdoing. Despite the intuitions behind the liability model, there is no necessary connection between backward-looking and forward-looking responsibility.

articulated this perspective when explaining his resistance to government apology to Aboriginal Australians for historical wrongdoing: “I do not believe, as a matter of principle, that one generation can accept responsibility for the acts of an earlier generation” (Davies 2008). The principle Howard is referring to can only be the fault principle: to be responsible, one must be culpable. Thus, if we cannot reasonably consider contemporaries responsible for historical wrongs, it might seem that nothing can be done without transgressing liberal societies’ received model of liability.

This suggests that we need to look beyond the bounds of liberal justice in seeking a solution to the transmission problem. This approach would have the advantage of heeding calls for settlers to extricate themselves from narrow channels of Eurocentric thinking, channels which have historically led to paternalistic and harmful colonial practices.¹⁰ Yet at the same time, for better or worse, a solution that ignores the liability model of the liberal contexts in which the transmission problem arises will fail to convince most settlers of their reparative responsibilities. To greater or lesser degrees, many non-Indigenous citizens of settler-states are wedded to this model. And if reconciliation is in large part about solving the “settler problem”¹¹ by convincing non-Indigenous people to take part in reconciliation, settlers must first be convinced of their moral duty to participate. While the state could unilaterally impose reparative burdens on its citizens, it is desirable in any just state that the justification for these impositions be widely (if not universally) acceptable to them. A useful solution to the transmission problem will thus have to work within the confines of the liability model to convince the John Howards of the world that they should support apology and redress for historical wrongdoing, despite their apparent lack of culpability.

Various scholars have attempted different strategies for getting around the problem of how to address the concerns of descendants without offending received liberal principles regarding individual autonomy and fault.¹² The idea of these strategies is to justify shifting

¹⁰ See Regan 2010, who discusses this topic in detail.

¹¹ I believe this term originates with Epp 2003.

¹² These strategies come in several forms. It is impossible to canvass them all, but a few stand out. Benefits-based arguments hold that contemporaries incur duties of repair (or disgorgement) because they have benefited from past injustice (e.g. Butt 2006; Goodin 2013; Goodin and Barry 2014; Kukathas 2003). Many benefits-based views share characteristics with property-based arguments, which hold that rights to property – and hence

the burden of redress to contemporary people by showing how they are connected to past wrongs; the aim is to convince individuals to consider it incumbent on them to play their part in making amends for the past. This chapter carries on in this tradition, but it does so in a way that takes a wide view of historical injustice and its legacies. Instead of thinking of these injustices straightforwardly as discrete events of the distant past, I aim to broaden the temporal lens in such a way that we can better understand their scope and significance. By widening our view, we can see their origins and legacies. In so doing we will be able to approach redress in the responsive and holistic way demanded by reconciliation projects. It is only by clearly identifying the problems arising from historical wrongdoing that we can identify their solutions. Doing so requires that we look at the connections between the present and the past with a wide-angled lens.

My solution to the transmission problem is a species of ‘complicity’ view. I argue that contemporary non-Indigenous citizens of settler states are complicit in the perpetuation of: (1) non-contingent outgrowths of historical injustices; (2) ongoing injustices constituting the ‘automatic’ (or causal) effects of historical injustice;¹³ and (3) the maintenance of systemic colonial orientations that underpinned unjust policies of the past, orientations that made injustice possible in the first place. My view falls within the liability doctrine outlined above: citizens are responsible for participating in processes of redress because of things they are doing, have done, or failed to do. It is only through active participation in processes of

restitution and sometimes reparation – are inheritable, and as such contemporaries should be required to participate in redress (e.g. Simmons 1995; Sher 2005; Thompson 2001). A few scholars argue that the dead have rights, and hence rights to reparation (symbolic or otherwise) do not evaporate upon the death of direct victims of historical wrongdoing (e.g. Meyer 2006). Citizenship-based strategies focus on the meaning and demands of citizenship, and conclude that some feature(s) of citizens qua citizen makes them liable for the redress of state-perpetrated injustice (e.g. Pasternak 2011b). Some of these citizenship-based views have a communitarian streak, and/or rely on accounts of associative or political obligations (e.g. Stilz 2011; Schaap 2005; see Scheffler 2018). Other approaches draw attention to contemporaries’ temporal position in a transgenerational community, emphasizing how moral consistency demands we redress the wrongs of previous generations (e.g. Thompson 1999; 2000; and especially 2009b). For identity-based arguments, responding to past injustice is a way of demonstrating who ‘we’ as a society are, or would like to be (Ivison 2000; Sparrow 2000). In a related vein, some suggest that, since collective memory and the interpretation of historical events affect contemporaries in material, psychological and dignity-impacting ways, steps should be taken to address those memories that are damaging to a cultural group’s well-being or identity (Hendrix 2002; Margalit 2002). Still others take as their starting point the persistence of enduring injustice, emphasizing the continuities between the past and present to show contemporaries’ connection to history (e.g. Lu 2011; Sparrow 2000; Spinner-Halev 2007). For reasons that will be clear later, this latter approach seems most promising.

¹³ The term ‘automatic effect’ is from Sher 1981.

redress that citizens can avoid the moral risk of implication in wrongdoing, wrongdoing that cannot be understood without reference to the historical injustices that concern us here. The complicity approach comprises several necessary tenets I defend in turn below (sec. 1.2-1.4). In brief, by demonstrating the complicity of contemporary non-Indigenous people in the perpetuation of enduring injustice connected to or resulting from historical wrongs, as well as their implication in the maintenance of colonial outlooks that made these injustices possible, non-Indigenous citizens are liable for the redress of historical wrongs because they contribute to its causes, meaning and legacies. This engenders a moral responsibility to proactively address not just the *effects* of historical injustice, but historical injustice itself. Since citizens are causally responsible for the perpetuation of injustice, their liability entails reparative duties. These are inchoate duties, but they can be given shape by the state of which these citizens are a part. The duties boil down to individual participation in the reparative collective actions of the state. Such measures include – but are not limited to – things associated with national reconciliation processes in settler states: structural, institutional and political reforms; reparations and/or restitution; cultural revitalization; and – most notably for the purposes of this dissertation – endorsement of official apologies. Integral as they are to the functioning of the state, citizens bear responsibility for state omissions and actions despite not always sharing in the purposes of the state. While not always blameworthy, as co-responsible agents non-Indigenous citizens have a moral obligation to participate in redress. As I argue in chapter 2, on this view, not only can official apology make sense, it becomes a moral imperative.

1.1 Desiderata for a solution to the transmission problem

When considering the transmission problem, a worry arises about the ability of familiar frameworks of liberal justice – concerned as they are with liability, individual inviolability, and distributions in contemporary contexts – to attend to history in a manner that meets the needs of Indigenous people(s) (Iverson 2000, 361; Thompson 2009b, 196-197; Spinner-Halev 2007, 579). Traditional liberal justice forgets the importance of things like acknowledgement and apology (*ibid.*; see Marrus 2007, 83). But for justice to be served, history and its relevance to the identity and dignity of Indigenous peoples cannot be ignored (Truth and Reconciliation Commission 2015a, 7). That there is no straightforward answer to the transmission problem in the liberal paradigm is not a reason for denying the importance of

history in assessing the claims of Indigenous people(s). Treating calls for justice for Indigenous individuals, groups, peoples, or nations as a purely contemporary problem with distributions leaves much out of the picture. Many Indigenous individuals and groups continue to suffer from the material and dignity-affecting aspects of past injustice. Some may not, yet still seek acknowledgement in the form of apology for the wrongs perpetrated against their ancestors or communities. For these people collective memory matters, and their concerns deserve to be addressed in responsive way.

This in mind, it seems there are several normatively desirable components to a comprehensive answer to the transmission problem. Firstly, and most obviously (a), an answer to the transmission problem must particularize the duty of repair to one set of people and not another – a people connected in some appropriate way to the historical wrongs in question. In this context, this set will consist of non-Indigenous citizens of settler states. In meeting this condition, the solution must take the importance of history into consideration and should not be reducible to, say, the application of general principles of morality to a local setting¹⁴ or considerations of distributive justice alone.¹⁵ This is because of the importance attached to history that is a feature of many Indigenous calls for justice (Marrus 2007, 79). Since we are seeking justification for the imposition of burdens on contemporary non-Indigenous citizens it must be demonstrated why it is they and not others who ought to shoulder them. Given that we are seeking a responsive solution to the transmission problem, history should feature prominently in this justification – especially since we will later be using official apology for *historical* injustice as our test case (chap. 2). Secondly (b), a solution must offer convincing normative reasons for individuals to play their part in redress, reasons that do not appeal to something like voluntary identification with the responsible state. Answers to the transmission problem that appeal to identity, citizenship or the value of community¹⁶ threaten to introduce a voluntarist aspect to the solution that risks leaving behind those most in need of convincing (Thompson 2012, 221). We need narrow, agent-

¹⁴Goodin's 1988 "assigned responsibility model" would be one such approach (678). On this view, contemporaries would be responsible for redress because they are best placed to undertake it. However, that there are no special duties arising from citizens' connection to historical injustice is a problem for this strategy.

¹⁵ Brennan 2004 discusses the problems with this approach. A focus on distributive justice misses the forest for the trees by drawing attention away from the root causes of structural inequities.

¹⁶ See footnote 12 for examples.

centred reasons for non-Indigenous citizen participation in national reconciliation processes. Thirdly (c), the approach must show why despite being personally innocent of any historical wrongdoing, contemporaries still have a moral duty to play their part in its redress. This, of course, is just another way of saying that it must answer the transmission problem simpliciter. I include it here to emphasize that the link between causal responsibility for historical injustices and responsibility for their righting must be severed in a manner justifiable to liberals concerned with infringements on autonomy or the impact of redress on the justness of distributions in contemporary contexts. Fourthly (d), since we aim to solve the transmission problem in the interest of reconciliation projects, any solution to the should derive (in part) from the recognition that the systemic colonial structures, attitudes, and prejudicial patterns of behaviour that legitimised and facilitated the subordination of Indigenous people in the past survive in recognizable form to the present day. Continuities between the past and present serve not only to link contemporaries to the past, but also to highlight how the perceived significance of historical injustice in the collective memory of victimized communities can be detrimental to their well-being. Meeting this desideratum will open the door to the sort of robust, transformative vision of reconciliation that many call for.¹⁷

If fulfilled, these desiderata suggest a solution to the transmission problem that may have positive real-world effects. But they are silent on *why* redress should be undertaken in the first place. This is an important question to consider. For imagine, as an example, that we justified redress solely on the grounds that historical injustice has corrupted contemporary distributions, leaving descendants of victims unfairly disadvantaged. Would such redress even be about historical injustice at all? If there were no material disadvantage resulting from a historical wrong, would redress even be considered? We all believe that wrongs deserve righting, and this stems from the moral intuition that wrongs are wrong and should be recognized as such. Redress justified on the above grounds lacks the normative value it would have were it motivated by the recognition that a wrong was done and that *that* wrong needs addressing. Importantly for the moral character of reconciliation, then, (e) any successful approach must locate a motivation for repair in the correct moral arena: the

¹⁷ For example Alfred 1999; 2011; Coulthard 2007; Cornthassel and Holder 2008; see Jung 2018.

wrongness of historical injustices. A solution grounded solely in other places runs the risk of suggesting a policy of redress that amounts to cynical political expediency. Redress, at least in the context of reconciliation projects, is supposed to be an attempt to make *moral* amends, and so the normative dimensions of its justification must have some priority. That is, things like reparations and apology should be undertaken *for the right reasons* if they are to satisfy those to whom they are given (Thompson 2012, 221). As I hope to show in this chapter, the meaning and significance of historical injustices from the perspective of victimized communities are key to identifying and justifying the remedies for them. These remedies require we undertake redress with the right intent. Since the meaning of historical injustice is significantly connected to the identity and dignity of Indigenous people(s), the motivating normative reasons that underlie the justification for redress will dictate the sorts of significance that it can have in the context of reconciliation.¹⁸ As I argue in chapter 3, while redress has forward-looking components insofar as it aims to confer a benefit on victimized parties, it is essentially backward-looking insofar as it depends for its justification on the events of the past (sec. 3.2). Thus, in justifying the burdens attendant on projects of redress we cannot appeal to contemporary paradigms of distributive justice alone. These frameworks are not appropriate because a consideration of the meaning and significance of the historical experience of Indigenous people need not feature in their justification. Recall that a concern raised at the outset is that liberal approaches to justice tend to leave history out of the picture. This is not a satisfying prospect for Indigenous peoples, groups or nations. A solution that ignores history is just what we are trying to avoid.

1.2 The elements of the complicity approach: state as agent

I now turn to the first of the elements of the complicity view, the state-as-agent thesis gestured towards in the introduction to this chapter. That certain types of organized collectives can constitute entities with an identity, agency and moral autonomy of their own is a view espoused by scholars interested in solving problems related to collective

¹⁸ This is an area where other approaches have difficulty. For instance, from a meta-ethical perspective, grounding the duties of contemporary citizens in the theory of associative political obligations is misguided: instead of the motivation for citizen participation stemming from the wrongness of historical injustices, it will instead derive from the non-instrumental value of an appropriately meaningful political association. The benefits-received approach arguably fails in this context, too: instead of the motivation for redress lying in the heinous source of benefits, it comes instead from the wrongness of the ongoing failure to disgorge them, a related but ultimately distinct grounding. See footnote 12.

accountability for wrongdoing. These scholars have the right approach for both normatively and argumentatively compelling reasons.

Scholars who advocate for the view that certain types of collectives are distinct moral agents offer convincing arguments. To presume only individuals capable of moral agency is to assume an unwarranted “anthropocentric bias” (French 1979, 207). Because organized collectives can act and have intentions based on reasons, we should recognize them as morally autonomous agents (ibid). As moral agents, they are responsible for their intentional actions or omissions. Although specific arguments vary in focus, scholars who endorse this view generally agree that organized collectives such as states have intentionality distinct from the intentions of their members as a result of structures of decision-making and authority, avowed policies, procedures and stipulated roles (212; Kukathas 2003, 181; Pettit 2007, 187; Isaacs 2011, 27). Because of these features, a collective can theoretically form an intention that none of its members share (Pettit 2007, 181). This is why “the more structure a collective has, the easier it is to dissociate its identity from any particular cohort of members” (Isaacs 2011, 24). Collective actions then flow from collective intentions. Like a collective intention, a collective action is distinct from the actions of any individual actions that contribute to it; a collective action, if you like, supervenes on individual actions (50). That collective action flows from collective intention warrants the description of this action as irreducibly collective: neither collective intentions nor collective actions are reducible to individual ones, and that is why they are described as ‘collective.’ Importantly for later, though, all scholars of this school agree that there is a dependence relation: collectives operate *through* the actions of their members.

There are also strong normative reasons for espousing the collectives-as-agents view. One advantage is that it enables us to locate responsibility at the collective level in such a way that it is not reducible to an aggregate of individuals’ responsibility. For our purposes, this aspect of the view is important for two reasons. First, in the context of settler states it is only by embracing a robust notion of collective agency that we can capture the true normative significance of both collective wrongs and the actions of individuals in the context of those wrongs. At the macro level, without a notion of collective agency there will be significant normative loss in the description of collective wrongdoing (Isaacs 2011, 179; see

Lawson 2013; Wringer 2016). At the micro level, the actions of individuals take on new significance when re-described as falling within the context of collective wrongdoing, because “individuals’ contributions to collective acts inherit relevant moral features from the collective action context in which they occur [...]” (Isaacs 2011, 57). This serves to highlight the moral contours of individual acts in the context of collective ones. Second, viewing the state as an agent offers resources for solving problems related to (irreducibly collective) historical injustices specifically, and not just their enduring effects. It allows us to identify an agent causally and morally responsible for injustices which would otherwise appear to be unintended phenomena arising from the parallel actions of a seemingly amorphous collection of individuals (43-48). Importantly, then, collective responsibility of the sort I advocate represents a domain of responsibility that transcends any amalgam of the culpabilities of individual participants and which attaches to a collectivity that can withstand replacement of its members. Therefore, since there is a strong distinction between a collective and its constituents, moral responsibility for wrongdoing can transcend generations so long as the collective subsists. This is why the transmission problem isn’t such a problem as regards subsisting collectivities like states.

Admittedly, for the purposes of this chapter the above is necessarily somewhat stipulative. But notwithstanding the metaphysical concerns of some skeptics¹⁹ the virtues of this framework are enough to make an exploration of its resources valuable from a philosophical perspective. Those who deny the enduring identity and agency of organized collectives on metaphysical grounds will not be convinced by the arguments below. But the thesis has important advantages, not least of which is the recognition that, from this vantage, collective backward-looking responsibility (or moral guilt) need not translate into individual responsibility of the same genus. This observation may alleviate some of the concerns of liberals concerned with transgressions of individual autonomy (Isaacs 2014, 43). Given their culpability, collective agents are responsible for the forward-looking redress of historical wrongs. Given that the agent persists over time, so too do its moral obligations. The state is an entity that persists through time as an identifiable agent and is thus an obvious candidate

¹⁹ See for example: Narveson 2002; Van den Beld 2002; Zoller 2014. Methodological individualists generally argue that there is no need to posit collective actions or intentions as such, for these are reducible to individual actions and intentions.

for ascriptions of collective agency (48; see also Stilz 2011). By ascribing agency to the state, philosophers can work within the liability model even in the context of intergenerational societies (see Butt 2006). Even though members of a state are replaced over time, the state endures. Since historical injustices in state contexts were collective acts perpetrated by the state, the state – as distinct from its members – is responsible for them.

One corollary of the thesis just elaborated is that if reparative responsibilities can persist over generations, rights to redress must somehow persist in tandem. Since in settler states both the state and victimized Indigenous groups endure over generations, a theoretical framework that respects a collective level of analysis is well suited to our context. For distinguishing between a collective and its members has advantages when seeking solutions to another problem related to historical injustice worth touching upon briefly. Sometimes called the ‘exclusion principle’ (Thompson 2001, 116), the objection here is that, since descendants of (direct) victims of historical injustice did not themselves suffer that injustice, they cannot demand redress. Only direct victims can claim rights to redress, is the thought, for such claims do not transcend individual lives and thus obviously cannot translate across generations. Yet if enduring collectives (or communities) – as distinct from their members – can be harmed, they can likewise lay claim to redress (see Hill 2002). As the historical record shows, collectives qua collectives can indeed be harmed (see e.g. Holder 2014; Truth and Reconciliation Commission 2015a, 1). The historical activities of the settler state merit (at least) the term ‘cultural genocide,’ which encompasses “the destruction of those structures and practices that allow the group to continue *as a group*” (ibid., emphasis added; see MacDonald and Hudson 2012). Cultural genocide is a harm to a group qua group, even if its effects manifest at individual levels too. Since a moral debt is owed to a group, the moral ledger books will not balance themselves with a replacement of its members or the mere passage of time.²⁰ Importantly, group agency is not necessary to this side of the equation: if an identifiable, subsisting group suffered from an intentionally perpetrated historical

²⁰ Cf. Waldron 1992 and Lyons 1977. See footnote 25.

injustice, this is enough to justify finding a way to right the wrongs of the past in a way responsive to its current needs.²¹

Granting the state-as-agent thesis means that we can start looking at the transmission problem in earnest. While responsibility can attach to the state, why the state might be justified in distributing burdens to its individual members remains unclear. That is, the view does not automatically answer the transmission problem. Since the state and its constituent members are conceptually distinct, the reasons the state must pursue redress will be different from those of its non-Indigenous citizens; after all, these citizens are not culpable for historical wrongs.

As mentioned in the introduction to this chapter, the fault principle inherent in the liability model entails that one cannot be culpable for what one has not done. Thus, it seems the idea that contemporary individuals should be held responsible for a historical injustice is highly suspect. However, this interpretation forgets one of the advantages of the collective/constituents distinction outlined above. The claim is not that individuals are causally responsible in a backward-looking way for a historical wrong, but only that they may be responsible in a forward-looking way for its righting. In other words, there is a distinction between the condemnation of a state for a historical wrong and the liability of its citizens for its righting (Pasternak 2011, 212). This allows normative considerations other than a strictly interpreted fault principle to enter the equation when considering responsibility for the redress of historical injustice (Smiley 2014, 6; Isaacs 2014, 44). Working within the liability model, we can say that the state is responsible for redressing historical injustice because of what it did in the past. Its citizens are responsible for some other reason.

1.2.1 The elements of the complicity approach: enduring injustice

I now turn to another of the components of the complicity approach, one which is seemingly quite obvious but needs some explication. Namely, the idea is that a historical injustice is not historical ‘full-stop.’ Indeed, the very fact that apologies are offered for historical injustices

²¹ Of course, what makes a collective ‘identifiable’ or ‘subsisting’ is a thorny issue (Marrus 2007, 93; see Waldron 1992). What is required to make a group the self-same thing over time? Is modern-day Germany the same entity as the Third Reich? In our context, however, such concerns do not apply, because the focus is on self-avowedly subsisting settler states and the equally enduring Indigenous peoples, groups and nations that were (and often continue to be) the victims of oppression at its hands.

suggests that they have enduring legacies that need attention. To really get a grip on the dimensions of these legacies, we will need to understand them with reference to the circumstances of their genesis. Namely, settler colonialism. Examining historical injustices with the historical context in mind draws our attention to the background which informs the significance, impact and meaning of its legacies.

As Margaret Moore (2019) argues, there is no *single* thing that is wrong with settler-colonialism.²² Various aspects of colonialism need to be understood before we can begin to see how to address its legacies (Alfred 1999, 70; see Wolfe 2006). To illustrate, it is not only the relationship of domination that makes it wrong, nor just its assimilative aspects, nor even the discrete historical wrongs which often attended it. Trying to distil ‘the’ injustice of settler-colonialism down to a simple formula is misguided, for “it makes it seem that we ought to be searching for a single feature that accounts for its wrongfulness, and that any additional wrongs that might have been associated with it were just incidental to the practice” (Moore 2019, 89). By focusing on only one feature of settler colonialism we fail to get a sense of the many harms associated with it. Heeding Moore’s warning, in what follows I elaborate on some of the other injustices of settler colonialism, focusing for obvious reasons on those related to the types of discrete historical injustices that are the subjects of official apologies (see Preface). I argue that there are further, distinct injustices resulting from, or non-contingently related to, the discrete wrongs of the past, injustices which endure in the present and whose content we cannot capture through description of historical wrongs. But nor is their content captured by a description of them in isolation from the historical injustice which engendered them. In the context of settler colonialism, the effects of a historical injustice linger, and we cannot understand these effects without understanding their genesis.

There are three types of injustice that I will refer to as ‘enduring’ injustice, all of which are ultimately results of the intentional acts or omissions of the state.²³ The first concerns wrongs which, though not direct causal effects of historical injustices, are nonetheless non-contingently related to them. The best example of this type of enduring injustice, as some scholars have noted, comes from the idea that the *failure to rectify* a

²² Cf. Ypi 2013.

²³ The term ‘enduring injustice’ is from Spinner-Halev 2007, but I understand it a bit differently.

historical injustice constitutes a distinct wrong. This is a wrong that, though not a direct result of a historical wrong, is nonetheless an outgrowth of it (see Butt 2013; Sher 2005; Pettigrove 2003). Though distinct, it compounds and worsens the original wrong (Butt 2013, 18). The second type of enduring injustice I consider concerns those injustices which are direct (or causal) results of a discrete, historical injustice. The term ‘automatic effect’ is therefore apposite (Sher 1981). Following Thompson (2001), I understand automatic injustices as those which cannot be attributed to any other cause than a historical wrong (118). An analogy from tort law is ‘cause-in-fact causation,’ a demonstration of liability through the meeting of a ‘but-for’ condition: but for an agent’s perpetration of X, event or circumstance Y would not have obtained in its wake (Kadish 1985, 357-360). For both of the above types of injustice – call them ‘secondary’ enduring injustices – there is a non-contingent connection to a chronologically prior ‘primary’ injustice; the historical wrong is the *sine qua non* of their reality. History is thus indispensable for understanding these enduring injustices, for there is both a historical and a contemporary component to them (Spinner Halev 2007, 578). The third type of enduring injustice I will discuss requires that we expand our temporal lens yet further to encompass the cultural context of the time preceding historical injustice to examine systemic attitudes, cultural orientations and patterns of oppression to see how our contemporary context is continuous with that of the past. Though not *caused* by historical injustices, this injustice²⁴ is intimately related to them insofar as it enabled, legitimated and contributed to their perpetration or perpetuation (M. Murphy 2011, 51). The subsistence of this form of injustice is partly sustained by the expressive message of disregard sent by the historical injustice which it played a role in engendering (on which more in 1.2.4).

At the base of all the above-named injustices lies a failure of the state to take historical injustice seriously. It is a failure in the administration of justice that demonstrates a lack of respect for Indigenous people(s). It is important to my argument that state omissions – the failure to undertake redress – are characterized as intentional. Scholars emphasize the “ongoing agency” of a wrongdoer in refusing redress (Butt 2006, 359). Ongoing agency is

²⁴ I refer to this as an ‘injustice’ as a shorthand. More properly, it is a mindset that disposes the state and its non-Indigenous citizens to commit or perpetuate injustice. It is a necessary condition for many of the injustices this dissertation explores.

exhibited in our context by the intentional omissions of the state. They are intentional because *it is not the case* that the denial of redress has taken place in the context of ignorance: Indigenous calls for justice have been consistent and ongoing for generations (see e.g. Newton 1999, 261; Vrdoljak 2008, 198; Morse 2008, 227). Nor is it the case that the state was unaware of the harms for which it is responsible (see e.g. Holder 2017, sec. 3, para. 4). The duty-engendering fiduciary relationships established between governments and Indigenous peoples via treaty-making in some states has similarly been flouted (Royal Commission 1996a, 6). Therefore, the refusal to address historical and enduring injustices should be understood as intentional exercises of the agency of the state. The active erasure of history and denial of justice is intentional. As the current constituents of an identifiable community, descendants of victims are wronged by the state's ongoing failure to address the damage done.

Given that my argument rests in part on the plausibility of the notion of enduring injustice, further elaboration of some examples is in order. To prefigure what follows, when an organized collective commits a (1) discrete, historical injustice, this can echo down the generations in the form of:

- 2 The injustice of the ongoing failure to make redress of some kind to victims, their descendants and/or their cultural groups, which negatively impacts individuals' life prospects and causes cultural harm to communities;
- 3 The structural injustices that stem directly from (1) and which likewise negatively impact descendants' life prospects and the cultural survival of their communities;
- 4 The injustice of the negative and disrespectful expressive message sent by the refusal to address injustices (1), (2) and (3) and the attendant impact on descendants. This form of injustice is manifest most clearly in the contemporary dignitary harms associated with the expressive meaning of a historical injustice to a victimized community;
- 5 Paying attention to the disrespectful expressive message sent by the erasure of history and the denial of justice thus draws our attention to the subsistence of systemic colonial patterns of oppression that are continuous with policies of the past, and which reflect an essentially colonial mindset.

1.2.2 The failure to tender reparations and provide redress

Given our framework as described above (1.1), if redress for (1) a discrete historical injustice has never been provided, it is still owed. As I noted a moment ago, in addition to suffering at the hands of a morally responsible state, individual victims and cultural groups qua groups suffer a further injustice when the state fails to fulfill its moral duty to provide restitution, reparations or other forms of redress. This injustice is thus non-contingently related to a historical wrong even if the latter is not its direct cause. When not provided with material restitution and reparations, the interests of victimized parties are affected. This failure negatively impacts the descendants of original victims in material ways (Cohen 2009, 84; Sher 2005, 191; Butt 2006, 359). The lack of control over resources unjustly acquired, for example, undermines the prospects for both descendants and the cultural survival of groups (Pascoe and Richmond 2009). Since a failure of moral accounting is the cause of the harms to descendants, and since the state is responsible for this failure, descendants, either individuals or groups, can justifiably demand redress. That counterfactuals can cloud the picture²⁵ is beside the point: if the interests of one generation are affected, then so presumably will be those of the next.²⁶ For this reason, just as the repercussions of wrongdoing carry over generations, so too do (at least moral) rights to redress.

1.2.3 Structural injustice

Historical injustices have led to structural injustice in settler societies (Reading 2015; Royal Commission 1996, 15). As a direct causal consequence, structural injustice should thus be considered as among the automatic effects of historical injustice. Structural injustices stem from widely held beliefs and attitudes in a society, embodied in institutions, and which manifest

when social processes put large categories of persons under a systematic threat of

²⁵ Waldron 1992 discusses the question of counterfactuals in some detail. Thompson 2000a notes that while considerations like these may carry some weight, they are at best reasons for negotiating the terms of redress rather than abandoning redress altogether (343).

²⁶ The fact that the reparations awarded to a parent may have dissipated before the conception of a child does not negate the fact that the reparations were never offered. The non-identity problem can be overcome in this context if we allow that the child who otherwise would not have existed were it not for the wrong is still entitled to reparations if they were never offered to a parent, provided we stipulate that some of those resources would have been used to improve the lot of the child (Cohen 2009, 82).

domination or deprivation of the means to develop and exercise their capacities, at the same time as these processes enable others to dominate or have a wide range of opportunities for developing and exercising their capacities. (Young 2006, 114).

Structural determinants emerging from historical wrongdoing affect the well-being of people and communities (Reading 2015). The dispossession of a collective, for example, can lead to enduring, unjust institutional structures and prejudicial patterns of behaviour that unfairly disadvantage groups, individual victims and, subsequently, their descendants (e.g. see Pascoe and Richman 2009). These structural determinants include the inaccessibility of services and opportunities, and a widespread discounting of the interests of the community. According to Morse (2008), “dispossession through colonization has had the most dramatic effect upon the physical, cultural, economic and spiritual health of Aboriginal peoples and their communities” (286). The expressive message of disregard intrinsic to the act of dispossession is reproduced over generations and validated both by the initial transgression of that collective’s rights, and the denial of those things necessary to its integrity, such as sacred lands (Vrdoljak 2008, 203 and 219). The message is that these people count for less, and this is embodied in institutional structures and oppressive patterns of behaviour which negatively impact the prospects for descendants and the cultural survival of their groups. The system of residential schools in Canada, or the Stolen Generations of Australia, are another example of wrongs which have contributed significantly to structural inequalities (Truth and Reconciliation Commission 2015b; 2015c). Evidence for structural injustice stemming from residential school systems is not hard to find. Indigenous people(s) in Canada, for instance, experience higher incarceration rates (Brzozowski, Butts and Johnson 2006; Statistics Canada 2019), more unemployment and poverty (Best Resource Centre 2011), poorer health and housing (Pascoe and Richman 2009; Sawchuck 2015), higher rates of youth suicide (Indigenous Services Canada 2020), higher representation in the child welfare system (Greenwood and De Leeuw 2006) and greater violence when compared to the non-Indigenous population (Department of Justice 2015; RCMP 2014). Acknowledging structural injustices draws attention to the broader continuities of the ongoing colonial project of subordination that are of central concern of Indigenous people(s) (Sparrow 2000: 351-353).

1.2.4 Expressive messaging and dignitary harms

There is a further automatic effect of historical injustice that merits special attention, one

exacerbated by, but distinct from, the persistence of structural injustices. This injustice is best understood as a dignity-affecting consequence of historical injustice experienced by contemporary descendants of direct victims. As many scholars have noted in the context of Indigenous calls for redress, collective memory matters to victimized communities.²⁷ Janna Thompson (2001a) points out that “what happened in the past [...] makes a difference to the well-being of people of the present” (134). Thompson has in mind the impact of the socially constructed meanings of a historical injustice. The need to respond to the harms associated with such meanings is the reason why a worthwhile solution to the transmission problem must respond to history and its significance. The dignitary harms to contemporary members of a victimized collective, or indeed to a collective itself, are automatic effects of historical injustice, regardless of intervening years or generations, “[f]or it is the meaning of the injustice to descendants, not the immediacy of the causal relationship, which is crucial” (ibid). As Philpott (2012) argues, “[m]emories are not just brute facts; they involve meaning and interpretation” (42). The de facto expressive message of disregard intrinsic to dehumanizing historical injustice stands as an affront to the dignity of a contemporary community and its members. Long denied acknowledgement, group members may justifiably feel angry, insulted, or that they are not considered full members of the moral community. The “standing victory” of unredressed injustice is a barrier to any reconciliation (38), for the meaning of this injustice derives in part from what the failure to redress it says about the relationship between Indigenous people(s) and settler states.

Here we should go a bit further and try to understand how historical injustice may come to represent much that is wrong with the state’s treatment of Indigenous people(s). Doing so requires that we take a panoramic view of the effects of injustice by considering how the secondary effects of historical wrongs described above serve to compound and worsen the symbolic meaning of the original wrong, and thereby the dignitary harms to descendants. As we have seen, both the failure to offer redress and the persistence of structural injustices are enduring injustices non-contingently related to, or resulting from, historical injustice. These secondary injustices are distinct from the original wrong, but they cannot be understood without reference to it. They represent new sites of direct moral

²⁷ For example, see: Fleischner 1999, 333; Ivison 2000, 362; M. Murphy 2011, 63; Philpott 2012, 42-43; Spinner-Halev 2007, 576.

responsibility for the state. Importantly, they too have automatic effects representing distinct injustices in need of correction, and the transitive relation between a historical injustice and the effects of *its* effects means that the state is also responsible for these. While a historical injustice is one step removed from these effects – call them ‘tertiary’ effects – it is either their proximate cause or bears a non-contingent relationship to them. No intervening agent is responsible for these tertiary effects, and nor are the effects so remote as to be unrelated to the initial transgression. This means that while the tertiary effects of a historical injustice may not be the original intention of the state, since the state is responsible for the foreseeable effects of its injustices it should nonetheless be responsible for their rectification. While these tertiary effects may not have been intended, the willful failure to do anything about them *is* a result of the intentional structure of the collective at fault.²⁸

Here at this tertiary level we can begin to grasp why a historical injustice can sometimes loom so large in the collective psyche. The *de facto* expressive message of disrespect intrinsic to the undertaking of a historical injustice is reinforced, reproduced and perpetuated by the secondary enduring injustices which follow. This is because the *mere fact* of the denial of reparations represents the state’s view that the victimized community counts for less. The *mere fact* of the existence of structural injustice represents a failure of the state to take seriously the concerns of the oppressed. In short, these injustices are understood within the context of the modalities of settler-colonialism, a context in which memories of historical injustice stand as representative symbols of an ongoing relationship of subordination. These expressive messages will receive more attention in the next chapter (2.3.1), but the takeaway here is that historical injustices are but one part of an enduring pattern of disregard for Indigenous peoples. These injustices are “beginnings and emblems of a continuing process” (Vernon 2012, 113). Here I mean to emphasise not the material impact of secondary injustices, but rather what the fact of their reality expresses to victimized communities. If there was ever any doubt that the modalities of settler colonialism persist, the persistence of secondary injustices dispels it. The state’s ongoing refusal to rectify these

²⁸ How far this chain of liability should extend is, for the purposes of this chapter, moot, for the argument requires only that we accept the transitive relation of responsibility for injustices so far as is described. Injustices at the tertiary level meet the ‘but-for’ condition described above (1.2), and hence are by definition automatic effects.

reinforces the meaning of a historical injustice to a victimized community and contributes significantly to (4) the injustice of dignitary harms to descendants.

1.2.5 Colonial mindset

Consideration of the disrespectful expressive message sent through the failure to take history seriously by addressing historical injustice and its enduring effects draws our attention to another enduring injustice that requires attention if we are to offer a responsive solution to the transmission problem. While contemporaries are quick to distance themselves from colonial attitudes towards assimilation, dispossession and annihilation which provided the social context for historical injustice in a way that encouraged and legitimated them, the attitudes that inspired these injustices survive in the present.

Perhaps part of the reason that the dignitary impact of historical injustice can loom so large in the minds of descendants has to do with how contemporary attitudes towards historical injustice are essentially continuous with the colonial project of subordination in which it took place. As many authors have pointed out, all injustice takes place in a broader system of social meanings, cultural orientations and attitudes (Celermejer 2013, 47). The images and stories of Indigenous peoples that shape public consciousness have profound effects on the attitudes, beliefs, and actions of settlers, and hence the lived experiences of Indigenous people (Furniss 1999, 111). While contemporaries may deny that these systemic outlooks persist, the colonial project that sought to assimilate, annihilate, or deny identity to Indigenous peoples survives in altered but recognizable form in the present (see e.g. Wolfe 2006; Woolford 2004).²⁹ Indeed, one need only consider what lack of clean drinking water or access to adequate health care says about settler society's perspective on Indigenous peoples' membership as full and equal members of the moral community to see how these cultural perspectives are far from erased (Sparrow 2000: 351).³⁰ The "macro-level" systemic injustices which made possible the "micro-level" discrete injustices of the past persist (M. Murphy 2011, 55). The underlying attitudes of colonialism – racism, cultural chauvinism, paternalism, disregard for the autonomy and rights of Indigenous peoples – survive in altered

²⁹ See also: Short 2003;2005; Moran 1998; Regan 2010.

³⁰ For statistics on boil-water advisories see Health Canada 2016. For health disparities and their relation to colonialism see Allan and Smylie 2015 and Frolich, Ross and Richmond 2006.

but recognizable form today; the colonial project of dispossession and disempowerment continues (see Dorrell 2009; Coulthard 2007; Short 2003). That the enduring injustices described above remain unredressed in the face of continuous demands for justice is evidence that there is much truth to this idea.

1.2.6 The elements of the complicity approach: state functioning, civic complicity, and wrongful social practice

The injustices described above are a result of the intentional acts or omissions of the state. Given the strong distinction between the state and its citizens espoused in this chapter, it might appear that citizens cannot bear responsibility for them. However, this ignores the mechanics of state activity, glossing over the interconnection of state acts or omissions and the activities of its citizens. That these injustices are the product of collective action or inaction does not absolve individuals of responsibility for them, for there is a dependence relationship between the acts, omissions and intentions of the state and the acts, omissions and intentions of its constituents. Indeed, since the state derives its very legitimacy from the (often passive) endorsement of its members (Vernon 2016, 46), individual actors are essential for what Lu (2011) calls the “operationalization” of collective injustice (271).

Before discussing how individuals can be blameworthy for their contributions to emergent injustices like those described above, the first step is to show how they can be implicated in them. How the acts and intentions of a state arise is no mystery. While the framework I espouse respects a two-level conceptual distinction between the state and its citizens, this does not mean that the agency of the state is not exercised *through* its citizens. Indeed, logically it must be. A collective such as a state has a “profound ontological dependence on its individual members” (Govier and Verwoerd 2002b, 192). If there were no people, there would be no state. This dependence relation bears on the ability of the state to exercise its agency. We have already seen how distinctive collective intentions arise from the decision-making structures, rules, hierarchies of authority and policies of a state (1.2). The intentions of the state, which lead to its actions, likewise derive from the diverse actions and intentions of its citizens acting in their assigned roles. While the state has moral autonomy, this autonomy is a function of the activities of citizens. So, while the collective acts, intentions, and omissions of the state are not reducible to those of its citizens, this does not

mean that citizens do not play a part in producing them. We should not forget that the everyday activities of citizenship – paying taxes, abiding by the law, participating in the economy, voting – support the state in all its functions. The activities of citizens, pursued for diverse reasons, result in wrongful collective acts and omissions as I have described them. These ordinary activities of citizens amount to what Vernon (2016) calls ‘civic complicity’ (37). Since citizens may pursue their activities without sharing or even knowing the intentions of the state, it follows that implication in emergent wrongs does not always entail blameworthiness. But civic complicity can “transform minute quanta of power into the capacity for great violence” (54). Without these, the ordinary activities of citizens, the state would not be possible. Nor would its actions or intentions supervene on those of its citizens. Importantly, nor would all the injustices for which the state is ultimately responsible persist in the world. Thus, the ordinary activities of citizens make a difference to the world. If the state is failing those it wrongs, then so by implication are its citizens.³¹

This sketch of civic complicity, concerning as it does the everyday activities of the citizen qua citizen, does not tell the whole story. There is another component to the picture of citizen implication in wrongdoing that I am painting. While emergent injustices stem from citizen activity, these activities occur in the context of a system of meanings, of cultural orientations, beliefs, attitudes and dispositions. Just as many citizen activities have little to do with citizenship per se, so too are many of these latter features only contingent aspects of citizen mindsets. A bare-bones view of civic complicity does not emphasize the essential point that any activity is dependent on a complex cultural, social and moral background which frames, suggests and encourages individuals’ decisions. If everyday decisions of citizens are informed by this background, and if these everyday decisions result in actions or omissions that collectively contribute to the injustices for which the state is ultimately

³¹ Note that the above account of civic complicity (and, later, that of the individual responsibility which flows from it) is compatible with both ‘citizen-inclusive’ and ‘citizen-exclusive’ accounts of the state. Citizen-inclusive models understand the state as consisting of the government, state institutions and citizens (Lawford-Smith 2019, 16-19). Citizen-exclusive models understand the state as consisting of some amalgam of its institutions, its government, and sometimes its civil servants, but exclude its citizens from the formula (69-70). For the purposes of the above argument, the characterization of the state does not matter. What matters is that the agency of the state, however it manifests, is dependent on the action or inaction of the citizens who thereby support it in their everyday activities. This is not to say that degrees of responsibility are indifferntiable. But the account of ‘civic complicity’ sketched above does not require that citizens share in the purposes of the state, nor even that they have much control over the actions or inaction of the state.

responsible, we need to pay some attention to this background. For it is apparent that there is something terribly wrong with it.

In contributing to the production of injustice – knowingly or not – non-Indigenous citizens are engaging in wrongful social practices. Often such practices are seemingly benign activities which, cumulatively, produce emergent injustice. For example, Calhoun (1989), from whom we will hear more below, notes that “without the ordinary man’s participation in routine social practices – in marriage, in the workplace, in daily conversation – oppression [of women] would not take the universal form it does” (390). Drawing on Calhoun’s discussion, Isaacs (2011) explains that when individuals participate in wrongful social practice, they contribute to larger patterns of oppression that affect distinguishable segments of society (157). These individuals may not even be aware that they are doing so, for “[w]hen ways of life are uncritically accepted as legitimate, individuals routinely participate in practices of whose wrongness they are ignorant” (157). In our case, such wrongful social practices stem from an ingrained disregard for Indigenous people(s) and their well-being, a disregard flowing from the colonial mindset described a moment ago (1.2.5). Such disregard results in activities which cumulatively support the state’s injustices. Isaacs notes that, when considering wrongful social practice, we are often talking about aspects of societal *cultures*: a blindness to injustice, an ignorance of the impact of seemingly harmless comments, actions or activities. For this reason, Isaacs points out that collective wrongdoing of this kind is difficult to come to grips with, because “cultures do not, strictly speaking, act, so there is no wrongful collective action to isolate” (ibid.).

Isaacs (2011) is right to draw attention to this difficulty. However, our context has salient characteristics that allow us to bypass it. In this case we *can* identify an agent – the state – that is responsible for the emergent injustices at issue. What’s more, the state bears significant responsibility for the main driver of non-Indigenous citizens’ participation in wrongful social practice, a driver that is a key feature of the complicity framework I am developing. By engaging in the enterprise of settler colonialism, by systematically seeking to eradicate Indigenous peoples, by endorsing and instilling a culture of racism, paternalism and chauvinism, by labeling Indigenous people as inferior for centuries, by disregarding their claims for justice, by abducting their children and banning Indigenous cultural practices and

languages, settler states like Canada, Australia, New Zealand and the United States bear a heavy burden for promoting, engendering and maintaining the colonial mindset in non-Indigenous citizens. It is this mindset that forms the salient background of beliefs, attitudes, practices and cultural orientations I am drawing attention to here. If this mindset facilitated historical injustice and the perpetuation of its legacies, then it seems reasonable to hold the state accountable for its remedy. Non-Indigenous citizens carry out their everyday activities, and make their seemingly inconsequential decisions, in the context of this background. Cumulatively, the results are profoundly harmful.

That it is the ordinary activities of citizens that make possible ongoing injustices resulting from historical wrongs is significant. It means that almost no non-Indigenous citizen is exempt from the moral risk of implication in the perpetration or perpetuation of emergent injustice. This consequence is useful in the context of national reconciliation projects, for these require broad-based support from citizens (Moellendorf 2007, 215). If only collective action on a mass scale can remedy the injustices at issue, casting the net wide is important. However, my argument has a paradoxical corollary. For the picture painted above ignores how Indigenous people who live in the geographical confines of settler states participate in many or all of the same activities as non-Indigenous citizens. It follows from my account of civic complicity that these individuals are ‘complicit’ in their own oppression. For as participants in the economy, voters and taxpayers they support the state in all its functions. Such a conclusion is not only faintly absurd, it is also unseemly.

Note that I have thus far said nothing about blameworthiness. How civic complicity can transmute into morally blameworthy behavior is discussed in the next section. However, to keep the stakes high, let’s allow for now that if complicity of this kind justifies blame, then Indigenous people may be as blameworthy for their civic complicity as non-Indigenous people. To blame Indigenous peoples for the injustices which impact them is an attitude that rightly belongs in the dustbin of history (Tsosie 2006, 193). An initial response to the complicity view’s troubling corollary might be to note that it does not obtain in all settler states, where many Indigenous peoples, groups or nations are legally at arm’s length from the state. However, a response that comes closer to defeating rather than constraining the scope of the objection requires that we take note of something I have thus far not emphasized.

Within any organized collective there are degrees of connection to emergent collective actions and intentions that have bearing on the degree of individual responsibility attributable to those constituting the collective. While the collective is ontologically dependent on the actions and intentions of its members, some of these members have more influence on the direction the collective takes. Degrees of responsibility are similarly differentiable (see Lawson 2013). Here we might imagine a spectrum of responsibility, where the degree of reparative responsibility falling on an individual is commensurate with their responsibility for the perpetration or perpetuation of injustice. On one end might fall those who have a great degree of control over the direction of the state, such as a high-ranking politician. Towards the other end of the spectrum might fall those who are very recent immigrants. In the former case, the reparative responsibility attending individual failure to direct policy towards the elimination of injustice may be significant. In the latter, reparative responsibility may entail only such things as the endorsement of policies of redistributive taxation. At the very far end of this spectrum of liability – perhaps so far as to be outside of it – we might imagine another sort of individual. Namely, those who are actively taking steps to promote redress, or those who consciously try to avoid engaging in wrongful social practice. The very fact that many Indigenous groups, people or nations are seeking redress signals that they are taking forward steps that others are not. Since actively trying to eliminate injustice is what ultimately does away with it, we can make the case that these parties are not complicit in the emergent injustices of the state in any meaningful sense, and certainly not in a blameworthy way. While a strict reading of the complicity view holds that even those who agitate for redress and who oppose the moral failings of government are implicated to some degree through civic complicity, there is a certain point at which adhering to this model might lapse into absurdity.

However, abjuring the unseemly corollary of the complicity view in this way is something of an artificial response. For, by the logic of the approach I am defending, even if an individual does not support the state's reluctance to address injustice, and even if she actively promotes the elimination of injustice, she still supports the state through her everyday activities. That is, she is still implicated even if she disavows what amounts to the collective intention of the state. Escaping the net of civic complicity is difficult if not impossible. Indeed, it is so difficult that it suggests we consider another response to the

above objection concerning Indigenous peoples' apparent complicity in their own oppression.

Here it is important to recall that the model of complicity I am developing consists of two distinct but related features. First is civic complicity simpliciter, or the idea that everyday citizen activities support the emergent collective actions of the state. Second is the background system of meanings, orientations and attitudes which suggest or encourage citizens to act in certain ways within a state. The latter element informs the nature of the activities and decisions in the context of the former, and hence indirectly contributes to the injustices under review. Appealing to Calhoun's (1989) discussion of ignorance and reproach in the context of wrongful social practice is helpful for elucidating the significance of a moral context permeated by a colonial mindset. Calhoun makes a useful distinction between 'normal' and 'abnormal' moral contexts. Normal moral contexts are ones in which society at large shares in the moral knowledge needed to guide right action. "In normal moral contexts, the rightness or wrongness of different courses of action is 'transparent' to individuals" (394). By 'transparent' Calhoun means something like 'obvious' – it is obvious to people what the moral rules are, which normative expectations apply to particular circumstances, and so on. That is, a normal moral context is one in which reasonably reflective individuals can apply moral knowledge to guide right action in particular contexts, where they know what is right and wrong, and know which behaviours are acceptable and which are not (395).

In contrast to a normal moral context, an abnormal moral context is one in which moral knowledge has advanced, but only a subset of the population is aware of it. "As a result, the rightness or wrongness of some courses of action ... are, for a time, transparent only to the knowledge-acquiring subgroup but 'opaque' to outsiders" (Calhoun 1989, 396). In an abnormal moral context ignorance of the advances in moral knowledge can sometimes excuse individuals' participation in wrongful social practice (though Calhoun argues they are still subject to reproach). While Calhoun's discussion concerns moral progress among expert subgroups such as feminists or bioethicists, Isaacs (2011) makes the point that one needn't be an expert in any formal sense to be at the forefront of moral knowledge. She points out that those who are members of disadvantaged or oppressed groups surely have insight into the patterns of social practice that contribute to their marginalization. These people, argues

Isaacs, “do not need moral experts to understand that there is something troubling and unjust about their situation” (170). In our context, it makes sense to say that Indigenous people have expert knowledge of the abnormal moral context that encourages their oppression at the hands of settlers and the settler state. If this is so, what follows is the thoroughly unsurprising conclusion that what I have termed the ‘colonial mindset’ exhibited by settlers is not shared by Indigenous people.

This suggests that Indigenous people, who through their lived experience arrive at the forefront of moral knowledge in this domain, are not contributing to the maintenance of an abnormal moral context in which the colonial mindset is still widely thought acceptable. Along this dimension of civic complicity, then, they cannot be reproached for maintaining a mindset that indirectly perpetuates the enduring injustices which impact them. While the above sketch of civic complicity suggests that there are some injustices which an individual cannot help but contribute to through supporting the economy, voting, paying taxes and the like, so far as is possible moral experts are unlikely to participate in the wrongful social practices that contribute to the emergent harms stemming from seemingly benign citizen activities. Given the choice, Indigenous people would undoubtedly not seek to enable their own oppression. And even if Indigenous individuals are implicated along the first (civic) dimension of complicity, this is not enough to demonstrate blameworthiness. To place moral blame entailing liability on someone for actions that do damage to their own person – actions that they have no option but to undertake – would be strange if not objectionable. Thus, a reasonable response to the above objection is that Indigenous peoples cannot incur reparative responsibility (towards themselves, consider) on the grounds that not only is it absurd to suggest they do, but also on the grounds that, whatever the extent of their participation in state activity, that they are not a legitimating source of colonial attitudes which indirectly support injustice – that they know what is wrong and would do otherwise if they could – absolves them of any moral responsibility for the repair of the injustices the state is perpetrating. While non-Indigenous citizens who espouse a latent colonial mindset may incur reparative responsibilities through civic complicity, Indigenous victims of state-perpetrated injustice will not.

1.3 The complicity approach

What sort of moral responsibility stems from the injustices described in 1.2, and on whom or what does it land? *That* there is injustice suggests that someone or something is responsible (Young 2011, 95). The framework espoused in this paper identifies a responsible agent: the state. But how are we to understand what sort of responsibility flows to the other type of agent that is of interest here – the non-Indigenous citizen – in virtue of her implication in wrongdoing? This is what Lawson (2013) refers to as the “problem of collective wrongs”: how do we assign blame or remedial responsibility to individuals for collective wrongs when none of them appear to be responsible for those wrongs (228)? In what follows I take a dialectic approach to the complicity view to uncover how the state and its contemporary constituents are morally responsible for the injustices described in 1.2, but in different ways. Specifically, the state is the agent with ultimate responsibility for these injustices: it is factually ‘guilty,’ even if it cannot know it (Isaacs 2011, 71-72). The state, if you like, is the ‘principal’ in these wrongs. However, non-Indigenous citizens of the state are responsible too. They are responsible for forward-looking redress because, if they do not promote or participate in state redress for these injustices, they become complicit in their perpetuation in a blameworthy way. Consequently, attending this duty of participation is an obligation to help move us from an abnormal to a normal social context.

To presage the forthcoming argument, consider the example of those structural injustices that are automatic effects of a historical wrong. Contemporary individuals who retain a colonial mindset perpetuate structural injustices largely unknowingly, yet they are parties to the unjust deprivation of descendants of victims of historical injustice (Lyons 1977, 268). They participate in wrongful social practice. Given their ignorance of the impact of their behaviour, they are initially not morally blameworthy. However, once an individual is made aware of structural injustices resulting from a past wrong, and once that individual recognizes that only collective action can remedy them, that individual has a moral responsibility to both take part in the state’s redress and encourage others to do so as well. If they do not, they become blameworthy in virtue of knowing causal complicity. The avoidance of morally blameworthy complicity thereby offers agent-centred reasons for individuals to participate in collective redress, reasons which respect the liberal liability model these individuals espouse. The idea is that non-Indigenous citizens cannot condemn

structural injustice while simultaneously doing nothing about it. This sort of inconsistency is morally blameworthy. It is therefore the recognition of injustice and its root causes that engenders a moral duty to do something about it.³²

If we grant that distinct injustices in need of rectification result from historical injustice, it may still be protested that ‘complicity’ in these injustices is an unfair charge to level against contemporary non-Indigenous citizens of a state. After all, these injustices are ultimately the responsibility of the state, and often unknowingly perpetuated by the citizens. Within the confines of the liability model, one might argue that citizens should not be responsible for their rectification. The core of this challenge speaks to the core of the transmission problem: no fault, no duty. Answering it will take us further down the road to an understanding of how to combat it, or how to begin to solve the ‘settler problem’ by convincing settlers of their reparative duties.

To be complicit in a morally blameworthy way for a wrong one must *knowingly make a causal contribution* to that wrong when they have a choice to do otherwise; so-called “participatory intent”³³ – that is, sharing in the purposes or intentions of the principal – is not required for the type of complicity that concerns us here. Standard discussions in criminal and tort law hold that participatory intent *and* causal contribution are necessary for ascriptions of paradigmatic complicity (Feinberg 1970, 222). Accomplice liability derives from a secondary party’s knowing causal contribution to the wrongful actions of a principal when both parties share the same goal (Kadish 1985, 337-338). Not all scholars agree. Indeed, some suggest that only participatory intent, and not even a minimum of causal contribution, is enough to make one complicit in a wrong (Kutz 2007; 2011; Lawson 2013, 234). However, both understandings of complicity derive from legal analysis. Our context is a moral one. Whatever its merits in other domains, the requirement of participatory intent is not appropriately applied to individuals in our context because of the nature of the individual wrongs in question: *unsought* perpetuation of unjust collective acts or omissions. Instead, my

³² The notion that inconsistency between moral judgements and subsequent inaction is blameworthy is borrowed from Daniel Butt (2007), who argues that “[we] make a conceptual error if we condemn a given action as unjust, but are not willing to reverse or mitigate its effects on the grounds that it has benefited us. The refusal undermines the condemnation” (143).

³³ The term is from Kutz 2011, 148.

approach requires that to be ‘complicit’ in a blameworthy way one, quite simply, knowingly contribute to a wrong. That is, this view of ‘causal complicity’ holds that one’s actions, made in conditions of knowledge, must make a difference to the world (Gardner 2007, 137 and 140; see Anwander 2005). This sort of complicity is, of course, “all the more blameworthy” if the participant shares in the purposes of the principal, but “one can contribute causally and knowingly and hence be complicit with [the principal’s] wrongdoing without sharing the wrongdoer’s purposes at all” (Goodin and Lepora 2017, 269). Blameworthiness hinges on the requirement of knowledge, not intent.

This view of complicity suggests that, once made aware of the effects of their actions in the perpetuation of injustice, failure to participate in redress transmutes into a sort of complicity that is morally blameworthy (see Nussbaum 2006, 21). If we are living in an abnormal moral context, then a failure to take heed of the insights of moral experts at the forefront of moral knowledge represents a moral failure. To avoid morally compromising complicity, an agent should at the very least cease to play their part in the perpetuation of injustices arising through civic complicity. Yet, as I’ll show presently, the view of state functioning described above (1.2.6) has the consequence that doing so will require *active* participation in, or support for, redress. Thus, the objection – that since it is the state that is responsible for the injustice the citizenry should not be held responsible – just does not hold up: since non-Indigenous citizens can knowingly make a causal difference to the world in the form of acting as accomplices to the injustices of the state, they are responsible for those injustices, albeit to a much lesser degree.

1.3.1 Objection: active vs. passive contributions to injustice and redress

Here an objection might be raised. Since we are working within the liability framework it makes sense that I aim to assign blame to citizens for what they *have* done or what they are *still* doing. We seek to assign forward-looking reparative responsibility because of (causal) outcome responsibility for wrongful behaviours in the context of collective action. The type of complicity that I have just described has a requirement of knowledge. For this reason, it surely makes sense to call a citizen complicit in a blameworthy way when she knows what she is doing has harmful effects and yet continues to do it when she could do otherwise. But one could argue that a citizen who immediately withdraws enabling support upon being

apprised of the consequences of her actions cannot reasonably be reproached for complicity in the wrongdoing of the state; she was, instead, simply an inattentive actor. So how can we assign reparative responsibility to her because of knowing causal complicity? I have already noted that recognizing the wrongness of an injustice and doing nothing positive to fix it can be a source of moral blameworthiness insofar as it represents moral inconsistency. However, the objection bypasses this observation by pointing to the vexing distinction between doing and allowing, acting and omitting. The objection holds that, because of the distinction between doing and allowing, by ceasing to actively perpetuate injustice the citizen who withdraws enabling support is thereby absolved of moral responsibility because she no longer contributes to the action of the principal. This is because she is only *allowing* injustice to continue by doing nothing about it. That is, she is not complicit. Under my framework it appears that it is only by complicity that one can be liable for repair. Therefore, the normative motivation to participate in redress – if there is any – cannot stem from within liability doctrine.

Recall that omissions as I have described them are a result of *ongoing agency*. They are the result of choices made under conditions of knowledge. In this collective context the omissions of the state are intentional, for recall that it is simply not the case that these injustices are taking place in a context of ignorance. The state would find it very hard indeed to prove that it knows nothing of the injustices for which it is responsible. Now remember that the state's intentional acts *and* omissions are dependent on – though not reducible to – the acts and omissions of its citizens. And finally, consider that redress is a project that requires action; the injustices at issue are not going to disappear all on their own. Redress is not a passive activity, and thus state redress requires the participation of citizens. This means that any omissions on the part of citizens in this domain will make a difference to the world: they will perpetuate injustice. When these omissions are willful – i.e. made in conditions of knowledge – citizens support the ongoing injustices of the state in a blameworthy way. Thus, though not acts per se, citizens' omissions meet the definition of knowing causal complicity outlined above. Since lack of rectification on the part of the state effects the perpetuation of injustice, so too does an individual's lack of participation in state redress effect this perpetuation. Active participation is required to avoid blameworthy complicity.

Indeed, it is difficult to see how an individual could ever withdraw enabling support for enduring injustices when she lives in a state that limits her ability to do so, or which is unwilling to undertake redress. That is, it is difficult to see how an individual can avoid civic complicity entirely. Withdrawing from economic activity, for example, is not something most people are able to do. Recall that the activities of citizens are pursued in the context of a system of meanings, cultural orientations and attitudes, and remember that the activities of the state are dependent on those of its citizens. If a failure to address enduring injustice stems from the cumulative indifference of non-Indigenous citizens, it seems reasonable to hold that those who are aware of the harmfulness of the colonial mindset have a duty to apprise others – who are not aware – of their inattentiveness. Calhoun (1989) argues that to excuse people for their actions on the grounds that they know no better has the effect of sanctioning these actions (400-403). “In abnormal contexts, where wrong actions are socially accepted, not pointing out wrongdoing is not even ambiguous. It will automatically be interpreted as sanctioning” (401). This is because inattentive actors may wrongly think themselves to be in a normal moral context, and thus letting things slide is no different than endorsing the status quo. Since not reproaching others for their moral ignorance has a sanctioning effect, it indirectly contributes to the maintenance of those cultural orientations that ultimately perpetuate enduring injustice. So, while withdrawing enabling support for the state may not be possible in many areas, still non-Indigenous citizens must seek to redress injustice by convincing others of the need for it. Non-Indigenous citizens’ rejection of the colonial mindset will have the effect of redirecting the priorities of the state. If a critical mass of non-Indigenous citizens is convinced, we will no longer be in an abnormal moral context, but a normal one, where society at large has absorbed newly discovered moral knowledge. In a normal moral context, moral rules and normative expectations are widely shared, and the state – ontologically dependent on its citizens and at least theoretically beholden to its members – will be better able to redress injustice through citizen participation in reconciliatory measures.

The upshot is that since it is only active change that can extirpate enduring injustices, not acting is sufficient to perpetuate them. Recalling again our desiderata (1.1), we can now see why contemporary non-Indigenous citizens of the settler state are (a) those who should undertake repair; why they have (b) normative reasons to participate in redress; why (c)

contemporaries, while innocent of historical wrongdoing, nonetheless have some liability for its righting.

1.3.2 Objection: how useful is this framework?

Perhaps the reader might still think it a bit harsh to tar non-Indigenous citizens with the brush of complicity. The motivation to use the language of blame comes from the need to draw attention to the wrongness of the injustices under consideration, as well as to serve as a sort of corrective to the fiction of settler benevolence that permeates the mythology of settler states.³⁴ Furthermore, empirical evidence suggests that feelings of guilt motivate non-Indigenous participation in redress for historical wrongs (Allpress, Barlow and Brown 2010). However, one might take issue with the use of juridical language, especially since our context is a moral one. Iris Young (2011), for instance, contends that assigning liability and blame to individuals for wrongdoing in the context of layered social processes and complex institutional structures is not productive (116). According to Young, “the liability model of responsibility... is inappropriate for assigning responsibility in relation to structural injustice” (99). In part, this is because “the specific actions of each [contributor] cannot be causally disentangled from structural processes to trace a specific aspect of the outcome” (100). As seen above, many of the enduring injustices discussed are fruitfully conceived as structural injustices of the type Young has in mind. For Young, that individuals deserve no blame for their participation in wrongful social practice does not entail that they are not responsible for its righting, but it does suggest that this understanding of responsibility should be essentially forward-looking (108). Since backward-looking blame is not useful in this context, “[w]hat we should seek is not a variation on a weaker form of liability, but rather a different conception of responsibility altogether” (104). Part of the reason for this approach stems from Young’s insight that failing to intend an outcome surely mitigates moral responsibility (103). Furthermore, “[a] public discourse of blame [...] oversimplifies, failing to develop a public understanding of the actions and practices whose consequences produce injustice” (117).

I sympathize with Young’s view, and I do not intend to rule it out as an approach to resolving enduring injustices. However, notwithstanding Young’s argument, I think that in

³⁴ See for example: Regan 2010, Dorrell 2009, Dominello 2017.

this context the language of complicity and blame is appropriate. While Young may be right to suggest that it is intuitively implausible to associate blame with citizens for their everyday activities, her model is not geared towards our context: a context which views these individual actions as falling within the background of intentional collective action. The actions of individuals operating in the context of collective action inherit some of the moral characteristics of that collective action (Isaacs 2011, 11 and 57). Seen this way, the activities of citizens take on a new normative significance, for their action-descriptions must refer to the place of those actions in collective wrongs to fully convey their moral contours (100-102 and 127). The moral significance of some actions changes when we realize that we find ourselves in an abnormal moral context and that we should not consider these actions morally appropriate. If non-Indigenous citizens' actions and omissions contribute to the perpetuation of injustice, everyday activities are no longer so harmless. Drawing attention to this highlights the urgency of the moral situation. For this reason, the language of blame is appropriate and highlights how citizens *should* conceive of their agency and its impact as opposed to how they *do* conceive of this agency.

Young thinks that, because individual contributions to injustice cannot be causally untangled to match cause with effect, the language of blame is inappropriate (100). Extent of causal contribution is indeed a live issue in the context of criminal complicity (Feinberg 1970, 246). However, in our context, I do not see what follows from the indeterminacy of contributory effects. After all, we are not seeking to assign full blame for collective wrongdoing to any individual. By definition, that is impossible. Instead, we seek to show that the minute contributions of each individual amount to intentional collective action or omission. Individual responsibility – both backward and forward-looking – is consequently small for ordinary citizens. Simply knowing that one *does* contribute, by act or omission, and no matter the indeterminate consequences, is enough to show why one should support or participate in redress (see Kelly 2011, 196). Young's conviction that causal disentanglement is impossible motivates her to suggest that we should seek a new account of responsibility. But this is not necessary. While, again, I would not want to rule out this approach, conceiving of individual responsibility for collective injustice as falling within the liability framework is fruitful insofar as it avoids moral revisionism. It offers a familiar way of assigning

responsibility for injustice, one that differs only in degree and not in kind, and which will help to solve the ‘settler problem’ by speaking to settlers on their own philosophical terms.

Recall that we are seeking a solution to the transmission problem that pays appropriate attention to history: we seek a *responsive* solution. Identifying a principal agent as the bearer of full responsibility for historical injustices allows us to construe the acts and omissions of the state as intentional. Were the actions of citizens considered outside of this framework the injustices that arise in the wake of historical injustice would have to be thought of as almost inexplicable phenomena arising from the parallel actions of individuals. These parallel actions would therefore not inherit the normative features of what we should understand as intentional collective wrongdoing. Young’s construal is more fitted to something like climate change – a phenomenon arising from the largely unorganized activities of the denizens of the world – than injustices in an organized, enduring state (see Nussbaum 2006). Ignoring the intentional structure of the state and the consequent characterization of wrongdoing as intentional would leave a huge normative gap between a description of the ordinary activities of citizens and their impact on Indigenous people(s). Instead, the complicity view offers a way to assign both forward- and backward-looking responsibility to both the state and its citizens in a way that pays attention to the origins of enduring injustices while assigning ultimate responsibility to an agent capable of coordinating remedial collective action – the state. Since the need to attend to history is a feature of many Indigenous calls for justice, it is fruitful to seek a solution that lends itself to this.

1.4 Answering to the desiderata

Locating a wrong in non-Indigenous citizen complicity in the perpetuation of enduring injustice allows us to answer to many of the desiderata for a successful answer to the transmission problem outlined above (1.1). The complicity framework does not require voluntary identification with the state, nor any special understanding of the meaning of citizenship, nor contentious understandings of the value of community, nor even that we untangle individual impact on collective wrongs. Because the injustices in question are non-contingently related to historical injustice perpetrated by a state it (a) particularizes the duties of moral repair to the state and consequently to the citizens of this collective; it (b) offers

convincing normative reasons for citizens to play their part in redress, for no morally conscious agent should be complicit in ongoing wrongdoing; (c) it shows that, contrary to the cynic's argument, citizens are *not* always innocent of wrongdoing non-contingently related to a historical injustice, at least once they recognize that their actions or omissions support the ongoing injustices of the state; and (d) it demonstrates how contemporary non-Indigenous citizens are party to the reproduction of systemic colonial attitudes and outlooks that are continuous with those of the past. However, the reader will rightly point out that the framework so outlined does not adequately explain how (e) a normative motivation for redress lies in a recognition of the immorality of historical injustice itself. The focus has been on dealing with injustices of the present, not the past, and isn't that missing the whole point? Since we want redress to respond to historical injustice *per se*, and not just its effects, the complicity approach arguably falls short. Fulfilling this desideratum thus requires further discussion.

1.4.1 Locating a normative motivation for redress in history

The motivation for a state to redress a historical injustice lies in its causal responsibility for that wrong and its ensuing effects. The framework outlined above suggests that citizens' motivations to participate in the process of redress consist in how they can be complicit in a blameworthy way in the *perpetuation* of those effects, as well as in the *maintenance* of the legitimating systemic attitudes that led to historical wrongdoing. Citizens should therefore prevent their perpetuation and, since wrongs deserve righting, help atone for them. While the fundamental moral presuppositions for both state and citizen are that knowingly causing an avoidable harm entails a duty of rectification, and of course that we should avoid the perpetuation of injustice, the state and citizens are clearly operating by two distinct motivations. Importantly for the detractor, the motivation of the citizen does not seem to come from the right moral place.

As noted in 1.1, motivations matter for the project of reconciliation because the meaning and perceived significance of historical injustices from the perspective of offended parties are key to identifying and justifying the sorts of remedies that will respond to the harms at issue. These remedies require that we undertake redress with the right intent, for responding to historical injustice purely in the interest of political expediency will miss the

forest for the trees. Since the meanings of historical injustices are connected to the identity and dignity of Indigenous peoples, the normative motivations that underlie the justification for redress will dictate the sorts of significance it can have in the context of reconciliation. While the distinct motivations of the state and citizens coincide at a place where the independent reasons for redress, in practice, result in each type of agent addressing ongoing injustice, that non-Indigenous citizens aim to redress only *effects* of historical injustice, and *continuities* in systemic outlooks, is problematic. Often, calls for redress on the part of subsisting victimized communities specifically cite historical injustices – and not only their effects – for which no currently living people are causally responsible (Marrus 2007, 79). If we are to meaningfully address the grievances of offended parties, we must find a way to connect citizens to historical injustice in a normatively appropriate way.

As discussed in 1.2.4, there is an intangible, tertiary enduring injustice resulting from historical wrongs: the dignitary harms to descendants and their communities. The *meaning* of a historical injustice can have profound effects on a victimized cultural group or community (Thompson 2001, 134). Historical injustices dehumanized victims, and this is part of what made them wrong. Without repudiating the disrespectful message implicit in this dehumanization, it continues to be sent to descendants. This is part of the reason the memory of a historical injustice can impact members and communal memory in dignity-affecting ways: “[t]hose whose family lines were in the past attacked, exploited, suppressed, or denigrated are likely to suffer from feelings of anger, regret, sadness or insecurity [...]” (ibid). To quote Philpott (2012) again, “memories are not just brute facts” (42); they are imbued with meaning and significance. For this reason, the harmful impact and interpretations of memories should be considered as among the effects of a historical injustice, for there is no other cause to which they can be attributed. The subsistence of secondary enduring injustices and the failure to offer redress reinforces, informs and perpetuates this damaging social meaning, and consequently its dignitary impact.

Part of the legacy of a historical injustice is that persecuted groups – long denied reparations, apology or acknowledgment – feel that they are unjustly ignored. Disregard for their claims reinforces mistrust and a sense that their community is not afforded the respect it deserves. The historical injustice thus stands as a representative emblem of a continuing

process (Vernon 2012, 113). As an emblem, historical injustice may come to represent the indignities and injustices attendant on settler-colonialism; it is an insulting and dehumanizing emblem, a sort of placeholder for much that is wrong with the treatment of Indigenous people(s), past and present. As Marrus (2007) argues, those who seek apology for historical injustice stress the importance of acknowledging “their understanding of the nature of the wrong committed, and its destructive effects, both originally and subsequently” (79). The “nature of the wrong” is part of the meaning of a historical injustice, or what it symbolizes. Marrus continues,

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 [also] persist in succeeding generations. (83).

The meaning of an injustice thus becomes intertwined with identity, and this is why “[i]t is the remembering which is important for many people; and it is the forgetting which is most offensive” (Kukathas 2003, 173). Neglecting the historical record is damaging to a victimized community’s identity (Waldron 1992, 6). If the offended community cares about its history, so too should the inheritors of the polity that so impacted it.

Here we must recognize that the significance of a historical injustice and its consequent dignitary harms do not arise out of a vacuum. The ongoing failure to address this meaning on the part of a responsible collective can reinforce an offended community’s sense that non-Indigenous people do not consider them moral equals or worthy of attention. This attitude is in keeping with the colonial past. Persecuted Indigenous individuals, peoples, groups and nations see that the colonial mindset of the past persists in the present, even if many contemporary non-Indigenous citizens do not. The significance of the injustice as a symbol of colonialism arises from long-established patterns of oppression which involve non-Indigenous individuals’ attitudes, the political traditions of the state, the unjust structure of its social institutions, and the cultural ambivalence of its non-Indigenous citizens living their everyday lives in ways continuous with those of the past. Together, these reproduce the disrespectful expressive messaging of historical injustice. An ingrained disregard for the claims of a victimized community’s calls for justice reinforces these messages, for it

exemplifies the continually reproduced modalities of colonialism (see Sparrow 2000 and Spinner-Halev 2007). Citizens of a culpable state are thus complicit in the maintenance and reproduction of the damaging social meaning of a historical injustice, for they perpetuate the dignity-affecting disregard for calls for redress and fail to acknowledge the wrongfulness of historical mistreatment. The meaning of a historical injustice for a victimized community matters; ignoring this is unjust and disrespectful. Addressing the meaning of an injustice requires altering its significance to Indigenous peoples. Once we recognize that the maintenance of attitudes, prejudicial patterns of behaviour and political traditions in turn maintain the dignity-affecting meaning of a historical injustice for offended parties, citizens have a reason for participating in the state's redress for it – and for participating in reconciliation more broadly. If they do not, they are blameworthy.

The reader may object that the motivation just described fails to fulfill desideratum (e), that the motivation to redress historical injustice stem partly from the recognition of its wrongfulness. She might argue that instead of the motivation for participation being about a historical injustice, it is actually about the avoidance of complicity in the perpetuation of its damaging symbolism, and thus the normative motivation is still misplaced. But this misses the nuance of my position. While it is true that citizens are not at fault for historical injustice per se, and that the fault principle thus does not apply with respect to this wrong, there are other normative considerations that come into play here. These bear on individuals' liability for the dignitary harms inextricably connected to historical injustice.

The dehumanizing message of historical injustice is part of what made it wrong. Since dehumanization was an inextricable feature of historical injustices, failing to redress them means that their dehumanizing message stands. To the extent that such injustices remain undressed, the message of Indigenous inferiority is maintained. Yet one who focuses only on the present would not be getting the point. It is not just about the *effects* of historical wrongdoing and the recognition that *they* are unjust, but about what the perpetration of historical injustice says about settler societies' perspective of Indigenous people(s). This expands our understanding of historical injustice from a narrow consideration of a discrete episode in history to the erroneous normative presuppositions of colonialism itself. Such an expanded understanding requires that non-Indigenous citizens recognize that the denial of

justice in effect denies the moral equality of Indigenous people in a way that is in keeping not only with colonial ideology, but also with the moral architecture of the historical injustices at issue. What matters is not sympathy with suffering, but acknowledgment that historical injustice was wrong (Marrus 2007, 79). This means that contemporaries must first understand history, its significance, and its bearing on – and relation to – the present. A commitment to redress historical injustice cannot really come with the desire to avoid complicity alone but must begin with a recognition that a historical injustice was wrong, that the cultural outlooks that made historical injustices possible persist, that offended parties are moral equals deserving of respect, and that the perspectives of offended communities with respect to the injustice are worth considering. Given the passage of time, how else are we to address a historical injustice directly but through its meaning?

1.5 Conclusion

The challenge this paper aimed to meet came from cynics who deny that contemporaries can be held responsible in a forward-looking way for historical injustices perpetrated by the state. By embracing a two-level distinction between the state and its citizens, and by drawing attention to how there are distinct, enduring injustices that resulted from or enabled historical injustice, I have offered a solution to the transmission problem that will help to solve the settler problem. By speaking from within the liability framework in a way that respects Eurocentric worldviews, this chapter sought to convince settlers not only that they are morally responsible for the redress of historical wrongs, but also that the larger project of reconciliation is worthwhile in the first place. Paying attention to enduring injustices helps lay the groundwork for a holistic approach to reconciliation: it is not just about acknowledging that what was done was wrong, but also about answering to the needs of the descendants of victims, victims who deserve redress for the wrongs they and their communities have suffered and continue to suffer.

What does all of this have to say about reconciliation in settler states, the ultimate focus of this dissertation? Answering this question would be getting ahead of ourselves. I said at the outset that official apology for historical injustice would be our test case for the transmission of responsibility across generations. Now that we have a conceptual armoury with which to approach official apology, it is time to turn to the issue of how we can make

sense of this intriguing instrument of reconciliation. That is the subject of the next chapter.

Chapter 2: The Moral Goals of Official Apology in Settler States

Introduction: conceptual problems with historical apologies

The most frequently voiced criticism of official apology for historical injustice is one that is familiar in form to the problem addressed in the last chapter. Namely, *people alive today did not commit the acts that are the subject of apology* (Wyeneth 2001, 25; see Thompson 2012; Govier and Vewoerd 2002d). Chapter 1's solution to the transmission problem, or the issue of whether reparative responsibility for injustice can transmit across generations, was not undertaken solely to convince settlers of their moral responsibility to participate in the substantive processes associated with reconciliation. It was also in large part an effort to come to grips with whether contemporaries can apologize for something they did not do. The thought was that if reparative responsibility can transmit across generations, then so perhaps can standing to apologize. But this apparent corollary of my solution to the transmission problem is not readily deduced from the findings of chapter 1. In fact, one could argue that the conditional might be better understood as running the other way: if contemporaries can meaningfully apologize for historical injustice, then their reparative responsibilities must be clear. This is why I said that official apology would be our 'test case,' a sort of trial by fire for my solution to the transmission problem. By solving the hardest case of a kind, we have evidence that other cases of that kind are likewise solvable. Official apology is our test case because while the transfer of reparative responsibility across generations can be justified on a number of grounds, standing to apologize cannot be. This is because of a peculiar feature of apology: to meaningfully apologize for something, one must have been responsible for that something. I cannot apologize to you in any meaningful sense for the destruction of your car when it was your neighbor who borrowed the car, drove recklessly, and crashed it. But perhaps I incur some sort of reparative responsibility if I had previously told you that your neighbor was a trustworthy fellow and good driver. That is, it is harder to justify a transfer of *standing* than it is to justify a transfer of reparative responsibility.

One of the goals of this chapter will be to argue that the complicity approach can demonstrate how contemporaries have standing to offer a morally significant apology for historical (and enduring) injustice. In this aspect, the chapter will respond to the criticism that official apologies for historical injustice simply do not make sense because contemporaries are not responsible for the acts that are their subject. But if I were to stop there, we would be

no closer to understanding the meaning of ‘reconciliation,’ the ultimate aim of this dissertation. This chapter therefore calls for a more ambitious agenda. If we grant that official apology is a part of reconciliation, a wider exploration of official apology may be able to shed some light on necessary conditions for reconciliation considered as an outcome. That is, if we can understand how official apology for historical injustice might make sense, we may be able to uncover some of the underlying assumptions about the aims of reconciliation. Addressing the issue of standing will help in this conceptual excavation by putting the complicity approach to work, showing why contemporaries are key players in the project of reconciliation. But it will not be enough for a broader understanding of reconciliation. To better understand reconciliation, we need to explore what official apology is trying to *do* in this context.

Official apology, as a relatively new and emerging political practice, is haunted by a number of conceptual issues. My aim in this chapter is to address three of the most salient for the purposes of this dissertation. Because we need first to know what we are talking about before we can explore apology’s moral functions, sec. 2.1 will determine the essential components of an official apology. For empirical reasons, I will argue that these components should be nearly identical to those of interpersonal apology. To respond to the objection that a state cannot logically meet these component requirements, I will argue that we can rescue official apology from conceptual peril by understanding it from a functionalist perspective. Sec. 2 is where I will address the issue of standing, but I do this indirectly through an examination of how we should characterize the ‘apologizer’ in official apology. The reason for this indirect route is related to the observation that what an apology can do depends in large part on what its deliverer can do. To illustrate, my apology for the neighbor’s totaling of your car will likely not do much for you; it will probably not satisfy you. You want the apology to come from *him*, not me. An apology of the kind that concerns this dissertation is not an expression of sympathy, but instead involves an admission of responsibility. So, what the deliverer of an apology can do depends on what sort of standing they have. This is why it is important to land on an account of how we should conceive of the apologizer here. Is it the state, its citizens, or some amalgam of both? The answer to this question has implications for the meaning and significance an official apology can have. By drawing on the consequences of the complicity approach I will conclude that the apologizer *should* comprise two types of

agent: the state (understood as the sum of the institutions of government and inclusive of public servants) *and* its individual non-Indigenous citizens. Finally, section three will build on the findings of both this and the last chapter to determine what some of the most important moral functions of official apology to Indigenous people(s) in settler states should be. Answering this question will require an analysis of the wrongs these apologies aim to address. This will uncover the *de facto* messages expressed by historical and enduring injustices and conclude that the moral functions to be emphasized in official apologies should be designed as corrective antidotes to them.

Since this dissertation aims to better understand reconciliation, the overarching purpose of this chapter is to identify some of the critical moral functions of official apology in this context. These moral functions speak to the moral goals of reconciliation. But I hope the above made clear that the moral functions of apology cannot be discerned without asking other questions, such as what apology is, who it is coming from, and how it is justified. The methodology of this chapter reflects the insight that what official apology should seek to do must be context-sensitive, differentiating it from other treatments of official apology. These other treatments first define official apology as a speech act (Winter 2015, 263). They then put forth a list of requirements to make an apology meaningful. Finally, they apply this template to a given context (Cels 2015, 354). This chapter seeks to add a normative component to the study of apology, upending the familiar trend in at least one respect: by examining the context-specific problems – the historical and enduring injustices which official apology aims to address – the chapter will offer a viable picture of the moral goals that should be sought as partial remedy for them.

2.1 What should official apology look like?

The kind of apologies that I discuss in this chapter are a species of ‘collective apology,’ or apologies delivered on behalf of a group as opposed to an individual. They are officially endorsed public apologies offered by a representative of a state (or one of its institutions) to victims of state wrongdoing.³⁵ Official apologies of this kind are thought to be expressive,

³⁵ For alternative but largely similar definitions see e.g.: Howard-Hassman 2012, 32; M. Murphy 2011, 49; Cels 2015, 351; Funk-Unrau 2014, 138; Thompson 2008, 31.

transactional acts of moral repair, or acts aimed at restoring or engendering desirable relations between conflicting parties in the wake of wrongdoing (Cohen 2016, 359; Govier and Vewoerd 2002d, 140). My focus will be on ‘historical’ official apologies offered to Indigenous peoples who have suffered historically from the actions of the settler state. Official apologies – both the historical and contemporary varieties – are widely thought to help promote reconciliation.³⁶

If we are to talk about official apology in any depth it is important that we get a grip on what it minimally involves.³⁷ Numerous authors approach the study of official apology by first listing which elements together constitute an interpersonal apology, or what the ‘entry norms’ (MacLachlan 2014) or ‘existence conditions’ are (Winter 2015). That is, they explore what makes a locution an apology and not something else. They then ask how these elements can be transposed to the political arena (MacLachlan 2018, 383; see e.g. Gill 2000; Tsosie 2006). Despite criticism on several fronts,³⁸ I argue that this is the correct approach to take. This section will offer a template for the minimal requirements of official apology. Then, in light of certain metaphysical difficulties, it will go on to endorse a functionalist account of official apology. On this account, each of the identified requirements of the apology is understood to have a purpose – each aims to have an *effect*. If we emphasize the effects of apology in our analysis, we can then determine how the state can promote these effects in ways that serve as analogues of the components of interpersonal apology (on which much more in the next chapter). In this way, official apology can proceed on a conceptually sound basis.

2.1.1 Requirements: official apology and its interpersonal counterpart

Before getting to the minimal requirements of official apology, a bit of a preamble is in order. For it might well be asked: if official apology is *political* – a category of rhetorical

³⁶ See for example: Barkan and Karn 2006; Gibbs 2009; Govier and Verwoerd 2002b; 2002d; Walker 2013; Weyeneth 2001; Nobles 2008.

³⁷ It goes without saying that I am talking about apologies for grave wrongs. Official apologies only arise in the case of serious wrongdoing and consequently are more comprehensive than many interpersonal apologies (Howard-Hassman 2012, 38). The more serious an offense, the more that is required for its repair (Gill 2000, 12).

³⁸ See for example MacLachlan 2014 and Thompson 2012 for a canvass of criticisms. I address some of these below.

device unto itself – then what is the value of starting with a foray into the mechanics of *interpersonal* apology? The answer is that probing interpersonal apology for insights into official apology is a valuable exercise for a very humdrum reason. Namely, empirical evidence suggests that the public views and judges official apologies in much the same way it does interpersonal ones (Kampf 2013, 153 and 158; Wenzel et al. 2017; 2018; Blatz, Schumann and Ross 2009). In determining the minimal requirements of official apology, it is therefore advisable to pay close attention to what an interpersonal one demands. Official apology is an existing practice that is meant to have positive impacts. If official apologies are to have any power or meaning – if they are to be effective as measures aimed at reconciliation – they should therefore be responsive in some measure to the attitudes of those who receive or witness them. In this instance, moral theory should respond to the facts of human psychology (Dwyer 2003, 97). This crucial point means that official apology should adhere to the requirements of its interpersonal cousin as closely as possible if it is to approximate rhetorical power of interpersonal apology. The core components of interpersonal apology must be mirrored in political analogues if we really aim to talk about official apology as being ‘apology’ at all – at least as the term is generally understood. Straying too far from the norms of interpersonal apology will mean we are no longer talking about ‘apology’ in anything but a suspiciously attenuated sense of the word.

This approach respects the realities of political practice. In their fundamentals, extant official apologies mirror those of interpersonal apologies. An examination of official apologies offered by representatives of culpable institutions or states supports the idea that these apologies are meant to mimic their interpersonal counterparts; most, if not all, make some effort to fulfil the prerequisites of interpersonal apology (Blatz, Schumann and Ross 2009). Even the appearance of sincerity – a key measure of the seriousness of an interpersonal apology – is striven for (Vernon 2012, 82; see Kampf 2013, 152-158). This is not surprising, for perceived sincerity plays a key role in the effectiveness of collective level apology (Wenzel et al. 2017, 758; see sec. 2.2). Thus, since the public conceives official apology pre-analytically as an instance of apology as it is generally understood, and since mandated deliverers treat them as such anyway, it will not be fruitful to develop a model of official apology that pays little if any attention to its interpersonal progenitor. A reconceptualization of apology that bears little relation to its interpersonal counterpart will

offer an analysis of a convention that not only does not exist, but also one that is unlikely to be effective in political contexts.

If this argument is right, then a study of the ‘existence conditions’ of interpersonal apology will furnish those of official apology. Many scholars offer what is variously termed a ‘checklist’ or ‘regulative’ model of official apology (Cels 2015, 354). These accounts consist of a set of criteria that describe normative requirements for official apology, often derived from an analysis of what are thought to be putatively meaningful interpersonal apologies (Howard-Hassman 2012, 37). For the empirical reasons just described, this is the approach I take. Checklist models of apology are templates applicable to a variety of social contexts where apology is thought to be appropriate. The elements of some of the more elaborate checklists describe not just what makes for a real apology, or what qualifies as an apology, but also what makes for a good one. Nick Smith (2008), for instance, advocates for a ‘categorical’ apology – a form of apology that touches on all of the many meanings and functions of apology, and which demands everything from proper displays of emotion to appropriate mental states in the deliverer. While an apology that fails to live up to these demands can still qualify as an apology, the model is meant as an ideal to which apologizers can aspire (Smith 2013, 32). Other criteria suggested for checklist apologies include promises of reparation and an outline of benchmarks for retrospective assessments of sincerity (*ibid.*).

Regulative ideals for apology are valuable for several reasons (James 2008, 139). First, the criteria provide yardsticks by which an apology can be evaluated for its robustness. Next, they allow for comparative assessments of qualitatively different apologies. Finally, they provide a reference point for assessing the moral consistency of various apologies offered by the same actor (*ibid.*). Note, though, is that these checklists should not be considered limiting. Some apologies may require more to be effective, and the context of a given apology will play a role in determining its additional qualitative content. The requirements for a good apology must respond to the needs of the person(s) to whom an apology is offered. Consider what sort of apology you would want from your reckless neighbor, and then ask yourself if anything less would satisfy you. As M. Murphy (2011) aptly notes about historical apologies, “[n]ot all cases of historical injustice are identical; therefore, not every apology for historical injustice should be expected to meet the same

criteria to be considered authentic” (49). Additional criteria can be added in light of contextual particularities.

As we will see below, my checklist for apology does not go so far as Nick Smith’s (2008; 2014) categorical apology, yet it is somewhat more exhaustive than those of scholars who prefer ultra-minimalist accounts.³⁹ Minimalist accounts are thought to be useful insofar as they allow us to identify what does and does not qualify as an apology while simultaneously offering great latitude in its crafting (MachLachlan 2018, 361). This is admittedly a virtue of minimalist models, for their antipodes – ‘maximalist’ accounts such as Smith’s – run the risk of overburdening apologizers and discounting genuine apologies (MacLachlan 2014, 18-19). Yet despite these advantages, minimalist accounts tend to be so spare that they offer little guidance on what counts as a *good* apology. A useful model would offer some instruction in this domain. On minimalist accounts, many things which are eminently not apologies would qualify as apologies, and this is problematic. For instance, Weyeneth (2001) argues that memorials, plaques and renaming parks are forms of apology (15). Certainly, such initiatives are not to be dismissed. But are they apologies? It would seem not if we agree with Tavuchis (1991) that “... apology has two fundamental requirements: the offender has to be sorry and has to say so” (36).

Acknowledged responsibility and remorse are central to genuine interpersonal apology for grave intentional wrongdoing. Consider that apologies must be distinguished from other responses to wrongdoing such as excuses, justifications, and accounts (Govier and Verwoerd 2002c, 67; Tavuchis 1991, 17). Each of these can involve regretful sentiments – being sorry – on the part of the apologizer, but the apologizer need admit neither their remorse nor their responsibility. The minimal requirements of apology must serve to distinguish apology from these and other forms of equivocation employed by “verbal acrobats” seeking to minimize wrongdoing (Kampf 2013, 150). An internal mental state of remorse is not enough to make these distinctions. Excuses may acknowledge harms but deny responsibility. Justifications ask the listener to understand the reasons behind an action but need not acknowledge the wrongness of this action. Accounts tell a story, but often do not condemn a wrong. In contrast, I agree with Tavuchis that a felicitous interpersonal apology

³⁹ For examples, see De Greiff 2008; Weyeneth 2001; Winter 2015.

demands that the deliverer “stand naked”: no excuses, no justifications, no attempts to mitigate responsibility (18; see also Minow 1998, 115; Coombs 2013, 231). There is remarkable agreement among scholars on this core feature of apology (Marrus 2007, 79). For the above reasons, then, it is fruitful to model official apologies on a modest as opposed to a maximal or ultra-minimal set of conditions.

All this by way of preamble may seem excessive. Yet the literature on apology can be so discordant, the accounts of apology so variable, that some justification must be given for any proffered checklist if it is not to seem arbitrary. I contend that good interpersonal apologies for grave wrongs require the following elements in order to be felicitous: (a) remorse, sorrow, contrition or some other negative affect – the offender must be *sorry* (Tavuchis 1991, 36);⁴⁰ (b) the clear identification of the wrong at issue; (c) the full, unmitigated acceptance of responsibility for this wrong; (d) an acknowledgement of the impact on the victim(s) and that the wrongdoing was in fact wrong; (e) a disavowal of the wrongdoing and the justifications that underwrote it; (f) a promise of forbearance; and finally, since the acceptance of responsibility is required, it follows that (g) the apology must come from a party who has appropriate standing to apologize.⁴¹ The effectiveness of an apology depends in large part on how successful the apologizer is in convincing the recipient that she is sincere in her fulfillment of these conditions (MacLachlan 2015, 444).

Since these are the core components of *interpersonal* apology, and since the public views and judges official apologies in much the same way that it does interpersonal ones, so then should they be the minimal requirements for an *official* apology. They must be the same

⁴⁰ Cf. MacLachlan 2018, 362. MacLachlan notes that there are many instances in which remorse does not seem central to interpersonal apology. However, the above discussion concerns apologies for intentionally perpetrated grave wrongs. Remorse (or a close cognate) seems an intuitive requirement for a genuinely repentant individual seeking to deliver a sincere apology.

⁴¹ Many scholars of apology, if not most, proffer something which approximates this checklist, though some fold various elements I have chosen to demarcate into more comprehensive desiderata. Others choose to frame the desiderata in the form of questions apologizers should consider before crafting an apology. Examples can be found in, e.g., Gill 2000; James 2008; Lazare 2004; MacLachlan 2015; 2018; Marrus 2007; Smith 2014; Tavuchis 1991; Thompson 2008. The existence conditions I offer for apology are largely intuitive, and the aim is to strike a balance between maximal and minimal accounts. These conditions are not limiting; more can be added based on contextual particularities. As Winter (2015) argues, “[t]he best account of the apology’s necessary conditions will be sufficiently broad in conception, and flexible in application, to permit actual practice to specify most qualitative content” (263). However, without the above core elements an apology for grave wrongs will not be felicitous. Recall that we are interested in *good* and *effective* apology. If someone had gravely wronged you, would you be satisfied with an apology that left out any of the elements listed above?

if official apology is to respond to the facts of human psychology. Yet despite the need to define official apology in relation to interpersonal apology, it is important to note that the requirements of official apology need not be realized in the same way as in interpersonal contexts. Interpersonal apologies often succeed with just words, sometimes accompanied by displays of emotion. Official apologies may require much more than words to convince recipients of the sincerity of the apologetic message. As we will see in the next chapter, they may even need to be conceived as more than a speech act – they may in fact be better conceived as a *process* that lends the speech component meaning (Thompson 2012, 220; Govier and Vewoerd 2002d, 143). Given the wide gulf between the contexts of interpersonal and official apologies, we should allow that the way the requirements are fulfilled will be different.

2.1.2 A functionalist account

To say that the essential components of interpersonal apologies are the same as those of official apologies, then, does not commit us to believing that these forms of apology for grave wrongdoing are coextensive in all particulars. For instance, official apologies are publicly delivered with some pomp and circumstance, they are the outcome of a process of negotiation, and they are committed to written records. And not only do official apologies present unique metaphysical questions concerning the ontology of the deliverer (see sec. 2.2), but they also have expressly political functions that are absent in interpersonal contexts (MachLachlan 2014, 13). In addition, the essential presence of third-party witnesses – that is, the public and media – alters the dynamic of apology (*ibid.*; see Kampf 2013). Finally, moving from interpersonal to collective levels of analysis presents a tricky problem: namely, it is not immediately obvious that it makes any sense to demand that the requirements be the same.

The obvious objection to the idea that the minimal requirements of the two forms of apology are the same is that collectivities such as states just cannot fulfill what is arguably the most important of them. Being without a mind, a collectivity such as a state cannot fulfil (a) the requirement that the apologizer feel sorrow or remorse, or indeed display any negative affect. As we will see later (sec. 2), this objection begs the question of who or what is supposed to be the ‘apologizer’ in official apology. However, for reasons that will be clear by

the end of sec. 2.2, let us grant for now that the apologizing agent is the state considered in its own right as opposed to, say, some amalgam of its citizens. For the purposes of this discussion, then, I will understand the state as the sum of its institutions of government.

In interpersonal contexts, a demonstration of remorse serves a purpose, and that purpose is to give evidence of both the sincerity of the apology and the seriousness of the intention to forbear or make good. As MacLachlan (2013) argues, “[f]eelings and attitudes only appear as the vehicles for these primary functions” (376).⁴² Perhaps you would not believe in the sincerity of your neighbor’s apology if he had a smirk on his face while delivering it. Perhaps you would not even call his words an ‘apology’ in anything but a pro forma sense. A political leader, acting as a stand-in for a culpable state, can of course feel genuine remorse over a collective injustice. But this does not mean that the *state* feels remorse. This would appear to present an insurmountable obstacle to the very idea of a genuine official apology if we hold, as Tavuchis (1991) does, that remorse is essential to interpersonal apology, our guiding model. Some commentators therefore suggest doing away with the remorse criterion altogether.⁴³ An apology, they argue, can still be an apology if it lacks remorse.

Yet given the empirical findings discussed above, I do not believe we can so easily cast the requirement of remorse aside. In order avoid being dismissed as a politics of distraction (Corntassel and Holder 2008), as “crocodile tears” (MacLachlan 2018, 359), as modes of artificial redress that do nothing but perpetuate or reify the existing colonial dynamic of settler states (Short 2003; Dorrell 2009), official apologies cannot be instruments of cynical political expediency. Being perceived as such will not only demonstrate disrespect, it will also mean that they will not be effective (M. Murphy 2011, 51; Wenzel et al. 2018). Perceived insincerity runs the risk of further damaging already fraught relationships (Nadler and Livatan 2006). This means that official apologies need to be sincere. Sincerity, as I understand it, requires, at minimum, that (a) the apology demonstrate a genuine desire to

⁴² Similar arguments can be found in Lazare 2004, 116-117; Tavuchis 1991, 23-32; Vernon 2012, 81.

⁴³ For example Tavuchis (1991), who emphasizes that what matters in collective-level apology is not remorse, but the production of a written record (102-108). See also Govier and Vewoerd 2002c and 2002d; Vernon 2012, 82-83; Winter 2015, 276.

develop new relationships by making amends for past wrongs that stand in the way of them; and it also requires that (b) the apology represent a serious commitment to forbear from further transgressions.⁴⁴ The importance of sincerity harkens to an argument made in the last chapter, and which I build on in the next: in the context of reconciliation projects *motivations matter*. An apology without remorse seems insincere and thus cannot do its work. The problem with the remorse requirement at the collective level of analysis, then, is that remorse cannot be a viable indicator of sincerity because collectives cannot feel remorse.

The way around this problem is to take a functionalist approach to official apology. A functionalist approach judges official apologies “not so much by what they are *made of* but by what they *do*” (Cohen 2017, 361, emphasis added). Somewhat surprisingly, it seems that interpreting the components of apology from a functionalist perspective is the implicit methodology of almost all those who write on apology. Some scholars do so by espousing Austin’s (1962) speech act theory, others by emphasizing in their analysis the intended *effects* of each of the components of apology. For instance, Lazare (2004) asks “...what psychological needs do successful apologies satisfy?” (44). Similarly, Smith (2014) begins his analysis by asking what a victims wants from an apology: “...she wants to know what happened, she wants someone to admit wrongdoing, she doesn’t want to stand by while someone ‘gets away with’ violating a moral principle she cares about, she wants to be respected...” (32). Gill’s (2000) analysis likewise seeks to “further enrich our understanding of apologies by identifying several functions that are pertinent to morality” (15). Tsosie (2006) explicitly judges the success of an apology by its ability to fulfil key functions. The basic question to ask in a functionalist approach, then, is what do the components of apologies *do*? What are they *for*? While the core requirements of an apology must of course be formally met in speech, whether or not we can say that they have *truly* been met – whether or not apology is serving its intended purpose – depends on whether the functions of these requirements have been effectively promoted.

If in interpersonal apology remorse serves the purpose of demonstrating sincerity, then a collectivity can fulfil the same function, just in other ways. Therefore, a slight amendment to our checklist is required: instead of requiring remorse, an effective official

⁴⁴ Dussault 2011 operationalizes ‘sincerity’ for this context in a similar way (31).

apology requires sincerity – the functional equivalent of remorse in official apology. The next chapter will explore at length how the state can demonstrate sincerity, as defined above, by undertaking reparative action. For the rest of this chapter I will bracket the question of state sincerity to consider how citizens, as distinct from the state, can help to demonstrate an official apology's sincerity. As I will explain below (sec. 2.2.3), apologetic sincerity can be conveyed through citizen endorsement of the apologetic message, and not only through reparative initiatives undertaken by the state. Together, the participation of both state and citizen will demonstrate the seriousness of the commitments the apology expresses.

Political analogues of the other components of interpersonal apology can similarly be determined through careful dissection of the purpose of each. While a detailed analysis must await chapter 3, a preliminary functional interpretation would understand them thus: (a) remorse demonstrates the sincerity of the apology; (b) the clear identification of the wrong at issue provides victims with acknowledgement, the detailed truth they may desire and correctives to false historical narratives; (c) the full, unmitigated acceptance of responsibility for the wrong transfers the burden of the wrong and responsibility for its repair to the wrongdoer; (d) an acknowledgement of the impact on the victim(s) and that the wrongdoing was in fact wrong convinces victims of shared moral norms, restores dignity through rehumanization, and further acknowledges the impact of the harm they have suffered; (e) the disavowal of the wrongdoing and the justifications that underwrote it provide victims with evidence that the offender has undergone a process of reflection and emerged changed and contrite; (f) a promise of forbearance gives victims the hope that further transgressions will not occur, effectively inspiring trust.⁴⁵

As I will argue in the next chapter, each of these functions can be promoted through concrete reparative initiatives that collectively serve to promote the moral functions of the apology and lend it credibility. I should be clear, though, that undertaking these initiatives without an explicit official apology accompanying them will not be an apology. A functionalist approach does not suggest that the speech act is to be done away with, the apology dissolving into a disparate set of reparative measures. While some see reparative measures as a form of de facto apology in themselves (e.g. Weyeneth 2001, 15; Pettigrove

⁴⁵ For similar treatments, see Blatz, Schumann and Ross 2009 and Cohen 2017.

2003, 324), I think we should resist this tendency. Without explicit apology, reparative measures might indeed represent a form of acknowledgement and communicate important messages. But since they do not fulfil the requirements of apology understood as a distinct and coherent whole, calling them such stretches the concept too far. Reparation, for instance, cannot perform all the moral functions of apology (Gill 2000, 23; Tavuchis 1991, 23). Instead, we should understand official apology as a speech act that draws much of its substance and meaning from the political analogues of the components of interpersonal apology.

There is a further component of official apology that I have left for last, one that presents problems for my analysis. Since admitting responsibility is required for official apology, it follows that (g) the apology must come from a deliverer who has some appropriate standing to apologize. Yet, as I indicated in the introduction to this chapter, the preeminent philosophical objection to official apologies for historical injustice is that they simply do not make sense, for contemporaries are not culpable for their constative elements and thus do not have standing to apologize. The intergenerational nature of many of the injustices that stand in the way of reconciliation in settler states – as well as the murky ontological status of the apology’s deliverer – present obstacles that I now turn to.

2.2 From whom – or what – is official apology coming?

A meaningful apology for a wrong must come from a party with appropriate standing to apologize. In this context, ‘standing’ connects with moral responsibility: a party can only apologize directly for a wrong if it bears responsibility for it (Smith 2008, 52).⁴⁶ This view of standing for apology parallels the liability doctrine discussed in the last chapter. To be held responsible, one must be to blame. To meaningfully apologize for a wrong, one must be responsible. So-called ‘vicarious’ apologies are rightly thought to lack the desired meanings of apology insofar as they communicate different messages to receivers than would an apology from a (directly) responsible party. A parent apologizing for a misbehaving child, for example, is conveying their regret at an apparent failure to properly instruct or control the child. They have standing to apologize for those failures, but not for the actions of the child per se. Again, think of what little value you might derive from *my* apology for your

⁴⁶ Cf. Cohen 2017.

neighbor's joyride in your car. Instead of acknowledging direct responsibility and conveying remorse, a vicarious apology can do no more than such things as affirm norms or vindicate victims' account of wrongdoing (Smith 2008, 52-53). Without appropriate standing, such 'apologies' are not properly understood as apologies for the wrong they are ostensibly about. Of course, they may use the language of apology, but their meaning is not consonant with the spirit of a sincere apology as suggested by the normative requirements discussed above.

This point about standing is related to another insight alluded to in the introduction to this chapter. Namely, the character or constitution of the party delivering an official apology will have implications for the sorts of meanings that it can convey to receivers. It is not only the apologizer's location in the architecture of responsibility that matters. How we conceive of 'the apologizer' will bear on the power of the apology. This is a bit of an obscure idea, but to illustrate: if it is the state that is apologizing, as opposed to some amalgam of its members, there is no conceptual barrier to its apologizing for historical injustices, for as a subsisting entity it is directly responsible for these. But if it is the constituents of the state that are apologizing, then it is less easy to see how they have appropriate standing for such an apology. In this latter case, the power of the apology might be undermined, because such a conception will not support the apologetic meanings associated with a genuine apology for historical injustice from a culpable party. Before we can land on any apologetic meanings to emphasize in the context of official apologies in settler states (sec. 2.3), we must decide on how to characterize the apologizer.

2.2.1 A trilemma

In his discussion of official apologies Winter (2015) notes that there are three competing models in the literature of whom (or what) these apologies are supposed to be coming from: the individualist, the collectivist, and the institutionalist accounts (261). The individualist account focuses on individual wrongdoing and conceives of official apologies as endorsed by culpable individuals and delivered by a representative that speaks on their behalf (265-266). The collectivist model understands wrongdoing as irreducibly collective and emanating from the 'nation' understood as a loose entity consisting of overlapping individual membership in a political community; the representative deliverer is its mouthpiece (269). The institutionalist model sees culpable political institutions as the apologizing agent, the

wrongdoing as an act of the state, and the deliverer as speaking on behalf of the responsible state and/or its institution(s) (273-275).

Winter's discussion is useful because it outlines a trilemma that can help us navigate the tricky question of how we should characterize the apologizer in light of the complicity approach developed in chapter 1. As chapter 1 made clear, *both* individuals and the state bear responsibility for the intentional injustices at issue. While collective injustices are best construed as acts of state, these injustices are dependent on action (or inaction) on the part of individuals. Importantly, I argued, this does not mean that the collective nature of the injustices at issue requires a collapse into an individualist account of large-scale wrongdoing. Nor, I now argue, should it mean we need to turn to a wholly individualist account of official apology. Without the organizing influence of the state, the actions of individuals would have a vastly different normative significance. We cannot understand the moral contours of individual action without understanding the collective context in which it occurs (Isaacs 2011, 57). These considerations suggest that neither the individualist, nor the collectivist, nor even the institutionalist model will work in this context. The individualist model by itself cannot account for the agency of the state. Likewise, despite being Winter's favoured solution, the institutionalist model cannot account for the role and agency of individuals. Finally, the collectivist model cannot account for agency at all.

At first glance, the collectivist approach seems most promising. Since the injustices described in the last chapter are collective in nature, a 'collectivist' solution seems warranted. But the word 'collectivist' is fool's gold here, and Winter (2015) is correct in his rejection of this approach. The sort of collective Winter has in mind is not of the type discussed in the last chapter: it is not organized. Winter's discussion focuses on collectivities defined by membership in a 'nation.' Even if we accept his characterization of the nation as shared membership in a political community, the fact remains that collectivities defined only by shared national identity are usually not agents. Without organizing institutions, a collectivity of this kind is not an entity with any agency of its own (270). Indeed, without organizing institutions, there is no sense in which a nation can be anything more than a loose political community. At most, a nation without governing institutions is an aggregate of individuals bound together by shared (often contested) ideas. The problem for this model, then, is that a

meaningful apology for grave wrongs requires standing. Standing demands backward-looking responsibility. Something without agency cannot bear responsibility in the way a meaningful apology requires. If this is correct, we can safely leave this option aside.

We can get closer to a solution to the remaining dilemma between the institutionalist and individualist accounts by examining Winter's (2015) rejection of the individualist approach. According to Winter, the individualist account sees official apology as coming from an aggregate of (individually) culpable individuals through a representative (261 and 265). This account thus requires individual wrongdoing on the part of the constituents of the aggregate. So far, so good for the complicity approach developed in chapter 1. Yet Winter uses the example of Stephen Harper's 2008 apology to victims of Canada's residential schools to illustrate the problem with this view: "[w]hen Prime Minister Harper says 'We are sorry', the individual approach would understand him as representing the sorrow that particular Canadians feel regarding relevant injuries" (265). For Winter, this is a problem. In the first place, the "relevant injuries" include forcible removal, abuse and assimilation. Yet (most) Canadians are not individually responsible for these wrongs, and none are responsible for them in their entirety (267). This means they do not have appropriate standing to apologize for these relevant injuries. In the second, the residential school system was primarily a consequence of the state acting through its institutions, not the consequence of a mere aggregate of individuals. As we have seen, the injustices described in the last chapter are properly understood as intentional exercises of the agency of the state. "By collapsing the political into the personal, the individual account leaves no space for independent institutional action" (ibid.).

Winter's last point is precisely the reason that the last chapter endorsed the idea that both individual and collective levels of analysis are indispensable for assessing the moral contours of large-scale injustices (Isaacs 2011, 11). Winter (2015) is right that the "individual account is a theory of a non-existent practice" (267). Apologies for injustices such as the residential school system cannot be based on the individualist model alone because most contemporary Canadians are not directly responsible for these. Nor, of course, is any one Canadian singly responsible for residential schools. The injustices described in chapter 1 transcend the actions of the individuals that help to perpetrate, perpetuate and/or legitimize

them: these injustices are irreducibly collective. An individualist model cannot account for the discrepancy between the content of the apology and the individual responsibility of the people whose remorse it is (partly) meant to reflect. In the case of the 2008 apology for the residential school system, the apology is indeed better understood as emanating from the state that produced it.

The institutionalist account understands official apology as emanating from the state (exclusive of citizens) through its institutions of government. In its favor is the empirical fact that state institutions orchestrate and execute policies, actions or projects that are frequently undertaken without the express consent or encouragement of the public. If citizens are not the authors of these actions, the argument goes, then only the state has standing to apologize for the constative elements of an apology like Harper's. As an act of state, an institutional apology is undertaken on behalf of that (or those) institution(s) which deliberately committed an injustice, and also perhaps on behalf of those public sector workers who constitute the apologizing institution(s) (see Holder 2017). If citizens are not the authors of these actions or policies, then there may be no sense in which Harper was apologizing on behalf of non-Indigenous Canadian citizens (*ibid.*).

Yet this argument does not mean that we need to take refuge, as Winter (2015) does, in the institutionalist account. Winter is right that “[t]here is a large gap between the [Harper] example’s apologetic content and what the individual account supports” (267). Yet the key question here does not concern what *that* apology was about, but rather what it *should have been about*. Here is where the normative component of this chapter begins to come into play. While the individualist model is “a theory of a non-existent practice,” this does not mean that theories of official apology cannot suggest new forms of practice, or for that matter more explanatorily powerful readings of existing practice. Indeed, the failure of most official apologies suggests that a new take on the practice is required.⁴⁷ Such an approach may be better able to capture the normative stakes of collective wrongdoing. There is no reason why there cannot be another, hybridized model describing from whom official apology is supposed to be coming. The choice between the individualist and institutionalist accounts is a

⁴⁷ This is not to say that all political apologies come to nothing. Some have been well-received, even if they failed to meet the criteria for full apology (Moses 2011; James 2008).

false dilemma. Perhaps, as Barkan and Karn (2006) suggest, a good apology “navigates between the extremes of orthodox individualism and romantic collectivism” (26).

2.2.2 A hybrid solution

The 2008 Harper apology was for the residential school system. “[T]he constative content of the Canadian apology focuses upon forcible removal, abuse, and assimilation” (Winter 2015, 267). Winter emphasizes this point to show that the individualist account cannot explain the apology because most Canadians were not responsible for these injustices – most did not remove, abuse, or attempt assimilation. Most did not work in the public sector, nor design the requisite policies. What Winter fails to pursue is the idea that instead of condemning the individualist account outright, his point actually illustrates why the apology was an inadequate response to Indigenous calls for apology. While it addressed the harms of the residential school system, it mostly ignored the broader context in which the system arose and thrived. As I will argue in the next sub-section, a good apology for injustices like the residential school system would not address these wrongs in isolation, but would instead encompass their harmful causes, meanings and legacies. The Harper apology was a narrow apology for a discrete injustice. It boxed the injustice into the overused metaphor of a “chapter” in Canadian history (Wakeham 2012, 222-223). This is a failure of the apology, and not the individualist understandings of collective apology per se. And nor does this failure of the apology mean that we need now to turn to the institutionalist account as the only remaining solution to our problem.

Given the framework espoused in the last chapter, it is straightforward to argue that something approximating an apology as conceived in 2.1 can come from the state. States can act, make commitments, accept obligations (Thompson 2008, 38). Apologies, as described, are acts; they are expressions of agency. The state, as we saw in the last chapter, is an agent because of its organization and structured decision-making pathways (1.2). Thus, provided it demonstrates sincerity through reparative undertakings, the state can meaningfully apologize in a way that respects the institutionalist framework (see Chap. 3). But this is not a wholly satisfactory solution given the two-level analysis of large-scale injustice espoused in the last chapter. That analysis holds that both individuals and the states that depend on them are co-responsible for large-scale injustices. As Thomson (2012) reminds us,

The worst wrongs, and thus the ones for which apology is most needed, are not merely the result of unjust government policies or the immoral behaviour of officials. They are embedded in social relations and manifested in the everyday actions and attitudes of citizens. (219).

If both individual and collective levels of analysis are necessary for assessing the moral contours of large-scale injustices, it stands to reason that both individual and collective agents will have a role to play in an apology for them. Only a hybridized view of the apology's deliverer can succeed in legitimizing the apologetic meanings that an official apology for large-scale injustice should convey. The 'apologizer' with appropriate standing must therefore in this instance comprise *two* kinds of agents.

This formulation may sound a bit peculiar, suggesting as it does an admixture of agents in a unitary actor. But, to employ a metaphor often used by scholars with a penchant for collectivism, it is little different than acknowledging that the soccer team Manchester United, as a collective agent, can 'win' a match only with the support of its individual players. That is, the apologizer in this context cannot succeed in delivering an effective apology without two types of agent playing the game. If there are different types of wrong at issue, and different types of agents responsible for these – and if these wrongs are narratively and causally interlaced such that one cannot be understood without reference to the others – then an adequate apology for these interlaced wrongs requires all parties with standing to participate.⁴⁸ As I argued in the last chapter, while the state bears ultimate responsibility for the injustices described, non-Indigenous citizens are complicit in the perpetuation of their meanings and legacies. Both the state and its citizens are morally responsible, albeit for different things – the state for the injustice, the citizens for their contributions to its enduring harms. Without acknowledging both sides of this equation an apology will fail to meet the requirement that it acknowledge the injustices at issue. If historical injustice cannot be understood or acknowledged without confronting its causes and enduring legacies, then the deliverer of a meaningful apology in this context should be conceived of as the state (here

⁴⁸ Interestingly, this hybrid view respects existing practice. Consider again Harper's 2008 apology: "...on behalf of the Government of Canada *and all Canadians*, I stand before you, in this Chamber so central to our life as a country, to apologize to Aboriginal peoples for Canada's role in the Indian Residential Schools system" (Harper 2008, my emphasis). While by itself this says little about whether such practice is defensible, it at least suggests we explore whether this can make sense.

understood as the sum of its institutions of government) *and* its non-Indigenous citizens.⁴⁹ As I demonstrate below (2.2.3), since the apology is delivered by a public official speaking on behalf of both the state and its non-Indigenous citizens, we can cash this out by saying that the apology should be understood as an act of state endorsed by individuals who are co-responsible for injustice. If the apology emanates from both the state and its responsible citizens, a marriage of the institutionalist and individualist accounts is required.

This is easier said than done. Two main obstacles arise. In the first place, while it is reasonable to suggest that the state, because of its enduring, organized identity can be responsible for a historical injustice and thus apologise for it, it cannot be argued, as Winter (2015) rightly notes, that contemporary individuals are similarly culpable. If this is so, how can the specific admission of responsibility for *historical* wrongs emanate from both the state and contemporary citizens? Here again we encounter our perennial objection to the transmission of responsibility across generations. Secondly – and this point also bears on the last – it is not clear how an apology for large-scale injustices, historical or contemporary, can emerge from an aggregate of citizens who are not individually responsible for them, but only for their small-scale role in them. This is one of Winter’s main concerns. If the citizens are sorry for their *role* in injustice, then in what sense can a meaningful apology for large-scale, collective and emergent injustices – Winter’s “relevant injuries” (265) – be said to come from them at all?

2.2.3 Objection 1 – individual roles and emergent injustice

I will address the second obstacle first. One response to the objection that the content of official apology cannot reflect individuals’ sorrow over large-scale ‘relevant injuries’ relies on our observation that individual actions (or inaction) in the context of collective wrongs inherit the normative features of the large-scale wrongs to which they contribute. This suggests that an apology endorsed by an individual need not concern their seemingly inconsequential action or inaction alone. Instead, the apology’s constative elements and admissions of responsibility can concern the *effects* to which their action or inaction contributed. As I have stressed, to really get a grip on the moral contours of individuals’

⁴⁹ Those who prefer citizen-inclusive views of states could understand this as an apology from ‘the state’ provided we allow that a state is composed of distinct kinds of agents. My account is meant to remain neutral on the characterization of states.

actions, the action-descriptions must refer to the collective injustice in which it took place (Isaacs 2011, 57). This gives us an opening through which we can import collective content. As I argued in chapter 1 (1.3.2), while individual impacts on collective injustices usually cannot be causally traced, nor their gravity assessed, it is enough to know that individual action *does* contribute to large-scale wrongs to engender reparative responsibility. This is all to say that an individualist understanding of apology *can* concern large-scale injustice even when we grant that individuals are not singly responsible for it. The apology need not imply a myriad of separate expressions of, for example, “I am sorry that I stood aside”; instead, the apology can say “We are sorry that we contributed to injustice X.” This means that those elements of the apology referring to collective wrongdoing can still concern large-scale injustices even when conceived as emanating in part from individuals.

But this solution is not enough, for it tends to elide individual and collective wrongs in a way that does not pay enough attention to the intentionality of the state that gave shape to injustice. At the very least, this argument requires supplementation. A comprehensive solution to our problem requires an additional feature: individual *endorsement* of the state’s apologetic message. This allows the state to accept ultimate responsibility while simultaneously involving individual citizens in apology. Non-Indigenous citizens, recognizing the normative features of their seemingly inconsequential actions in the context of collective wrongdoing, can lend their support to apology just as they lent their support to injustice. Recall again that, while not reducible to individual action, collective action nonetheless relies on individuals. While the state intentionally perpetrates injustice, this exercise in agency is reliant upon the actions of individuals. Individuals play a role in the perpetration of injustice. The last chapter argued at length that, once made aware of their role in collective injustice, individuals have normative reasons for playing their part in its rectification. One way to do this is to endorse collective-level apology. Endorsement of the message would imply that the apology is coming not only from the state, but also from those co-responsible citizens who affirm its message. In this way, settlers can “breathe life” into the state’s apology (Regan 2010, 18).

Endorsement from responsible citizens is a very demanding requirement for an official apology. Perhaps partly for this reason, some commentators prefer to understand

official apologies as coming from the state or state institutions (considered as exclusive of citizens) alone (e.g. Winter 2015). Endorsement, it is thought, is neither here nor there – what matters is that the state, however conceived, accept responsibility and apologize. But when thinking about what apology is trying to do, as my functionalist approach demands, it is important not to ignore the potential role of individuals. That citizens bear responsibility for injustices non-contingently related to historical wrongs is a normative reason for them to contribute to the efficacy of apology through endorsement. While official apology is trying to enact or restore desirable relationships between groups, it should not be forgotten that these groups are ontologically dependent on the people that compose them (Govier and Verwoerd 2002b, 192). Groups are composed of people, and for a collective to be apologetic, it is at least reasonable to hold that its constituents must likewise be apologetic.

But it is not only for normative reasons that citizens should endorse apology. As argued above (2.1.2), to perform its moral functions an apology must be perceived as sincere (see Wenzel et al. 2017, 759; 2018). Here again it is crucial to pay attention to the facts of human psychology. Recipients reflexively understand official apology as emanating from a citizen-inclusive state, and are encouraged to do so by the language of mandated speakers. Empirical evidence suggests that the perceived sincerity of collective apology is (in part) a function of the perceived representativeness of the views of the individuals composing the apologizing group (ibid. 759-761). That is, perceptions of sincerity are informed by the proportion of individual members of a collectivity that are thought to endorse the message of the apology. A study by Philpot et al. (2008) suggests that this is because, while collective apologies are recognized as emanating from collective bodies, recipients nonetheless recognize that these bodies are composed of autonomous agents capable of acting in a variety of ways (485). If an official such as Stephen Harper lacks a clear mandate from these autonomous agents, an apology will not succeed in convincing recipients of sincerity as defined above (2.1.2) (486). Wenzel et al. (2017) concur, adding that members of offended groups are canny observers, and as such they pay attention to preliminary intragroup processes in subsequently apologetic collectives when judging the sincerity of apology (758). Another factor influencing this phenomenon may be the use of emotive language in collective apology: when mandated speakers use such language, individual recipients may tend to look for corresponding sentiments in those agents that can manifest them (Kampf

2013, 152). Namely, individuals. In the real world, to meet (a) – the requirement of remorse, sorrow or regret – official apology must demonstrate its functional equivalent: sincerity. To demonstrate sincerity, it must be endorsed by co-responsible citizens. If it is not endorsed by co-responsible citizens, it will not be sincere and therefore should not be given in the first place lest it further damage fraught relationships.⁵⁰ While endorsement may seem a tall order, empirical evidence shows it is required.

If endorsement matters for sincerity, one challenge is determining what level of endorsement is required to lend an apology credence. This is an empirical question that cannot be determined a priori. The best we can say given current evidence is the tautological conclusion that whatever level of endorsement is necessary is the level of endorsement that is necessary to convince recipients of the sincerity of non-Indigenous citizens. While it would seem overly demanding to require total unanimity in an offender group, especially in liberal democratic states like Canada, Australia, New Zealand or the United States, it would equally seem wrong to say that endorsement from a minority would suffice (Gill 2000, 19; Thompson 2012, 217; Nobles 2008, 70). The reality is probably that the necessary level of endorsement is somewhere between a bare and overwhelming majority. But it is certainly true to say, as Tavuchis (1991) does, that apology “. . . lacking the moral imprimatur of the group, amounts to no apology at all. It means nothing because it represents the unaccredited One [the speaker] and not the mandate of the Many” (101).⁵¹

If endorsement is required, how can it be measured? Measurement will be necessary if the offended group is to be able to gauge the representativeness, and hence sincerity, of the apology’s message. The best way to determine the level of endorsement of an apologetic message would be to have the apology emerge from the pathways of democratic decision-making (Thompson 2012, 217; Wenzel et al. 2017, 760). As the result of dialogue, debate and ultimately voting, an apology could be understood as sincere insofar as it would be representative of the views of a majority of co-responsible citizens. In virtue of structured pathways of decision making, it would also be an act of the state as described in the last

⁵⁰ Admittedly, citizen endorsement will not address the state’s responsibility to demonstrate sincerity – that requires something else (see chap. 3).

⁵¹ See Fette 2006 for an apology that was undercut for this reason (270-272).

chapter. Admittedly, this solution may be too demanding, requiring as it might costly referenda or that the apology mandate become a critical election issue. It may be that gauging citizen endorsement will have to rely on less formal procedures, such as public opinion polls. In either case, an indeterminate yet critical mass of responsible citizens must endorse the apologetic message if it is to be understood as sincere and thus have the potential of being effective.

The agency of the state, in this context, depends on its citizens accepting responsibility for injustice and its remediation (Thompson 2008, 37). Otherwise the apology will not be coming from an apologizer with enough standing to convey appropriate apologetic meaning: the state and its non-Indigenous citizens. At most, an apology without endorsement would represent an act of the institutions of government as conceived in citizen-exclusive models of the state.⁵² Such an act would be incapable of addressing the several components of official apology because, as I detail in a moment, these should concern not just the historical wrongs perpetrated by the state, but also the actions and attitudes of citizens who contribute to their enduring legacies. This hybrid understanding of the party that delivers the apology respects what Smith (2013) calls a “binocular view” of responsibility, a scope of assessment which is necessary for a full accounting of collective injustice: “[a] binocular view that simultaneously appreciates how individual blame and structural causation combine to result in harm provides the best vantage for understanding what happened, who deserves blame, and how best to fix the problem” (36). If a state wants to commit an injustice, it requires action or inaction on the part of citizens. Similarly, if a state wants to rectify an injustice, this too requires action on the part of citizens. Since the state is apologizing for injustices in which its citizens are complicit, a meaningful apology requires that both parties acknowledge their responsibility (Thompson 2012, 219-220).

2.2.4 Objection 2 – contemporaries apologizing for historical wrongs?

I turn now to the second obstacle to a hybrid solution mentioned above, the preeminent objection to official apology for historical injustice noted in the introduction: namely, how can non-Indigenous citizens apologize for *historical* wrongs when they themselves were not responsible for them? At the risk of disappointing the reader, the short answer is that, strictly

⁵² See Lawford-Smith 2019 (69-70).

speaking, they cannot. Only the state has standing to apologize directly and without qualification for discrete historical injustices, for only the state is causally responsible for these. However, this conclusion need not foil our investigation, for it is based on a very restrictive view of the kind of official apologies we are considering. Very few, if any, historical apologies are so narrow as to focus solely on a discrete injustice in total isolation. For instance, despite its many shortcomings, Harper's 2008 apology acknowledged the rationale behind the residential school system was "based on the assumption that Indigenous cultures and spiritual beliefs were inferior and unequal," that the system "had a lasting and damaging impact on Aboriginal culture, heritage and language," and that the harms of the system "contributed to social problems that continue to exist in many communities today" (Harper 2008). That is, even historical apologies which fall short pay attention to the origins and legacies of wrongdoing. A better apology would pay far more attention to these. This is a crucial point, for it allows us to see that while contemporary non-Indigenous citizens cannot assume direct responsibility for those elements of apology that refer to a historical wrongdoing, they can at least accept responsibility for its sustaining its legitimating causes and enduring effects. And if we conceive of these as inextricable aspects of what makes historical injustices so significant to descendants, then non-Indigenous citizens have a sort of standing that allows an apology for historical injustice to have more meaning than would first appear possible.

Fleshing out this idea requires that we step back for a moment. Consider that if official apologies aim promote reconciliation, we must first investigate what these apologies are trying to address to determine how they might do so. Reconciliation is a project conceived to deal with the legacies of colonialism. In the last chapter I noted that it is a mistake to try to identify 'the' thing that is wrong with colonialism (see Moore 2019). To offer a blanket apology for 'colonialism,' for instance, would gloss over its many associated harms. Partly to get a broader picture of these harms, I explored several injustices that have contributed to strained relationships between victimized Indigenous people(s), settler states, and their non-Indigenous citizens. These injustices are of both the historical and enduring varieties. To reiterate my argument, none of these injustices can be understood without reference to the others. The significance and meaning of each is affected by its layered relations to the others, for together they comprise a coherent picture of the modalities of

settler colonial practice. This means that any meaningful official apology to Indigenous peoples in settler states must address related injustices in parallel to affect the damaging expressive messages each continues to convey. It is states' attempts to isolate these injustices from each other, without addressing the larger picture, that has been the reason for the failure of most official apologies in settler states such as Canada.⁵³ A particular injustice only gets its meaning in the eyes of living descendants from the broader context in which it arose (Vernon 2012, 115). A specific, discrete historical injustice is just one prong in the project of colonialism (Truth and Reconciliation Commission 2015a, 133). To return to our operative example, residential schools in Canada were but one “destructive node within a broader genocidal network” (Woolford 2013, 65). Without discussing the broader context of injustice, then, we cannot tell the full story. Without telling the full story, the apology will fail to meet the requirement (b) that it clearly identify the wrongs at issue.

Allowing that a meaningful apology for historical injustice must tell a broader story about colonial injustice, we can see the beginnings of a new form of apologetic practice. For ease of reference, I will call this form of apology a ‘comprehensive’ official apology. Comprehensive official apologies should address not just historical injustices, but also their enduring effects and the broader social contexts and cultural orientations that made them possible. They should address not just “micro” level injustices – discrete events, policies or effects – but also “macro” level injustice – the systemic colonial outlooks which enabled and legitimized them (Murphy 2011, 51). A comprehensive official apology will, furthermore, draw attention the injustices' damaging expressive messages discussed in the last chapter (and which I detail in 2.3). In our context, then, a comprehensive apology for *historical* injustice will necessarily address significant *causes* and *legacies* of this wrong. This gives us an opening through which we can find appropriate standing for contemporaries.

Calling such an apology ‘comprehensive’ draws attention to how we are talking about an ensemble of wrongs that together characterize the modalities of colonialism. Historical injustices are but one part of an enduring pattern. These injustices are “beginnings and emblems of a continuing process” (Vernon 2012, 113). Their effects are reproduced over

⁵³ This is a widely shared view. See for example: Chrisjohn and Wasacase 2011; Henderson and Wakeman 2009; Henderson 2012; Dorell 2009; Dominello 2017; Funk-Unrau 2014; Nobles 2008; Weyeneth 2001.

time by both the state and its citizens in the form of enduring injustice. The state's erasure of history and its failure to redress historical injustice is not simply a result of the ongoing agency of the state. This expression of agency is facilitated and encouraged by an ingrained disregard on the part of non-Indigenous citizens for the claims of victimized parties' calls for justice, a disregard for what offended groups see as part of the meaning and significance of historical injustice. In a sense, it is all of a piece. Historical injustices are profoundly dehumanizing events which represent microcosms of colonialism. An apology for historical injustice is not just about the injustice itself, but also for what it *means* and *represents* in the context of colonial history. Citizens of a culpable state are complicit in the ongoing reproduction of the damaging social meaning of a historical injustice as well as the perpetuation of dignity-affecting disregard for calls for redress. They are involved in the ongoing process of which the historical injustice is an important symbol. This gives them a kind of standing which allows their endorsement to have meaning with respect to historical injustice itself, for in repudiating the logic of colonialism they likewise repudiate an essential component of historical injustice: the disrespect that attends it.

Admittedly, this is not the sort of standing that comes with causal responsibility for historical injustice, but rather a standing to condemn a dehumanizing pattern of practices which non-Indigenous citizens facilitate and contribute to. A historical injustice is one pillar supporting a broader edifice of wrongs which non-Indigenous citizens help to build and maintain. Similarly, a comprehensive apology is an edifice built of discrete components, all of which are necessary to send its desired messages. Comprehensive apology requires, among other things, an acknowledgement that *all* the wrongs addressed are in fact wrong, and some demonstration of contrition and/or disavowal of these wrongs and the justifications that underwrote them. Contemporaries can contribute to the efficacy of apology by endorsing these messages. Indeed, the last chapter outlined in detail why they should. Such acknowledgement requires participation: an endorsement of the explicit acknowledgement that a historical injustice was indeed wrong, and a disavowal both of its legitimizing principles and expressive messages. It requires, in short, an endorsement of the apologetic message in its entirety, and not just those elements for which contemporary non-Indigenous citizens are causally responsible, for historical and enduring injustices cannot be narratively untangled one from the other.

We have, then, a hybrid solution. Both the state and its non-Indigenous citizens must apologise for injustice, both historical and enduring. It is true that only the state can apologize directly and without qualification for the constative element of an apology regarding historical injustice. But an apology for this on its own would fall well short of the requirements of a comprehensive apology designed to promote reconciliation. The marriage of the institutionalist and individualist accounts makes more sense when we consider what apology, in broad terms, is supposed to do. As Thompson (2012) argues,

Apology is supposed to be a remedy for the lack of trust and alienation that is likely to be felt by those who have been subject to injustice. It is supposed to clear the ground for better political and social relationships. But if those to whom an apology is given have reason for distrusting the attitudes and intentions of their fellow citizens ... they will also have reason to suspect that the apology does not signify a commitment to just treatment in the future. (219).

What this points to is the conclusion that official apology needs to be representative of the attitudes and sentiments of non-Indigenous citizens. It cannot emanate from the state alone. This has enormous implications for what is required for reconciliation. Significantly, it also points to the importance of indicators of sincerity accompanying official apology. These indicators will have to go beyond perceived representativeness of the apologetic message in non-Indigenous citizens. I take up these points in the next chapter when I discuss concrete reparative initiatives that should accompany official apology.

2.3 What should an official apology aim to do?

All authors agree that apologies aim to *do* something. Broadly speaking, they aim to communicate a message of some kind, inspire some response in the recipient, and create or restore desirable social relations. This is partly why a functionalist account of official apology is fitting: by focusing on what apology is trying to do, we can rescue collective apology from metaphysical peril while simultaneously promoting its desired effects. DeGreiff (2008) notes that there are two overarching theoretical accounts of what apology of this kind aims to do. One account suggests that apologies are about rebalancing power between parties formerly at odds. The commission of a wrong effectively disempowers victims. The issuing of an apology empowers victims by symbolically disempowering perpetrators, thereby restoring a moral equilibrium. The other account sees apologies as

norm-affirming: by affirming previously violated moral norms apologies contribute to reconciliation by engendering trust that both parties will respect them (129-130). As I argue in the next chapter, there is reason to believe that both accounts are correct.

While official apology can affirm norms and empower victims, these aims remain ambiguous. What norms are affirmed? How do apologies empower? While the brief analysis of the functions of the various components of apology (2.1.2) may offer some guidance, these are hardly universally acclaimed. The more terrestrial proposed aims of official apology found in the literature make for a motley list of moral goals. These range from engendering trust (DeGrieff 2008) to altering terms of membership (Nobles 2008); from providing acknowledgement (Govier 2003) to restoring dignity (Howard-Hassman 2012); from asserting moral norms (Cohen 2017; Smith 2008) to inspiring forgiveness (Wenzel 2018); from “re-covenanting” a nation (Celermejer 2013) to establishing a public record of wrongdoing (Tavuchis 1991); from educating the public (Weyeneth 2001) to inspiring hope for a better future (Walker 2013). It seems that apology is a panacea, of sorts, for reconciliation. But surely an apology, by itself, cannot hope to do all these things.

This brief glimpse into competing understandings of the functions of official apology demonstrates unequivocally that there can be no one-size-fits-all template for what constitutes a meaningful official apology. The source of these many and varied understandings of effective official apology lies in the diversity of contexts in which calls for apology arise. What it takes for official apology to be meaningful, and what its aims should be, must reflect the context in which it is offered and those wrongs that it aims to right. While all of the elements of apology have moral aims that cannot be forgotten (see 2.1), *circumstances* dictate goals additional to those sought by meeting official apology’s core requirements. While authors regularly argue for what apology should have as its principal aims, they are sometimes not explicit about *why* apology should accomplish these things and not others. In what follows I aim to correct this tendency by justifying several aims that should be emphasized in official apologies in settler states.

Before getting to this it is necessary to take a brief detour to lay the groundwork. First, we need to explore the concept of ‘expressive messaging’ to demonstrate how injustices have impacts that go beyond their immediate harms. Only after we have come to

grips with this idea can I turn to an examination of the injustices described in the last chapter to see what expressive messages they send. By exploring these messages, we will be able to determine what moral aims can serve as corrective antidotes to them.

2.3.1 Injustice and expressive messaging

Apologies cannot change the past, but they can impact the present by altering the significance of historical and enduring injustice (Barkan and Karn 2006, 8). One way to do this is through repudiating the messages these injustices send. Since apology effects change primarily through messaging, the first thing to do is determine what its messages should be. To do this, we must pay attention to the expressive messages implicit in the perpetration of the injustices discussed in the last chapter.

Just as reparations have expressive and communicative functions (Walker 2013), so too do injustices. The perpetration of an injustice sends an implicit, de facto message of some kind or other – injustices express something. Your reckless neighbor totaling your car does not just deprive you of your car. It also sends messages, such as ones concerning how your neighbor thinks of you. Jeffrie Murphy’s (1988) analysis of expressive messaging through injustice is worth quoting at length to illustrate this idea:

One reason we so deeply resent moral injuries done to us is not simply that they hurt us in some tangible or sensible way; it is because such injuries are also *messages* – symbolic communications. They are ways a wrongdoing has of saying to us “I count but you do not,” “I can use you for my purposes,” or “I am here up high and you are there down below.” Intentional wrongdoing *insults* us and attempts (sometimes successfully) to *degrade* us – and thus it involves a kind of injury that is not merely tangible and sensible. It is moral injury, and we care about such injuries. (25, emphasis in original).

While I’ll argue that there are other messages that injustices can convey, the quote from Murphy captures the basic idea. Apologies, as explicit and focused modes of communication, are singularly suited to repudiating the messages of injustice. By examining this aspect of what was morally problematic with the injustices in discussed chapter 1 we can get some idea of what messages they sent or continue to send. Armed with this knowledge, we can go further and determine what the primary moral functions of comprehensive official apology in

the context we are discussing should be.⁵⁴ To prefigure my conclusion, the functions will be to discredit and repudiate the messages sent by the injustices we are discussing.

While there were many discrete injustices committed against Indigenous people in settler states specific to certain loci of colonialism, there are several that are common to states like Canada, Australia, New Zealand and the United States. These injustices fall under the headings described in the last chapter: *historical* and *enduring* injustice, as well as legitimating cultural orientations best encapsulated by the term ‘*colonial mindset*.’ In each of these contexts Indigenous peoples were viewed as ‘backward’ and as barriers to development (Vrdoljak 2008, 197-198). They were driven from their lands, forcibly assimilated, denied sovereignty, and deprived of cultural rights (ibid.). Often, children were abducted from their parents. Systemic patterns of oppression were pervasive. Attitudes of colonizers towards Indigenous people were uniformly negative. Ethnocide and cultural genocide were widely practiced (297-298; see MacDonald and Hudson 2012). Enduring injustice persists. The impact of these injustices on Indigenous peoples was – and is – profound. While appalling in themselves, these commonalities between settler states’ treatment of Indigenous people(s) nonetheless allow us to discuss some of the grossest forms of injustice at one remove from the circumstances of specific states. In determining which additional, context-dependent moral functions should be emphasized in settler states, we can thus offer a picture that will be applicable to a wide range of contemporary circumstances. While this method has limitations – it cannot, for instance, address all injustices in need of remedy in these contexts, nor can it determine a priori the sorts of things recipients may wish for in a comprehensive apology – it can identify avenues for repairing some of the most egregious. Further qualitative conditions for official apology will, of course, require greater attention to the particularities of each circumstance, and the specific needs or demands of recipients.

2.3.2 Historical injustices - rehumanization

Historical injustices are here understood as injustices perpetrated during discrete periods in history. They are harmful policies, practices or events of greater or lesser duration that had a

⁵⁴ This methodology is inspired by Smith (2008) and Dominello (2017), who effectively both argue “the harms acknowledged in an apology form the basis for determining the norms infringed. The measures of redress follow accordingly” (297). My interest is in expressive messages as outlined by Walker (2013) and Murphy and Hampton (1988), not norms.

beginning and an end. Examples of historical injustice are the expropriation of lands, the desecration of sacred sites, the violation of treaties, massacre or forced assimilation through the abduction of children. Notwithstanding debates about the appropriateness of assessing past actions against contemporary moral standards,⁵⁵ most scholars agree that historical injustices are so-called for good reason: they were morally wrong. At a very basic level their immediate impact included significant harm to direct victims through death, dislocation, ruin and the interruption of valued ways of life. That these harms represent injustices is not in dispute, for they caused great suffering and transgressed moral principles thought inviolate. But, as I hinted in chapter 1 (1.2.4 and 1.4.2), these injustices were also wrong because of the expressive message they sent to victims about their inherent moral worth. To the extent that these injustices remain unredressed, this message continues to be delivered to descendants of direct victims and stands as an affront to their dignity.

What message was implicit in the perpetration of historical injustices? To answer this question, it is useful to try to answer another: what makes it permissible in the minds of perpetrators to expropriate land, violate a treaty, forcibly assimilate children into a dominant culture, commit genocide? What makes it permissible to treat other people as unworthy of respect, rights, and dignity? The quote from J. Murphy (above) points us in the right direction: surely such actions are only undertaken if perpetrators see victims as unequal, lesser and undeserving of respect. The view of perpetrators – that victims are lesser or inhuman – is implicit in the perpetration of injustice. A Govier (2003) argues,

[...] to forcibly evict a community from its land without obtaining its informed consent and making reasonable arrangements for its well-being, so that other people can develop resources there or test their planes there, is to imply that the removed community and its people simply do not matter—that their needs and interests and, indeed, their very moral dignity and status as human beings, need not be taken into account. It is to treat them as morally and politically negligible (84).

To treat people in this way “expresses a message of lack of moral worth, because the victims are treated as though they simply do not count” (ibid.). Historical injustices dehumanize victims in part because their undertaking requires the presupposition that victims are lesser.

⁵⁵ For discussion, see: Murphy 2011; Sparrow 2000.

In case we think that this dehumanization exists only in the minds of the perpetrators, or that the expressive messaging of historical injustice is but an academic construct, consider the words of Murray Sinclair, Chief Commissioner of Canada's Truth and Reconciliation Commission, discussing the impact on Indigenous people who were victims of Canada's residential school system:

Well the impact was that for the longest time I believe that even Indigenous people who had gone to the schools, the survivors themselves, believed that there was something wrong with them. They accepted the church's version or the society's version of who they were. They felt that they were not validated, they didn't come from a people that were valid. And so it's very much like they came to see themselves as the problem and that they had to overcome the problem by changing the way they behaved and by trying to be part of Canadian society without utilizing their own history and knowing their own language and knowing their own culture. And there were many generations of Indigenous people, mine among them, who were raised by parents and grandparents who did not want them to know the language and did not want them to know the culture and did not want them to practice their cultures, such as going to powwows or dressing up in Indigenous regalia because they didn't believe that that was right. That they'd come to believe that was wrong and that they were going to go to hell. (Sinclair 2018)

The residential school system, in addition to all of its direct harms to victims, also sent a message that Indigenous people were unworthy of respect, lacked human dignity and that their culture was inferior. For many victims, Indigenous identity became a source of shame and contempt (Celermejer 2006, 160). In a word, the residential school system, like many historical injustices, dehumanized victims. As is evident from Sinclair's statement, this message was at least sometimes internalized in the minds of victims and their descendants.

As Gill (2000) argues, this "badge of inferiority" placed on victims by Western settler states has had a profoundly negative impact on Indigenous people(s) (22). Yet even where the expressive message of historical injustice was not internalized by the offended group, it nonetheless caused dignitary harm. That is, it is not necessary that this message be internalized for it to dehumanize. Hampton (1988) makes a distinction between being "literally degraded" – as in the case of those who internalize the message and consider it

warranted as a reflection of their actual low moral worth – and “demeaned” – as in the sense of being treated in a way that the victim considers inappropriate given her actual high moral worth (44-45). That is, victims can be dehumanized in both “subjective” and “objective” senses (ibid.) In either case, the victim is treated in a manner that is not befitting of someone with moral status.

If historical injustice dehumanized through its expressive messaging, official apology must *rehumanize* through its message. Some argue that this is the most important task of official apology (Coicaud and Jibecke 2008). Partly this rehumanization is a matter of acknowledgement (see e.g. Govier 2003; 2009). Historical injustices were a violation of the humanity of victims. Apology must acknowledge that victims were never underserving of respect and that their humanity was wrongly denied them, that in fact their treatment was never justified (Gill 2000, 23). In this way, official apology can affirm that humanity (Govier 2009, 40-41). To do so, it must aim to restore the dignity and moral standing of victims by acknowledging the reality of historical injustices and their wrongness, and by explicitly disavowing the justifications for these actions. As I elaborate later (3.3), it is partly through the very act of apologizing that the moral standing of victims is affirmed. “When offenders treat their victims as moral interlocutors, they treat them with respect. They treat them as humans deserving dignity rather than a mere means to some end” (Smith 2014, 39). In this way we can see the symbolic power-rebalancing nature of official apology. The first moral aim of comprehensive official apologies for historical injustice, then, should be rehumanization. As I argue in the next chapter, rehumanization through apology requires substantive measures to succeed.

2.3.3 Enduring injustice: vindication through historical correctives

The last chapter outlined several types of enduring injustice that are non-contingently related to historical injustice. These enduring injustices subsist in settler states and are rightly seen as barriers to reconciliation. As I argued, they are barriers not just because victims continue to suffer from them, but also insofar as they are stark reminders of those colonial-style policies of settler states that are continuous with those of the past (Sparrow 2000, 346). The fact of their persistence is evidence that settler states continue to view offended groups as exceptions to the principles of justice that these states purport to espouse.

The first type of enduring injustice cited in the last chapter concerns wrongs which, though not direct causal effects of historical crimes, are nonetheless non-contingently related to them. The ongoing failure to rectify a discrete injustice was cited as an example. Failing to rectify an injustice is a distinct wrong for which the state bears responsibility. The effects of the failure to rectify an injustice – for example the inability of victims to pursue their cultural practices because of the expropriation of lands – are also sites of direct responsibility (see Vrodljak 2008). The second type of enduring injustice discussed in the last chapter concerns the ‘automatic effects’ of historical injustices. Automatic injustices are those which cannot be attributed to any other cause than a historical wrong (Thompson 2001, 118; see Sher 1981). They are causal effects of historical wrongdoing. Certain structural injustices stemming causally from historical injustices were cited as the primary examples. As noted, for both types of injustice there is a non-contingent connection to a chronologically prior injustice; the historical crime is the *sine qua non* of their reality. History is thus indispensable for an understanding of the origins of these enduring injustices, for there is both a historical and a contemporary component to them (Spinner Halev 2007, 578). To reiterate one of the conclusions of sec. 2.2.4, to be meaningful, a comprehensive official apology cannot ignore these enduring injustices because they are part of the broader context that informs the meaning and significance of historical injustice.

The last chapter discussed how paying attention to the expressive message sent by the subsistence of enduring injustice can help us to understand how the meaning of a historical injustice to a victimized community can loom so large in the collective psyche (sec. 1.2.4 and 1.4.1). The expressive message of disrespect intrinsic to the undertaking of a historical injustice is itself an injustice. This message is reinforced, reproduced and perpetuated by the secondary enduring injustices which follow. As I argued, this is because the mere fact of the denial of reparations represents the state’s view that the offended community counts for less. It is “an insult to the dead and the living” (M. Murphy 2011, 57). Similarly, the mere fact of the existence of structural injustice represents a failure of the state to take seriously both the impact of its actions and the concerns of the oppressed. Together, these enduring injustices compound the wrong which engendered them (Butt 2013; Sher 2005). This is partly because

[t]o be a member of a group subjected to unredressed systemic and intergenerational oppression is typically to live both with the inertial effects of this kind of diminished

status and with widespread and normal social denial of either the detailed history of the oppression, or the persisting effects, or both. (Walker 2010, 536-537).

At bottom, then, the persistence of these injustices indicates a failure of the state to take history seriously. As argued in chapter 1, it is a failure in the administration of justice that demonstrates disrespect for Indigenous people. By denying justice, the state effectively erases history, denies accountability, and obscures from view the legitimacy of calls for justice.

This denial of justice is continuous with the colonial practices of the past, for it expresses what Govier and Verwoerd (2002c) call “moral contempt” towards victims: “[i]f a society pays no heed to brutalities and offenses suffered by many of its citizens, it further damages these vulnerable people because *moral contempt can be as devastating as the original wrong itself*” (71, emphasis in original). While moral contempt is ultimately based on a presupposition of the moral or cultural inferiority of victims, its message differs from that of historical injustice because of its ongoing nature. It is a continually reproduced communication of contempt for the claims and interests of offended parties. Implicit to ongoing moral contempt is not only the idea that the needs and interests of victims do not matter so much as those of responsible parties, but also the idea that victims’ understanding of history is baseless. For if – as these responsible states purport to believe – victims and perpetrators are moral equals, then the injustices at issue would have been redressed. To foreshadow the next chapter, this is because the justification for redress stems from an assessment of what is due as a matter of justice between moral equals based on backward-looking assessments of moral responsibility – that is, based on history (3.2). To counteract this disrespectful message through apology it is necessary to acknowledge the reality of enduring injustices, validate victims’ understanding of them, explain their origins in detail, and in so doing place blame for them in the right place. In short, to combat moral contempt an important function of official apologies is to issue what Tsosie (2006) calls a “corrective to history” (193).

Correcting history is about changing national narratives and mythologies by exposing the truth publicly. To do so, official apology must offer a re-evaluation of enduring injustice. There are two ways that official apology can issue a corrective to history that are especially

salient here. The first is through acknowledgement that the denial of redress for historical wrongs represents a distinct injustice for which the state bears responsibility. To do this, the official apology must acknowledge to offended parties – and the public at large – that they were always justified in their calls for the redress of historical wrongs. This will of necessity entail an acknowledgement of historical injustice and its wrongfulness. Indigenous people have consistently demanded justice for the wrongs they have suffered. Implicit to the denial of justice is the state’s view that historical injustices did not merit attention and that victims’ understanding of it was wrong. Repudiating this message of moral contempt requires a re-evaluation of history. This, in turn, requires an airing of the historical record, for we cannot acknowledge the wrongness of an action without first delineating what it involved. As Walker (2010) argues, “[t]ruth being told about wrongs is obviously a condition of addressing them through repair” (530; see also Spinner-Halev 2007; Govier 2003).

Some authors contend that the airing of the historical record is the primary purpose of official apologies. For example, Tavuchis (1991) argues that “the major structural requirement and ultimate task of collective apologetic speech is to *put things on record, to document* as a prelude to reconciliation” (109, emphasis added; see also James 2008). The record is the “apologetic fact” (Tavuchis 1991, 102). But as Tavuchis acknowledges, this airing also has an instrumental function: it is meant to allow for the assessment of moral claims and to establish accountability for wrongdoing (103). Thus, by delineating a historical injustice in detail an official apology sends what Walker (2013) calls a “vindicatory message” to victims (208): “[i]t communicates the reality and wrongfulness of the event in question, as well as a responsibility for the wrong or its repair and an obligation to make amends as a matter of justice” (212). A corrective to history will send a vindicatory message key to the repudiation of the moral contempt associated with the denial of redress. By acknowledging what happened the state can no longer deny its responsibility, either implicitly or explicitly. In effect, this acknowledgement of history will in turn acknowledge that not only was the historical injustice wrong, but so too was the denial of redress.

The second way that an official apology can issue a corrective to history is by locating the responsibility for contemporary structural injustices in the right place. If truth is a prerequisite for repair, we need first to know the origin of enduring structural injustice.

This is because if the current social challenges facing many Indigenous communities are judged in a vacuum without reference to history, blame for the social ills affecting Indigenous people(s) may fall in the wrong place. As we saw in chapter 1, many Indigenous populations in settler states continue to suffer from, for example, higher rates of poverty (Best Resource Centre 2011), incarceration (Statistics Canada 2014) and suicide (Government of Canada 2018). As recently as 2010, 24% of urban Canadians believed that Indigenous people were themselves responsible for these problems (EnviroNics, 155; see also Lashta, Berhal and Walker 2016; Brockman and Morrison 2016). Attitudes in Australia are much the same (see Moran 2009). Thus, a significant minority of non-Indigenous people deny that settler states are morally responsible for structural injustices affecting Indigenous peoples. This narrative, once dominant in many settler states, holds that Indigenous people somehow brought these problems on themselves. Yet any cursory examination of the provenance of these ills suffices to show that their genesis lies in the policies of the settler states which uprooted Indigenous people and disrupted their ways of life (e.g. Royal Commission 1996a, 15 and 132).

Since structural injustices resulted from historical injustices, this must be explicitly acknowledged in order to repudiate the moral contempt implicit in the state's failure to address systemic problems. As I argued above (2.1), it is a requirement of official apology that perpetrators accept unmitigated responsibility for the wrongs at issue. Clearly delineating the cause and effect relationship between historical injustices and their enduring impact is thus a necessary condition for meaningful comprehensive apology in this context. In order to accept blame – and to counteract the tendency of some to assign blame to the wrong party – a clear spelling-out of the course of history is required in a meaningful apology. This will vindicate Indigenous peoples' understanding of history and publicly acknowledge the responsibility of the state for contemporary structural injustice. The next chapter will explore ways in which correctives to history can be realized in substantive ways.

2.3.4 Cultural orientations and the colonial mindset: engendering trust

In the last chapter I identified a further enduring injustice which subsists in the present: systemic colonial orientations which legitimized historical injustice in the first place. As many authors have pointed out, all injustice takes place in a broader system of social

meanings, cultural orientations and attitudes (Celermejer 2013; Dorrell 2009). The colonial project that sought to assimilate, annihilate, or deny identity to Indigenous peoples survives in altered but recognizable form in the present. Indeed, as I noted in the last chapter, one need only consider what the lack of clean drinking water or access to adequate health care says about settler societies' perspective on Indigenous peoples' full and equal membership in the moral community to see how these cultural perspectives are far from erased (Sparrow 2000, 351). The subsistence of the enduring injustices revisited above are also evidence that colonial attitudes persist in the present. The enduring injustice under consideration here, then, is best described as a persistent 'colonial mindset' on the part of settler states.

Perhaps it is because these cultural orientations, patterns and attitudes are part of the invisible background of the colonial worldview that they are often overlooked in discussions of the redress of historical injustice. To hark back to Calhoun's (1989) discussion (1.2.6), the colonial mindset is part of the abnormal moral context that characterizes settler society. In providing a foundation for the pervasive colonial mentality, these features of the colonial mindset disappear from view. Perhaps, also, the difficulty in coming to grips with ephemeral notions like 'cultural orientations' and 'patterns of oppression' plays some role in the relative lack of attention that this form of enduring injustice receives. Celermejer (2013) reflects on these difficulties by asking "[h]ow can we put a spotlight on the wrong that lies at the feet of all of us who silently or implicitly consent to a world where particular acts of grave wrongdoing are rendered normal and even invisible?" (46). While these systemic outlooks may be hard to articulate, we can get some idea of the sort of colonial mentality I have in mind by exploring the origins of the worldview that made colonial injustices possible.

As noted above, it was through the purported cultural inferiority of Indigenous people that Western states justified their disregard for Indigenous rights. Even Stephen Harper's much-maligned 2008 apology for the residential school system in Canada acknowledges this, stating that the aims of assimilation or elimination of Indigenous people "were based on the assumption that Indigenous cultures and spiritual beliefs were inferior and unequal" (Harper 2008). The view of non-Western peoples as inferior and beyond the borders of moral consideration is epitomized in the frequently discussed Doctrine of Discovery, espoused to greater or lesser degrees in the legal traditions of, among other states, the United States,

Canada and Australia (Frichner 2010, 19). The legal instruments that evolved from the Doctrine of Discovery provided a justificatory background for the historical annexation of Indigenous lands. The justification for this doctrine was both religious and moral, and ultimately based on this conception of Indigenous peoples as innately inferior. In a sense, the alleged inferiority of Indigenous peoples was an invitation to conquest.

As I showed in the discussion of the expressive message sent by historical injustice, colonial mindsets tend to lead to wrongs that implicitly dehumanize Indigenous peoples. But there is far more to this mindset than a denial of humanity. Settler-colonialist mindsets entail what Wolfe (2006) calls a “logic of elimination” (387). The logic of elimination “strives for the dissolution of native societies” and imposes an “organizing principle of settler colonial society” – a structure – which may require “the breaking-down of native title into alienable individual freeholds, native citizenship, child abduction, religious conversion, resocialization in total institutions such as missions or boarding schools, and a whole range of cognate biocultural assimilations” (388). As Vrdoljak (2008) notes, “[t]he devaluation and negation of Indigenous cultures was central to the civilizing mission of international law and nation-building of states” (227). Assimilation or annihilation was the goal. Consider Duncan Campbell Scott’s oft-cited comments on Bill 14, the legislation formally initiating the residential school system in Canada:

I want to get rid of the Indian problem... Our objective is to continue until there is not a single Indian in Canada that has not been absorbed into the body politic and there is no Indian question, and no Indian Department... (Scott 1920.)

It is this colonialist mindset that persists in settler states, though of course in a milder or at least camouflaged form. The denial of redress for historical wrongs, the failure to make restitution, and the subsistence of enduring injustices are all evidence of this. While settler states have recently attended to Indigenous peoples’ grievances to greater or lesser degrees, the fact that most apologies tend to isolate injustices from the intergenerational colonial project in which they occurred, instead portraying them as aberrant episodes in the history of otherwise peaceful nation-states, is evidence that these apologies often serve only to cleanse national myths of their unsightly blemishes (Dorrell 2009).⁵⁶ As Henderson and Wakeham

⁵⁶ See also: Wakeham 2012; James 2008; Blatz, Schumann and Ross 2009.

(2009) argue in a discussion of Harper's 2008 apology to Indigenous victims of the residential school system,

[t]he absence of the word "colonialism" from the prime minister's apology enables a strategic isolation and containment of residential schools as a discrete historical problem of educational malpractice rather than one devastating prong of an overarching and multifaceted system of colonial oppression that persists in the present. (pg. 2)

Colonial mentalities, then, persist today to greater or lesser degrees.

What implicit or de facto message does the maintenance of colonial mindsets and the furtherance of the policies inherent to the "logic of elimination" send to Indigenous peoples? It is not just that the state views Indigenous peoples as exceptions to certain important principles of justice, though that is certainly part of it. Simply put, it is that *the state and its non-Indigenous citizens cannot be trusted*. It was collective norms and beliefs that made historical and enduring injustice possible (Celermejer 2006, 155). If these have not substantially changed, trust is not warranted. There has been no substantive alteration to the modalities of settler-Indigenous relationships besides some attempts at acknowledging Indigenous peoples as distinctive and token nods to sovereignty or self-determination (Wakeham 2012, 213). There is thus no guarantee that future behavior will be substantially different (see Muldoon 2009). Indigenous citizens continue to suffer oppression at the hands of states characterized by a long tradition of colonial practice. Trust in the state is justifiably lacking in light of its record of broken promises, its failure to take historical and enduring injustice seriously, its use of half-measures in the form of pro forma apologies and truth commissions that serve only as a "politics of distraction" (Woolford 2004, 430; 2013, 469; see Corntassel and Holder 2008).

To be meaningful in the context of reconciliation, then, a comprehensive official apology must aim to engender trust. This is the antidote to mistrust. Trust involves a belief that offenses will not reoccur, and thus that the colonial mindset is expunged. To engender trust, the apology must send the message that the state and its non-Indigenous citizens are trustworthy. To do this, though, the apology must communicate a genuine change in outlook on the part of the deliverer: the state and its non-Indigenous citizens. Here again we can see

why motivations matter in reconciliation: if an apology is perceived to be an instrument of political expediency, it will not engender trust. Trust demands an expectation of shared normative commitments (DeGreiff 2008, 125; see MacLachlan 2015; 2018). These normative commitments must be made by both individuals (through endorsement) and the state in order to engender trust (see DeGreiff 2008, 126-127). This means that substantive negotiation and intercultural dialogue will be required before we can determine which normative commitments must be adhered to.

Here we can see the norm-affirming dimension of official apology coming into view. In affirming shared norms, the apology will entail a vow not to repeat the offenses that are the subject of the apology. As we saw (2.1), a promise of forbearance is a prerequisite to a meaningful official apology. As Funk-Unrau (2014) notes about Harper's 2008 apology, "the legitimacy of the federal apology was ultimately conditional upon the extent to which the words of acknowledgement and remorse accurately reflected current postcolonial relations..." (149). It is partly for this reason that the apology was arguably a failure. As I will argue in the next chapter, the requirement that the apology follow rather than precede these changes in political dynamics and attitudes means that many official apologies in the context of settler states have been damagingly premature.

2.4 Conclusion

Official apology was our trial by fire for the complicity approach. To those who would argue that official apology for historical injustice just does not make any sense, we can now respond by pointing out that it does not matter so much that individual perpetrators may be long dead. I argued that a state can apologize in a manner analogous to interpersonal apologies provided it fulfils the same functions. Yet I also showed why we should understand official apology as emanating from *both* the state and its non-Indigenous citizens. A meaningful official apology requires comprehensiveness: to effect real change, the apology must address interrelated injustices in parallel. Since contemporaries are implicated in several of these, this allows us to secure the apologetic meanings necessary for effective apology by incorporating apology for enduring injustice into apology for historical injustice. The hybrid solution to the question of how we should conceive of the apologizer shows that contemporaries do indeed have a meaningful sort of standing to apologize for not just

enduring injustice, but also historical injustice itself. While not causally responsible for a historical wrongdoing, contemporaries are responsible for the meanings and legacies that are inextricably bound up with it. Their endorsement of the apologetic message in its entirety will thus help to fulfil the sincerity requirement of apology. Additionally, the discussion of the wrongs that official apologies seek to right in this context bring to light several moral functions appropriate to the context in view. These moral functions are our launch pad in the next chapter. First, since historical injustice dehumanized victims, apology must rehumanize. Second, since enduring injustice represents an erasure of history, the apology must send a vindictory message by issuing a corrective to history. Third, since colonial mindsets persist in the present, the apology must affirm shared norms and communicate a genuine change in the attitudes and cultural orientations which legitimized injustice in the first place; this will engender trust. As I demonstrate in chapter 3, the delivery of an effective official apology of the type I have advocated will require substantive actions and commitments on the part of settler states and their non-Indigenous citizens in the form of reparative initiatives that collectively lend the apology meaning.

Chapter 3 Processes of Reconciliation

Introduction: sincerity, apology and redress

A frequently cited criticism of official apologies in the context of settler states is that they are cynical maneuvers designed to pacify offended parties at little cost to the state (Marrus 2007, 90). Disingenuous, insincere, apologies are derided as “lip service” (Weyeneth 2001, 29) and characterized as “symbolic cop-outs” (Thompson 2008, 32), “cheap grace” or “crocodile tears” (MacLachlan 2018, 359). In this context, say some, official apologies are yet another implement in the toolbox of the ‘politics of distraction,’⁵⁷ diverting attention from potentially transformative projects involving redress, restitution or self-government (Corntassel and Holder 2008). Critics argue that we should therefore take apologies from ostensibly repentant settler states with “a block of salt” (Chrisjohn and Wasacase 2011, 197). The objection is that official apologies, driven by underlying motives and undertaken for reasons of expediency, are simply not sincere.⁵⁸ They are cheap alternatives to real change. These powerful criticisms cannot be ignored, especially given that they are sometimes borne out.⁵⁹ Considering these critiques, it is hard to see how apology might promote reconciliation.

Just because official apologies are sometimes insincere does not mean that they have to be. This chapter is about how states can help to make them sincere. As we saw in the last chapter, there are ontological difficulties here. The state is not a person like you or me. It cannot respond to skepticism with an exclamation like “no, I really mean it! I swear!” The state can only demonstrate sincerity indirectly, through evidence of other kinds (McGary 2010, 551-552). Yet the sort of evidence required is not clear. Is it reparation, reform, changed behavior, restitution, compensation? Is it all of these? The findings of the last chapter offer some insight. Consider that if an apology is sincere, then the apologizer would be glad if its aims were achieved. If I apologize to you for a hurtful insult, and if you trust in my sincerity, you can rationally conclude that I would be glad if your self-esteem were restored. Likewise, if a comprehensive official apology for historical and enduring injustice

⁵⁷ I believe this expression is from Woolford 2004, 430.

⁵⁸ I will use ‘genuine’ and ‘sincere’ interchangeably.

⁵⁹ I discuss this in greater detail in sec. 3.5. See e.g. Alfred 2011; Dominello 2017; Henderson and Wakeham 2009; Short 2005.

is sincere, we can infer that the state hopes to achieve the moral goals of its apology. Since this is so, it follows that one way to measure sincerity lies in what the state does to promote these goals. In this context, because the state is what it is, words are not enough; redress is required for effective official apology.

While this chapter responds to the insincerity objection, a note on its place in the broader project is in order. Recall that this dissertation is built on the following conditional: *if* official apology is involved in reconciliation, whatever is required of the former will be a component of the latter. That is, if the hypothesis in the conditional is true, whatever is required to make official apology sincere should be understood as part of the *process* of reconciliation. By answering the insincerity objection, then, we can simultaneously sketch some necessary conditions for reconciliation conceived as a process.

3.1 Official apology – speech act or more?

Many scholars caution against thinking of official apologies too narrowly as a speech act.⁶⁰ Instead they argue that official apology is a *process* in which the speech act is but one component (Marrus 2007, 81). Accustomed as we are to interpersonal apology, this may strike us as a bit strange. In interpersonal contexts a full and effective apology is usually achieved with words alone, unattended by anything more. Expanding our understanding of official apology to conceive of it as something beyond words might seem a bit suspect, for an apology seems to be a speech act par excellence. But there may be something to the idea that official apology involves more than words. On closer analysis it is plausible to consider even a discrete instance of *interpersonal* apology as something beyond a speech act. Oftentimes we do not judge apologies by their wording alone. For instance, tears or a handshake can lend an apology meaning. Maybe this is part of the ‘process’ of apology. That said, we can easily distinguish the various elements of apology conceived as a process from the discrete act of apology as it is generally understood. Is a tear really part of an apology, or is it just a complement to it?

As I argued in the last chapter (2.1.1 and 2.1.2), even though the core components of official and interpersonal apologies are nearly identical, this does not mean that they need to

⁶⁰ For examples of authors who tend in this direction, see: Dominello 2017; James 2008; MacLachlan 2010; Smith 2014; Thompson 2008; Tsosie 2006.

be realized in the same way, nor does it mean that the two forms of apology are coextensive in all particulars. Some scholars run with this idea, arguing that, to do its moral work, official apology requires much more than words: not only do its design and method of delivery matter, but measures of redress must be delivered in concert (Barkan and Karn 2006, 18). For this reason, they argue, it is better to understand the concept of official apology expansively as something that extends beyond words to include such things as negotiation, ceremony, reform and reparations. For instance, Cels (2015) and Saito (2016) draw our attention to the role of performance in official apology: it is not just the words that matter, but also the timing, place and ceremonial pomp of the apology. Perhaps this is the political analogue of a tear? Thompson (2008, 42; 2012, 220) and Lazare (2004, 205) suggest that preliminary negotiation of the content of an apology is itself an intrinsic part of a genuine one. Similarly, Govier and Verwoerd (2002d) argue that fulfilling the forward-looking aspects of official apology – such as commitments to reform, make reparation or forbear from further transgression – is so integral to the success of apology that these should be seen as part of its “process” (139; see also DeGrieff 2008, 133; Tavuchis 1991, 45). Still others wonder if an official apology without reparations qualifies as an apology at all (see MacLachlan 2010, 376; Howard-Hassman 2012, 40).

This argument jibes with the functionalist approach defended in the last chapter, which demands we judge apology by what it is doing in terms of accomplishing or promoting its moral functions. For this reason, it is worthwhile to consider if official apology is a process instead of a simple speech act. Recall that an effective official apology is one that is promoting its moral functions. To perform these functions, an apology must be sincere, for an insincere or strategic apology will be perceived as a cynical gesture, further exacerbating tensions (M. Murphy 2011, 51; Weyeneth 2001, 34; Nadler and Liviatan 2006; see 2.1 – 2.1.2). Collectives such as states cannot show sincerity through (potentially artificial) remorse on the part of the mandated deliverer, but only by other means: endorsement by settlers and, as this chapter will argue, through measures of redress. Endorsement combined with measures of redress can help to promote the moral functions in question. Thus, since we are judging the apology by what it does, the process of providing redress and securing endorsement can be considered a part of the process of an effective apology.

This argument, however, does not withstand scrutiny. After all, as I noted above, it is not hard to make a distinction between an apology considered as a speech act and those measures that lend it greater credibility. On this line of thought, an interpersonal apology is a speech act; tears lend it substance. Indeed, most authors tend to conceive of apology primarily as a speech act (Cels 2015, 352). This is a reasonable approach, for holding that an official apology is a speech act *and* redress has an odd consequence. The latter understanding of the concept threatens to subsume everything from reparations to reform to restitution under the heading of ‘apology,’ a conclusion so hard to swallow that it comes close to constituting a *reductio*. Indeed, if (as some do) we consider redress of these kinds to collectively comprise reconciliation considered as a process, then the argument would entail that official apology itself *is* reconciliation. Surely this goes too far.

Nonetheless, the apology-as-process view offers an important insight to carry forward. Even though official apology is not a process involving measures of redress, it is surely not wrong to say that, just as a tear serves to promote the functions of interpersonal apology, so too can measures of redress help to promote those of official apology. While distinct, apology and redress complement and enhance each other. Even those who analyze official apology primarily as a speech act concede that redress functions to lend substance to apology (James 2008, 139). As MacLachlan (2015) argues, the success of an apology depends on convincing recipients that the apologizer is sincere in the messages of apology conveyed by meeting its core requirements (444). If this is so, then the ontology of a state – a collectivity without a group mind – suggests that measures that go beyond speech are required in political contexts. For this reason, I will argue that one way to make official apology sincere is to undertake those measures that would be expected to follow from the authenticity of these messages. Words are simply not enough in arenas that are necessarily impersonal. When we are assessing an official apology, it is important to consider what precedes and what follows from it (see e.g. Smith 2008, 233-235; MacLachlan 2013). Even if it is not a process, still we must judge it over time (see MacLachlan 2014, 25). The relationship between moral and material amends in this context is therefore very tight (Govier and Verwoerd 2002c, 73). We can characterize an apology unaccompanied by measures of redress as “limited-liability guilt management” in that it hits the right notes, yet

fails to effect real change (Epp 2003, 225). This is not in the spirit or the intent of a genuine comprehensive official apology.

As we will see, what the measures of redress accompanying official apology consist in will depend on what the apology aims to do. To illustrate through example, all apologies will aim to convey sincerity. Here monetary reparation is often cited as a valuable measure of the seriousness with which a deliverer takes their apology (Torpey 2003, 23; see Howard-Hassman 2012, 40). And while money may be a morally “obtuse remedy,” it is nonetheless true that “victims often consider economic compensation the measure of sincerity for apologies” (Smith 2008, 237). However, money is but one way to promote the moral functions of apology. Post-apology behavior, for example, is a further indicator of the seriousness of the apologizer’s commitments (Flemming 2008, 101; Gill 2002, 14). MacLachlan (2014) argues that the political conditions that emerge after an apology are important for judging its success (26). And if one moral function of apology is to give offended parties reasons to trust responsible parties, post-apology behavior could be at least as important as the apology itself. Other suggested measures of redress include “symbolic compensation” such as memorials (Barsalou and Baxter 2007, 4; see Meyer 2006), educational scholarships as measures of acknowledgment (Thompson 2001, 135), or structural reforms that alter the modalities of the political relationships at issue as measures to promote trust (Dominello 2017; Reilly 2009a).

What the above discussion shows – and what the cumulative view in the literature appears to be – is that without action, words are empty.⁶¹ But, conversely, measures of redress in response to injustice *without* apology might be considered tantamount to an insult, for it is an instance of trying to force moral closure through material diversion (Boxill 1972, 118).⁶² Without apology, the “respect account” discussed in the preface to this dissertation has not been squared (Vernon 2003, 545). In this way, a picture begins to emerge of a deep connection between official apology and redress: each depends on the other for its significance and meaning. An apology without redress may seem insincere. Redress without

⁶¹ For example, see: Chrisjohn and Wasacase 2011; Hollinsworth 2011, 190; James 2008, 139; MacLachlan 2010; Minow 1998, 117.

⁶² Numerous authors make this point. See for example: Gill 2000, 23; Thompson 2018, 10; Hayner 2011, 178.

apology might even make matters worse, for beneficiaries may interpret it as evidencing disrespect or untrustworthiness (Blatz, Schumann and Ross, 2009; Nadler and Livatan 2006). Thus, while official apology does not *encompass* measures of redress, an effective apology nonetheless *requires* redress.

The rest of this chapter is devoted to identifying some measures of redress suited to promoting the primary moral goals of official apology (in this context) identified in the last chapter: rehumanization; vindication through historical correctives; and engendering trust. Since the types of redress that accompany apology are dependent on what the apology aims to do, these moral functions are useful reference points for exploring appropriate forms of redress. I follow Brooks (1999; 2003) in viewing ‘redress’ as an umbrella term that encompasses the many ways in which responsible parties can seek to address (human) injustice in the interest of victims (and justice generally).⁶³ These include reparations, compensation, settlements, restitution and reform. Measures of redress are backward-looking in that their justification stems from events, processes or institutional structures of the past (recent or distant), but they can also be forward-looking insofar as they can seek to rehabilitate victimized parties (Brooks 2003, 108-109; Lean 2014, 187; Thompson 2018, 79). It is worth signaling here that each of the mechanisms of redress that I defend will work to promote more than one of the moral functions of apology. While there is significant overlap, this is all the better. As Crocker (2003) notes in his discussion of reconciliation, “the achievement of one or more of the goals [will] itself be a means... to the realization of one or more of the others” (56).

3.2 Apology, sincerity and reparations

One form of redress that gets a lot of attention is reparations. A considerable camp argues that reparations in conjunction with apology help to advance reconciliation; others see reparations primarily as an indicator of the sincerity of official apology. Yet associating reparations with apology is contested because of its alleged potential to vulgarize its moral messaging. According to Griswold (2007), “linking reparations with apology taints the moral standing of apology – for it may come to seem to be ‘all about the money’” (152-153). Far

⁶³ Many use the term ‘reparations’ or even ‘restitution’ instead of ‘redress’ to encompass a wide variety of measures aimed at correcting injustice. However, I avoid this because not all measures of redress contain moral messages, which I will argue are intrinsic to reparations.

from legitimizing an apology, reparations undermine it: “The purposes, language, and procedures of reparations are considerably different from those of apology, and belong to a different moral sphere” (153). Flemming (2008) echoes this view, arguing that money cannot serve as a proxy for crimes against humanity and violations of dignity (96). Reparations, she contends, “make a commodity of a past injustice” (99). When dealing with past injustice we should instead atone through apology, for “[w]e cannot trade human dignity for financial gain or monetary redistribution” (98).

The view of reparations implicit in this criticism is impoverished. At best, the objection is cautionary insofar as it warns against the potential for reparations, considered broadly as an instrument of repair, to have their power diluted if we do not keep in mind what they are for. In conceiving of reparations in purely monetary terms, this account begs the question of their nature and denies their transformative potential. To link reparations to apology is not to suggest that we can attach a monetary value to injustice or suffering. Nor is it to suggest that a market-like transaction is what reparations are about. There is no amount of money that can undo grave wrongs. Seeing reparations as a commodification of injury is therefore a non-starter. Instead, we should understand reparation more loosely as an effort to “make the victim whole,” where what makes the victim ‘whole’ depends on victims, the nature of the injury and what is required to alleviate its impacts (Hill 2002, 396). Reparation is not just about material amends, but also has psychological, political, social, and moral dimensions for victims (Walker 2013, 212). Reparations are communicative devices. Since the last chapter argued that actions send expressive messages, we should acknowledge that tendering reparations can likewise send messages. While reparations sometimes come in monetary form, we should not read this as a bill coming due. Rather, reparations are better understood as an acknowledgement of wrongdoing and a signal that the wrongdoer aims to make amends and establish just relations. If this is so, there is no reason to think that reparations need always come through monetary redistribution.

Margaret Urban Walker is the best expositor of this rich view of reparations. Walker (2013) argues that reparations “consist in acts, on the part of those responsible for the wrong or its repair, of intentionally giving appropriate goods to victims of that wrong in order to acknowledge the wrong, their responsibility for the wrong or its repair, and their intent to do

justice to the victim precisely for the wrong” (205). For Walker, it is neither the nature nor the value of the reparations offered that are of primary importance in reparative acts, but rather the messages sent by their tendering. “It is the meaning of the interaction, and not only or by itself what is tendered in it, that puts the repair in reparation” (208). In justifying reparations by reference to the injustice that triggered the call for them, reparations (minimally) communicate *de facto* messages of acknowledgment, both of that wrongdoing and that victims were deserving of better treatment.

It is illuminating to contrast this view of reparations with that implicit in the ‘vulgarization’ criticism mentioned a moment ago. According to Brooks (2003), “[r]esponses that seek atonement for the commission of an injustice are properly called *reparations*. Responses in which the government does not express atonement are more properly called *settlements*” (107, emphasis in original). While the theological language of atonement may be infelicitous, the point is that when talking about reparations we are not just talking about material amends, but *moral* amends too. Reparations and settlements are distinguished by the fact that while the former entails an admission of responsibility and the acknowledgement of wrongdoing, the latter does not (*ibid*; see also Lean 2003, 172; Minow 1998, 103; Zutlevics 2002, 72). A consequence is that while reparations have intrinsic moral content, settlements do not (see Walker 2010; 2013). Reparations come in a wide variety of forms and, despite the historical meaning of the term, examples include not just cash payments, but also affirmative action, educational programs or even the renaming of parks, all of which serve an array of moral aims (Brooks 2003, 108; see also Torpey 2003, 3-4).⁶⁴ The view of reparations expressed by the naïve criticism describes *settlements*, not reparations. Settlements are compromises, not an effort to make a victim whole (Brooks 2003, 107).

The justification for reparations that attends this normatively rich view is salient to their relationship to official apology. The justification, says Boxill (1972), is “primitive”: every person (or group) is equal in moral standing, with an equal right to pursue what they think valuable (116-117). When these interests are injured through wrongdoing, reparations are required not only to counteract the ill-effects of injustice, but also to affirm victims’

⁶⁴ Note also that reparations can come in either individual or collective forms, despite the fact that western jurisprudence tends to favor individual packages.

moral standing. Others suggest that the justification for reparations is even more primitive: wrongs deserve righting (Minow 1998, 104). But Boxhill's (1972) view gives some substance to this latter intuition. In committing a wrong, perpetrators offend the basic dignity and deny the moral equality of their victims insofar as the wrongdoing carries with it the message that the interests of victims do not matter so much as those of perpetrators. Without acknowledging this view as mistaken, this message is not counteracted. "Without the acknowledgement of error, the injurer implies that the injured has been treated in a manner that befits him; hence, he cannot feel that the injured party is his equal" (118). Such acknowledgment is intrinsic to reparations, for it is this error that justifies them in the first place. That money, goods or actions are incommensurable with the loss and suffering occasioned by injustice is what motivates Walker (2013) to argue that *all* reparations are symbolic, even monetary ones (211; see also Minow 1998, 103). Reparations, before they are anything else, are vehicles for sending moral messages.

Understanding reparations in this way allows us to explore how they work in synergy with apology. Apology and reparations share many features. Both seek to acknowledge wrongdoing and to restore dignity and humanity to wronged parties. Both are justified with reference to past wrongdoing. Indeed, many consider apology itself to be a vehicle of reparation, and on the above reading it fits the bill (see Thompson 2018, 81 and Minow 1998, 112). It should thus come as no surprise to the reader that I am suggesting reparations are useful tools for advancing the moral functions of official apologies. Reparations can promote these functions in a 'concrete' way that lends credibility to apology. Yet it remains for me to demonstrate why reparations of a more substantive kind are *critical* complements to effective official apology. Why is apology not enough? For that matter, why is restitution, reform, or compensation not enough? The answer has to do with the importance of *sincerity* in an official apology.

As we saw in chapter 2, 'sincerity' in this context minimally demands that (a) official apology demonstrate a genuine desire to develop new relationships by making amends for past wrongs that stand in the way of them; and (b) that the apology show serious commitment to forbear from further transgressions. In interpersonal contexts, the perception that an offender is experiencing remorse (or conveying some cognate emotion) is often enough to

convince recipients of sincerity. Indeed, this is the primary function of remorse. But, as we saw in 2.1.2, the requirement of remorse is not amenable to transposition to the political realm for reasons having to do with the ontology of collectives like states. For this reason, reparations will play an indispensable role in proving state sincerity. Far from being useful complements to official apology, reparations are required to get it off the ground in the first place. This is not to elide the distinction between apology and those substantive measures which lend it credibility, but instead to say that an apology *cannot be effective* without these complements. As I argued in the last chapter, without sincerity an apology will be hollow. What I suggest now is that without reparations, the apology will be perceived as insincere. If addressees question the sincerity of the apology, it will not be effective. Reparations are prerequisites for a sincere – and hence effective – official apology.

3.2.1 State sincerity and reparations

To see why reparations are prerequisites for sincere collective apology we need to return to my account of the composition of the ‘apologizer’ defended in the last chapter. As I argued at length (2.2.1 – 2.2.4), collectives such as states are ontologically dependent on the people that compose them. What a state does is dependent on what its citizens do, no matter whether we consider ‘the state’ as inclusive or exclusive of citizens. Since comprehensive state apologies concern several injustices to which non-Indigenous citizens are party, for a state to apologize in a sincere way these individuals must get on board. To re-capitulate, this is not only because these individuals have things to be sorry for, but also because empirical evidence suggests that the perceived sincerity of the messages of collective apology is (in part) a function of the perceived representativeness of the views of the individuals that compose the apologizing group (Wenzel et al. 2017; Philpot et al. 2008, 485-486; Blatz, Schuman and Ross 2009). That is, perceived sincerity is partly a function of how many individual members of a collectivity endorse the message of the apology. This endorsement represents individuals’ acknowledgement of their contribution to injustice while allowing the apology to concern collective- as opposed to individual-level wrongs. If apology is supposed to engender new political relationships between groups, and if groups are composed of people, then the success of the apology stands or falls on whether or not the sentiments expressed are shared – and seen to be shared – by the constituents of the offending group.

Endorsement from co-responsible citizens, however, is not enough to prove the sincerity of a comprehensive official apology. This conclusion is a consequence of both the two-level conceptual distinction between states and their composite members espoused in chapter 1 (1.2), as well as the view of the composition of the apologizer just mentioned. As we saw, for both normative and ontological reasons we need to understand official apology in our context as coming from both co-responsible citizens *and* the state (here considered as the sum of its institutions). This hybrid solution to the dilemma of how to characterize the apologizer is necessary for securing the apologetic meanings required to address both the historical and enduring injustices at issue in a comprehensive official apology, as well as for respecting the fact that the state and its non-Indigenous citizens are distinct though jointly responsible agents. Parties require standing – that is, responsibility for injustice – to apologize in a manner that conveys these meanings and thus promotes the moral functions of apology. The state and co-responsible citizens are responsible for injustice: the state is responsible for emergent and collective wrongs, individuals for their contributions to them. To fully address these injustices, each type of agent must be involved in the apology. Importantly, both types of agent need to be sincere for the apology to be effective. The view defended in the last chapter addresses the sincerity component of apology for only the first type of agent – individuals – and bracketed the sincerity component for the second – the state.

The idea that reparations tendered by the state can demonstrate the sincerity of an apology is not new. Indeed, as can be gleaned from the discussion above (3.1), if there is any agreement in the literature on official apologies, it is that reparations of some kind or other are required to lend credibility to them (James 2008, 139). Not acknowledged, though, is that espousing a normatively rich view of reparations is necessary for this function. Apology is a moral instrument with moral goals. The naïve view of reparations sees reparations as a type of *settlement* – a commodification of injuries (Flemming 2008, 99). Cynical underlying motives in apology discredit its moral messaging, and settlements effectively constitute payouts. A payout has no necessary moral content and cannot demonstrate sincerity. To show sincerity, reparations must have moral content. Reparations are, in the broadest sense, gestures of goodwill that show in a concrete though indirect way how seriously the offender takes the apology (Lazare 2004, 127). By making reparations, the state signals its

commitment to change, its acknowledgement of wrongdoing and its admission of both causal and reparative responsibility.

We can dig a little deeper here to understand just how morally significant reparations can be when they serve as complements to apology. Like an apology, tendering reparations is a gesture of respect that affirms the moral equality of victims and perpetrators (Boxhill 1972, 116). As we saw in the last chapter (2.3.1), the perpetration of an injustice sends the message to victims that their interests do not matter or that they are of lesser moral worth: they are ways of saying “I count but you do not”; “I am here up high and you are there down below” (J. Murphy 1988, 25). Through apology, however, the wrongdoer elevates the interests of the victim above their own (28). It is a gesture of humility that empowers victims through an affirmation of their moral equality. Reparations send the same message in a ‘concrete’ (though still symbolic or communicative) way. To see why, consider that when an offender commits an injustice, they impose a cost of sorts on victims, a cost that most often results in a gain for the perpetrator. The implicit justification for this is the view that while the interests of perpetrators matter, those of victims do not. Yet when a perpetrator imposes a cost on themselves in the form of reparations – a cost which is borne in the interest of victims – there is a message of respect attendant upon it, for it represents an inversion of the prior moral calculus, an inversion which serves as a corrective to it.

Vernon (2012) hits the nail on the head in his discussion of this aspect of reparations and their connection to apology. Vernon argues that when we make reparations, “we express respect for someone by *putting ourselves out* or suffering some inconvenience on his or her behalf” (83, emphasis in original). By putting ourselves out we demonstrate our good faith and our sincerity (84). If reparations were simply a settling of damage accounts, as the naïve view rejected above suggests, this would not be so. By imposing a morally significant cost on ourselves in the form of reparations, we communicate that the interests of victims matter just as much as ours. Yet to effectively communicate this message, argues Vernon, it is crucial that reparation not come too cheaply. This is an important caveat when we consider that one reason apologies are dismissed is because they are perceived to be maneuvers that impose no cost on offenders. As Vernon reminds us, “words are cheap – free, in fact” (83). Thus, if the tendering of reparations is to send a message of respect it is necessary that the cost imposed

on offenders be substantial enough that it can really be said to ‘put us out.’ In the case of monetary reparations, for example, payments “must represent a loss to the payer that can be taken as a measure of the payer’s seriousness, even if not as a measure of what the payee lost” (which, in any case, is incommensurable with money) (143). Such costly undertakings parallel the humbling aspect of apologizing.

Judging the above elucidated understandings of reparations on the one hand, and our understanding of sincerity on the other, we can see how the tendering of the former supports the proving of the latter. As in an apology, states offer reparations “in order to acknowledge the wrong, their responsibility for the wrong or its repair, and their intent to do justice to the victim precisely for the wrong” (Walker 2013, 205). As we saw, sincerity in this context requires that (a) the apology demonstrate a genuine desire to develop new relationships by making amends for past wrongs that stand in the way of them, and that (b) the apology show serious commitment to forbear from further transgressions. Given that reparations are always a morally laden response to wrongdoing, our rich view of reparations means that they serve to both acknowledge that wrongdoing and take responsibility for it. They are, then, an attempt to make amends for past wrongs that stand in the way of new relationships. Likewise, reparations, when costly to the offender, are a gesture of respect that indicates the she will not repeat her transgressions, for reoffending would flagrantly contradict the previously affirmed respectful stance towards victims. Less commendably, a repeat of offenses would impose further costs in terms of reparations, costs an offender would hope to avoid. They thus indicate a serious commitment to forbear from future transgressions.

Given that reparation is how the state demonstrates sincerity, the question now is what these reparations should look like. As tailored responses to specific wrongs, they cannot be just anything. Since a sincere apology would entail that the state seeks to achieve apology’s goals, we can get insights for an answer to this question by looking at how to achieve them.

3.3 Rehumanization through apology and (indeterminate) reparations

In the last chapter I argued that one of the primary moral functions of official apologies to Indigenous peoples in settler states is ‘rehumanization’ (2.3.2). Grave wrongs have expressive dimensions that send messages of a damaging kind. Since historical injustice

dehumanized by sending the message that victims are of lesser moral worth, apology must rehumanize.

The last chapter explained how historical injustices can dehumanize victims in (at least) two ways. As we saw, Hampton (1988) makes a useful distinction between victims who are “literally degraded” – as in the case of those who internalize the disrespectful message of injustice and consider it warranted as a reflection of their actual low moral worth – and “demeaned” – as in the sense of being treated in a way that the victim considers inappropriate given her actual high moral worth (44-45). We can consider these injuries to be “subjective” or “objective”, respectively (45). In either case, the victim (or victim group) is treated in a manner that is not befitting of a party with moral worth. The message is that victims count for less.

Dehumanization can occur in many ways, but, obviously, to ‘dehumanize’ someone is to treat them as though they are less than human. Rather than digress into an Aristotelian discussion of the essential feature(s) of humans, I take it for granted that all persons are of equal moral worth; all have full moral status. Since this is so, from the perspective of morality no person’s interests are any more important than another’s. It follows that, minimally, to dehumanize someone is to treat them as though their interests are objectively less important than one’s own in virtue of their moral inferiority. The corollary of this is that to *rehumanize* is to affirm that a victim’s interests are as important as one’s own in virtue of their moral equality. Howard-Hassman (2003) refers to the idea of rehumanization I explain here as an acknowledgement of “moral integrity,” or the basic moral equivalence and competence of all people (193). Govier (2009) refers to this as “existential acknowledgement” (37).

On the last section’s reading of reparations, apology is itself a vehicle of reparation. As is the case with all reparations, part of the power of apology lies in its ability to rehumanize through the recognition of the moral equality of victims (Coicaud and Jibecke 2008). It does so through various forms of *acknowledgement*. “To acknowledge that people’s rights have been violated is to recognize, in turn, that they have been treated as less than moral equals” (M. Murphy 2011, 53). The message is that the interlocutors *are* moral equals. For Govier (2003), acknowledgement consists in “explicit verbal spelling-out or other form

of marked awareness” (71; see also Govier 2009). The need for “explicit verbal spelling-out” is part of why I argued in the last chapter, contra some scholars, that any other form of reparation, in itself, is not tantamount to an apology (2.1.2). Clearly, apology is an excellent vehicle for sending explicit messages, for it consists largely in statements of acknowledgement that correspond to the fundamentals of apology as described in 2.1.1. This is why some argue that it is primarily through acknowledgement that apology gets its moral powers. “To receive acknowledgement that these things did happen, that they were wrong and should not have happened, is to receive confirmation, validation, of one’s dignity and status as a human being, and a moral being of equal worth” (Govier 2003, 85). Through apology, victims are rehumanized in both the objective and (where applicable) subjective senses.

Apology is a necessary response to injustice because, in addition to what we can term ‘concrete’ injuries such as physical harm, there is a moral injury to dignity attendant upon it that requires attention. In the very act of making an apology the deliverer necessarily acknowledges victims’ standing as moral agents and moral interlocutors (MachLachlan 2015, 452; Smith 2014, 39). In admitting to moral fault, the wrongdoer symbolically brings themselves low as a corrective to the previous message of moral superiority, a corrective complemented by the parallel loss to perpetrators occasioned by the tendering of additional reparations. This humility contributes to the restoration of dignity in victims, dignity objectively or subjectively impacted through injustice (Lazare 2004, 116). It affirms a “moral equivalence” between victim and perpetrator (Howard-Hassman 2003, 204). When this acknowledgement of moral equivalence is lacking there is a “second wound of silence” (Govier and Verwoerd 2002c, 71), a “standing victory” of injustice that is a “moral fact” suggesting the injustice was justifiable (Philpot 2012, 38-39). In failing to apologize, “we are by our denial negating [victims] as persons whose needs and interests matter and who deserve our concern” (Govier and Vewoerd 2002c, 78). For these reasons, restitution, reform, settlement and additional vehicles of reparation are not sufficient for rehumanization. An “explicit verbal spelling-out” through apology is needed.

It is worthwhile to consider another way in which official apology can rehumanize: ceremony. This facet of apology draws attention to the role of performance, or what some

commentators call the ‘ritual’ of official apology. The symbolic aspects of official apology may be at least as important as the reparations that accompany it (MacLachlan 2013, 199). To do its work, an official apology cannot simply affirm respect; it must also *be* respectful (Coicaud and Jonnsson 2008, 87). As noted in the last chapter (2.1.2), official apologies must always be delivered in a public setting. The meaning of the apology will be impacted by how, where, by whom and to whom it is delivered. While the apology must be victim-centred, it is nonetheless true that it is partly tailored for public consumption because it is meant to publicly acknowledge and affirm its various messages. If this were not one of its goals, it would not be an official apology. This feature of official apology can work to its advantage in achieving its moral function of rehumanization. A respectful official apology requires that the various ‘actors’ in the ‘performance,’ as well as the location and ‘*mis en-scène*,’ be appropriately chosen (Saito 2016). Cels (2015) understands ‘performance’ as the combination of both the speech – the apology proper – and the dramaturgy – the ritual or ceremonial aspects of the apology (356). By choosing the actors, place and words properly, the apology can symbolically rehumanize victims. Both Cels and MacLachlan (2013) use the example of Stephen Harper’s 2008 apology for Canada’s residential school system to illustrate this point. After a process of negotiation during which the content of the apology was decided, Chief Phil Fontaine of the Assembly of First Nations, in full ceremonial headdress and standing alongside representatives of Canada’s First Nations, Métis and Inuit populations on the floor of the house of commons, received and responded to the apology from Canada’s highest political figure. “The staging and scripting of this apology visually demonstrated the moral inclusion of the victims in the same forum... thus enabling them to actually function as primary interlocutors who could literally contribute to the moral discourse” (Cels 2015, 357). The very public nature of official apologies, then, can be harnessed for the purposes of rehumanization.

3.3.1 Rehumanization through (indeterminate) reparations

While apology contributes to rehumanization, I have argued that words alone are not enough to achieve the moral functions of apology. Above (3.2) I emphasized the role of more substantive forms of reparations in conveying sincerity. But we should not forget that this is not all they can do: reparations also affirm moral status and communicate a respectful stance towards offended parties (see 3.2.1). For this reason, substantive reparations play an

indispensable role in concretizing the rehumanization sought through apology. What these reparations should look like is an open question, and suggestions run the gamut from financial redistribution to erecting monuments, from endowing educational scholarships to changing curricula. Yet, beyond the proposal I make in the next section, what these reparations should consist in, exactly, is a topic that I cannot say very much about. As a settler who has not suffered the injustices at issue, I am not in a position to expound on this question in any detail. For while reparations simpliciter are justified on backward-looking grounds, what form they take is often dictated by forward-looking ones. For this reason, Brooks (2003) terms (collective) reparations ‘rehabilitative’ (108). If, as I have suggested, we consider reparations in this context as an effort to make victims ‘whole’ rather than an effort to compute the financial value of suffering, then it stands to reason that victims will be best placed to determine what being made ‘whole’ might look like (see Hill 2002). Those who owe reparations cannot – at least should not – dictate what form they take. What reparations look like, their magnitude, whether they are individual or collective – all depends on those to whom they are given. I can therefore only say that while substantive reparations are necessary for the function of rehumanization, it is only through dialogue with injured parties that we can determine their nature. This seems especially true when we consider that certain effects of historical injustices may be known only to victims, and thus it is only they who can fully communicate the nature of these harms and what is required for their repair.

The indeterminacy of the forms of appropriate reparation might be considered a weakness of my analysis, but it does not need to be. As with negotiating the content of official apologies, negotiating forms of reparation is itself valuable. This idea relates to Walker’s (2013) insight that “it is the meaning of the interaction... that puts the repair in reparations” (208). While reparative gestures or programs involve concrete actions, these are also rightly seen as the result of a process of negotiation and interaction between victims and responsible parties. This process of negotiation, if undertaken in a spirit of respect, can serve as an exemplification of the modalities of the relationship sought through reparative acts: it is both a model and a sort of test procedure for what is to come (222).⁶⁵ Negotiation is key to ensuring that reparations embody and promote what they hope to achieve. It is also important

⁶⁵ For an example of a successful process of this type see Phillips and Johnson 2003.

for ensuring that the reparations fit the needs of offended parties. Far from being a shortcoming, the indeterminacy of the forms of the reparations I have argued are necessary for official apology is a virtue.

3.4 Correctives to history and truth or historical commissions

In the last chapter I explored the expressive messages sent by the subsistence of enduring injustices. I drew attention to two forms of enduring injustice that are harmful in both concrete and communicative ways. First is the ongoing failure to redress historical injustice. This is a new and distinct site of direct responsibility on the part of the state which has material, symbolic and psychological ramifications for descendants of direct victims, as well as implications for the cultural survival of their communities. Second are the structural injustices that constitute some of the automatic effects of historical wrongdoing. These have damaging and measurable effects on the well-being of historically victimized groups and the people that compose them. Failing to address enduring injustice of both kinds represents an erasure of history and sends what is in effect a message of moral contempt to victims. Moral contempt is a continually reproduced communication of contempt for the claims and interests of victims. Implicit to ongoing moral contempt is not only the idea that the needs and interests of victims do not matter so much as those of responsible parties, but also the suggestion that victims' understanding of history is baseless. For if (as responsible parties purport to believe) victims and perpetrators are moral equals, then redress for the injustices at issue would have been forthcoming. This is because the justification for redress stems from an assessment of what is due as a matter of justice between moral equals based on backward-looking assessments of moral responsibility – that is, based on history. A denial of redress is a denial of history, and “to have part of one’s history ignored is a kind of affront, and when that history involves suffering at the hands of others to ignore it is to imply that the group that suffered is lacking in worth” (Vernon 2012, 151).

To be effective, a comprehensive official apology cannot ignore enduring injustices because they are part of the broader context that informs the meaning and significance of historical injustice in the context of ongoing colonial practices. Nor can it ignore the moral contempt associated with the historical reluctance to address these injustices. As I argued in chapter 2 (sec. 2.3.3), one of the moral functions of official apology to emphasize in this

context is the repudiation of the message of moral contempt. One way to do this is to issue correctives to history. Correctives to history contribute to the sincerity of apology insofar as they support its comprehensiveness. Taken together, acknowledging the reality of enduring injustices, validating victims' understanding of them, delineating their origins in detail, and placing reparative responsibility on the shoulders of responsible parties all serve to demonstrate the depth of perpetrators' contrition, and their understanding of the impact of wrongdoing. Such acknowledgement will inform social discourses which either deny or downplay the significance of historical injustice and its legacies, and offer hope that harmful patterns of interaction will transform. In effect, this acknowledgement of history will in turn acknowledge that not only were historical injustices wrong, but so too were the denial of redress and the failure to address their structural legacies. The facts will speak for themselves and compel action (Waziyatawin 2011, 176).

While I argued in the last section that it is inappropriate to determine a priori what form reparations should take, it nonetheless appears that there is one vehicle of reparation that is a precondition for (effective) official apology in the context of settler states. Issuing a corrective to history through apology means acknowledging that national narratives which ignore the injustices of the past (and present) do not reflect the facts of history. The most crucial element of any apology is the acknowledgement of the offense(s) at issue. "Clearly, without such a foundation, the apology process cannot even begin" (Lazare 2004, 75; see Marrus 2007, 79). We need to know the truth of what happened if we are to apologize for it. At least in this domain, the truth is a prerequisite for repair (Walker 2013, 530; Cairns 2003, 67; Crocker 2003, 45). Detailed acknowledgment is essential to official apologies because these concern emergent and collective wrongs spanning extended periods of time and involving many actors and structural forces. Not even perpetrators are fully aware of the complexities involved. As I've stressed, the success of an apology depends in large part on its ability to convince recipients that the deliverer has met all the conditions of apology. If an official apology is to fulfil the requirement that it acknowledge the offenses at issue, then, far more detail and nuance is going to be required than in interpersonal contexts, for this level of detail will be required to convince recipients that the requirement really has been fulfilled (Smith 2008, 169-170). To avoid coming across as perfunctory, a careful process of investigation is required as a basis for this component of the apology (Teitel 2006, 107). As

Rotberg (2006) argues, “[a]pology acts in a vacuum if there is no investigative underpinning to anchor and support such contrition... The more rigorously such information is obtained, the more effective apologies can be” (47).

A truth or historical commission is the best form this “investigative underpinning” can take. According to Hayner’s (2011) authoritative account, a truth commission has five essential characteristics. It (1) is focused on the events of the past; (2) scrutinizes events or patterns of events that took place over a span of time; (3) “engages directly and broadly with the affected population, gathering information on their experiences”; (4) has a clear mandate with a fixed temporal duration with the aim of producing a definitive final report; and (5) is official in that it is given its powers by the state under investigation (11-12). Hayner argues that truth commissions have five core aims or functions. First, they seek to create a record of the past. Second, they have the aim of “hearing, respecting, and responding to the needs of victims and survivors,” giving them a previously silenced “public voice” (21). Third, by exposing wrongdoing and establishing accountability they can help to counter impunity and reduce the likelihood of further transgressions like those under review. Fourth, most truth commissions identify specific institutional or structural causes of injustice, thereby allowing them to suggest necessary reforms. Finally, some truth commissions are conceived so as to promote ‘reconciliation,’ (whatever that may be) (20-23). Judged by these components, not only will a commission along these lines provide a compelling and reliable evidentiary basis for apology, but, because of its attention to history, it will also offer valuable information that can inform subsequent projects of redress.⁶⁶ The upshot for us, then, is that a commission can serve as a powerful complement to the acknowledgement of wrongdoing essential to apology, while also signaling the seriousness of the apologizer’s intention to do justice.

As I explain below, it is primarily for normative reasons that my account demands we understand truth or historical commissions as a form of reparations. This is because, first, understood as reparations commissions can contribute to demonstrating the sincerity of an official apology. Second, seeing commissions through the lens of reparations allows us to defend the selective emphasis commissions place on certain aspects of a state’s history. Yet, bracketing these normative motivations for a moment, we can take issue with Hayner’s

⁶⁶ This suggests that truth commissions must precede apologies. See Dorell 2009.

(2011) contention that it is implausible to conceive of truth commissions as reparations. Hayner suggests that understanding them this way stretches the concept of reparations too far, for victims generally understand reparations as “responding to the *specific* harms and damages suffered” (165, emphasis added). Yet, like all reparations, truth commissions *are* a response to specific harms and damages; they are “intentionally reparative actions in the form of goods (material and interactive) given to those wronged by parties who acknowledge responsibility for wrongs and whose reparative actions are intended to redress those wrongs” (Walker 2010, 529). The only significant difference between ‘concrete’ reparations (such as monetary redistribution) and a truth commission is in *how* each contributes to improving the condition of offended parties. Concrete reparations such as financial redistributions are primarily used to improve the condition of injured parties in material ways. Truth commissions serve to improve this condition in less tangible ones.

As Walker (2013) argues, in a context of widespread social denial or whitewashing of historical wrongdoing and its legacies, victims are saddled with the burden of making their claims for redress, or telling their stories, in the face of skepticism. The uses to which the truth can be put, then, “include the ability by victims and by others who support them to claim both the truth of what has happened and the basic credibility of victims and witnesses, [and] their standing to give accounts that reasonably require consideration by others” (538). As an example, consider that since the 1996-2003 South African Truth and Reconciliation Commission no white South African has been able to (reasonably) deny the injustices suffered by the victims of apartheid. Another count in favor of the commission-as-reparations view is that, like all reparations, commissions serve to presage just relationships by exemplifying the modalities of the relationship that reparative acts seek to engender. A good truth commission will thus embody what it is trying to achieve (Guttman and Thompson 2000, 23). The South African commission again offers a compelling example. As we saw above, truth commissions have the aim of “hearing, respecting, and responding to the needs of victims and survivors” (Hayner 2011, 21). When the state and victims or victim groups engage each other respectfully in a non-adversarial context, truth commissions such as South Africa’s – where all hearings were televised – serve to promote through example a relationship premised on just interaction between moral equals (see Walker 2010, 540). The public setting in which victimized individuals engage in a moral interlocution with the state

likewise serves to promote the rehumanizing function of reparations (and apology).⁶⁷ All this is to say that, contra Hayner, is it plainly not farfetched to consider a truth or historical commission a form of reparations. And by conceiving of truth commissions thus we are imbuing them with a moral character that is congenial to the purposes of apology. If we consider these moral aspects of commissions-as-reparation it is easy to see why some consider them the “heralds of apology” (Rotberg 2006, 42).

In this context, truth commissions are essential to effective official apology not only because they serve as sincerity-bolstering instruments of substantive reparation, but also because they inform the correctives to history apology calls for. As noted in chapter 2 (sec. 2.3.3), to counteract the message of moral contempt implicit in the failure to address enduring injustice the state must issue a corrective to history through official apology in at least two ways. First, by acknowledging that the failure to redress historical injustice was (or is) an injustice unto itself. Second, by acknowledging that responsibility for enduring structural injustices lies with the state and its co-responsible citizens. Without detailing these historical correctives, an official apology will fail to meet the requirement that it properly acknowledge offenses. As an inadequate apology, it will appear perfunctory, failing to repudiate the moral contempt associated with enduring injustice.

Consider how far-reaching the practical implications of a robust historical corrective go. First, acknowledgement that the denial of redress for historical wrongs represents a distinct injustice for which the state bears responsibility requires an acknowledgement that victims were always justified in their calls for the redress of historical wrongs. Implicit to the denial of justice is the state’s view that historical injustices did not merit attention and that victims’ understanding of it was wrong. Repudiating this message requires a re-evaluation of history. This, in turn, requires a full airing of the historical record, for we cannot acknowledge the wrongness of an action without first delineating what it involved. A truth commission with a broad mandate is required to inform subsequent re-evaluations. Acknowledging what happened forces the state to acknowledge that not only was the historical injustice wrong, but by consequence so too was the denial of redress. Chile’s

⁶⁷ This is a widely noted virtue of truth commissions. For example, see: Govier 2003, 67; Du Toit 2000, 128; Minow 2000, 246; Dyzenhaus 2000, 473-474.

National Commission of Political Imprisonment and Torture, for example, resulted not just in acknowledgement of wrongdoing, but also subsequent (long-denied) redress for victims of torture and false imprisonment (Hayner 2011, 61-62). In the settler-state context, analogous forms of acknowledgment can help to undo the damage done by generations of moral contempt. As Maier (2014) notes, “[t]he truth commission may not be able to provide justice in the sense of rendering retribution, but it at least avoids the accumulated injustice of denying recognition of suffering” (267).

The second type of historical corrective is no less involved. Locating the responsibility for contemporary structural injustices in the right place demands thorough investigation. Emphatically acknowledging that victims are not responsible for the wrongs at issue is an important aspect of any apology (Lazare 2004, 58). It may be even more important in political contexts, where public acknowledgment plays a role in vindicating victims. Given that both acknowledgment of responsibility and acknowledgement of the offenses at issue are necessary components of apology, clearly delineating the cause and effect relationship between historical injustices and their enduring structural impact is a necessary condition for meaningful comprehensive apology. To accept blame – and to counteract the tendency of some to assign blame to the wrong party – a clear spelling-out of the course of history is required. This is the job of a truth commission, and its findings should feature in any serious apology. This airing will serve to promote crucial functions. First, it will vindicate Indigenous peoples’ understanding of history and publicly acknowledge the responsibility of the state and co-responsible citizens for contemporary structural injustice. Acknowledging that structural injustice stems from historical wrongs is thus a way to empower victims (McGary 2010, 551). Second, this sort of investigation will help to reveal the “global truth of the broad pattern of events” and establish accountability for repair (Hayner 2011, 84). Understanding the past makes it less likely that systemic problems will persist (see Sparrow 2000). By identifying systemic causes of current structural injustice this corrective to history can serve as a launchpad for reform. Canada’s *Royal Commission on Aboriginal Peoples*, in narrating the history of Indigenous-Crown relations from contact to the mid-1990s, and in suggesting reforms and exhorting Canadians to accept their reparative roles, is perhaps the best example of this (1996a; 1996b).

3.4.1 Truth or historical commissions and the liberal objection

The upshot of the above discussion of correctives to history is that, as an evidentiary basis for apology, truth or historical commissions are indispensable for a sincere and effective one. However, despite the potential for truth commissions to complement and enhance the value of official apology, a powerful criticism of this idea lurks. As Guttman and Thompson (2000) note, “[a] commission typically seeks a historical verdict, a final judgement about what happened, intended to be accepted by all citizens” (34-35). Yet in the liberal-pluralist democracies of settler states like Canada, Australia, New Zealand or the United States a “historical verdict” or “final judgement” might be considered a deeply illiberal aim. In theory, at least, the state can no more compel people to give up their view of the past than it can demand they sign on to an officially endorsed one. As Maier (2000) cautions, “[t]rying to ‘synthesize’ a narrative from diverse sources and voices is a dangerous exercise: reduction of many voices to one coherent story line means valuing some testimonies more than others, or privileging the significance of some stories more than others” (274). If a commission establishes a comprehensive moral and historical narrative it will come perilously close to providing what amounts to a polemical document promoting one view of what is right and wrong, one view of how we should interpret the past. This offends both liberal and democratic principles (Vernon 2012, 75-79). In liberal-pluralist states, no single agent is permitted to have the final word on how the facts should be interpreted. For this reason, Hayner (2011) arguably understates the case when she notes that “defining truth is contentious” (84).

The liberal objection has merit, but it elides crucial differences between what we can loosely term ‘types’ of truth. By distinguishing between the types of truth a commission might uncover (or produce), we can see why the liberal objection misunderstands the purpose of a morally defensible truth commission considered *as reparation*. Commissions can offer at least three types of truth. The first is “forensic” truth, which concerns “information about whose moral and legal rights were violated, by whom, how, when, and where” (Crocker 2003, 44). These are the cold hard facts, or what Arendt (2005) would call “brutally elementary data” (302). The second is variously termed “personal” (Vernon 2012, 73) or “emotional truth,” which is “knowledge concerning the psychological and physical impact on victims and their loved ones from rights abuses and the threat of such abuses” (Crocker 2003,

44). These are the truths of human experience, either individual or collective. The third type we can term 'interpretive' truth. This type of 'truth' is truth-as-narrative, in which forensic and emotional truths are incorporated into a narrative fabric that weaves its way around the facts while pulling in strands of moral and political judgements that are external to them. It is the 'synthesis' Maier (2000) cautions against (274), or a story of the past imbued with evaluative assessments informed by the first and second types of truth.

As Hayner (2011) notes, the kind of truth a commission collects will depend on what it is aiming to do (81-82). For example, suppose we conceive of commissions as dispassionate bodies seeking a clearer picture of historical events. In this instance it would be difficult to defend its dissemination of anything beyond forensic truths. A commission of this kind might lack credibility if it offered any interpretive truth. Emotional truth, which is not subject to the same evidentiary standards as forensic truth, might well be discounted. Yet it is here where the normative value of recognizing commissions *as reparations* comes into play. As reparations, commissions are undertaken as precisely tailored responses to the wrongs at issue. The wrongs at issue concern not just historical injustice, but also the enduring injustices associated with the erasure of history, the denial of redress, and the historical silencing of the voices of offended parties. For this reason, a commission is entirely justified in prioritizing certain truths over others, as well as in extending its purview beyond the forensic. For it is by uncovering and promulgating these truths that we can begin to remedy these injustices, and remedying injustice is the point of reparations. If a commission does not emphasize the truths that offended parties consider important, it will not succeed as a vehicle of reparation because, as reparation, it must be responsive to the demands, needs or wishes of the parties that the state aims to make 'whole.'

Part of the purpose of a commission of this kind is to inform a subsequent official apology. As a form of reparation, apology, like all reparations, is meant to be a response to the injustices at issue. It is for this reason that a commission must determine the constative elements of an apology by prioritizing those issues that offended parties consider important. This will undoubtedly involve detailed forensic examination of what was done, to whom it was done, when, where, why and who was responsible. Yet it will also involve what we are calling 'emotional' truths garnered from testimony. Emotional truths emerge from people and

peoples who have suffered from the injustices that initiated the call for redress in the first place. These injustices are interpreted not just as brute facts, but as emblematic of a historical and ongoing relationship of domination. This imbues the injustices with a meaning, an interpretation, that deserves to be recorded, acknowledged and promulgated. As I argued in chapter 1 (1.4.2), acknowledgment should concern not just the effects of historical wrongdoing and the recognition that they are unjust, but about what the historical injustice symbolizes. The focus is not merely on a forensic accounting of the facts; it is also about what they are emblematic of, what they mean to those that were victims of injustice. If we do not recognize and validate this sort of truth then prospects for reconciliation appear very dim, because without acknowledging the continually reproduced modalities of colonialism and their effects, then it is not clear how we can hope to change them.

One might object that even state endorsement (or production) of forensic and emotional truths represents an illiberal attempt by a state body to impose a view of history on citizens who are justified in holding their own opinions on these matters. Yet just as liberal societies expect individuals to espouse foundational principles of political morality (Gutmann and Thompson 2000, 33), so too are they justified in encouraging citizens to believe in certain basic and undeniable forensic facts about history. After all, history needs telling, curricula need crafting. And whether individual citizens believe that publicly recorded emotional truths are justifiable responses to these forensic facts, it remains the case that offended parties believe these emotional truths. That is a fact in itself that can no more be denied than the brute facts of history, and it is precisely these emotional truths that need to be acknowledged in the interest of reparation.

It is only in the third type of truth where we run into the liberal's worry. For while forensic and emotional truths cannot be denied, interpretive ones can be. In a liberal-pluralist society, individuals are within their rights to put whatever narrative tapestry around established forensic and emotional truths they wish. Yet, importantly for the prospects of reconciliation, the acceptance of the first two kinds of truth uncovered and disseminated by a commission will circumscribe the range of reasonable interpretive truths available to individuals. For example, Brophy (2006) suggests that while the Tulsa Race Riot Commission failed to provide a universally endorsed historical interpretation of the 1921

massacre, it nonetheless succeeded in shaping social discourse by uncovering certain undeniable truths about the past and its enduring legacies (246-250). In the context of settler states, commissions have the potential to guide historical readings in a like manner, thereby helping to transform prevailing interpretive truths of the past. And even if a commission were to reach a little far, offering its own interpretive truth in response to its investigations, so be it. For, as reparations, truth or historical commissions in this context are meant to respond to generations of silencing those who opposed prevailing national narratives of history. As Cairns (2003) argues, a commission can offer “history from below as a corrective supplement to the elite version [...by] recognizing and inserting the voiceless and the forgotten into history” (82).

3.5 Inspiring trust through reform and surrender of sovereign powers

In chapter 1 I discussed an important enduring injustice which subsists in the present: systemic colonial orientations and attitudes which legitimized historical injustice in the first place (sec. 1.2.5). As I noted, and as many commentators have pointed out, all injustice takes place in a broader system of social meanings, cultural orientations and attitudes (e.g. Celermejer 2013; Dorrell 2009; Murphy 2011). While contemporaries may deny that these systemic outlooks persist, the colonial project that sought to assimilate or deny cultural and territorial rights to Indigenous peoples survives in altered but recognizable form to the present. Like the ongoing failure to redress historical injustice, ‘concrete’ structural injustices serve as indirect evidence that colonial attitudes persist. Evidence of the persisting settler-colonialist mindset inspires mistrust of the state in historically victimized populations, for it points to how the modalities of colonialism endure. Thus, one of the most important moral functions of apology in this context is to engender trust in the state through the repudiation of colonialism and its associated practices (see 2.3.4). Since trust is a prerequisite for relationships premised on reciprocity and mutual respect, engendering trust is a necessary part of a multi-pronged effort at establishing these relationships.

Only a sincere apology will have any hope of engendering trust. Yet this task will be challenging given the state’s track record. Considering this record, mistrust of the state is not only warranted – it is the most rational attitude to have. Historical and enduring injustices were not aberrations, but part of a pattern of deliberate policies which sought to marginalize,

assimilate or eradicate Indigenous peoples (e.g. Spinner-Halev 2007, 585; Vrdoljak 2008, 227; see MacDonald and Hudson 2012). This is part of why historical and enduring injustices have the meaning that they do. There is, furthermore, ongoing systemic discrimination towards Indigenous peoples demonstrated by sobering statistics on, for example, rates of incarceration, health outcomes or socioeconomic indicators, “empirical proof that the past is not behind us” (Tsosie 2006, 207; see 1.2.3). As we saw in the last chapter, this pattern of state behaviour stems from what Wolfe (2006) calls the “logic of elimination” which “strives for the dissolution of native societies” through the imposition of the structure of settler-colonialism (388). The imposition of this structure and the violations attendant on its territorial expansion is one of the gravest wrongs of settler-colonialism (Moore 2019). Many scholars argue that the logic of elimination persists in a modern project which seeks to integrate Indigenous people into the political, social and arguably neoliberal order under the auspices of the state, a strategy which threatens the survival of Indigenous communities and cultures (see e.g. Woolford 2004; 2013; Alfred 1999; 2011; Coulthard 2007). An official apology will not succeed in inspiring trust by verbally repudiating the logic of elimination any more than Canadian Prime Minister Justin Trudeau looking solemn on a stage would by itself convey sincerity. An official apology needs more to achieve its moral functions. This is especially the case when it comes to promoting trust. Generations of warranted mistrust have reinforced the idea that the state is not trustworthy.

Beyond the skepticism deriving from the state’s poor track-record, there are good reasons why many Indigenous people(s) doubt the intentions of apology – and indeed the motivations of the project of reconciliation more generally.⁶⁸ Two of these stand out for their frequent mention. First, as we have seen, some scholars argue that apologies serve to limit liability by substituting words for action (e.g. Dominello 2017; Dorrell 2009; Chrisjohn and Wasacase 2011; Waziyatawin 2011). Some cite the weaknesses of many official apologies as evidence of the state’s prevarication or sidestepping (e.g. Henderson and Wakeham 2009). Recent efforts at reconciliation, say some, are forms of a “politics of distraction” (Woolford 2004, 430). They fail to institute the real reform needed to address enduring structural injustice and redress historical wrongs (Corntassel and Holder 2008). But this criticism has a

⁶⁸ For a survey of these reasons, see Jung 2018.

deeper underpinning that gets to the very heart of the mistrust that will hinder any effort at reconciliation. This second critique hinges on the idea that all measures of reconciliation – be they apologies, truth commissions or other forms of redress of various kinds – are ultimately designed to reify state power and entrench the colonial dynamic in disguised form (e.g. Wakeham 2012; Coulthard 2007, 439).⁶⁹ By seeking to close “a sad chapter in our history” (Harper 2008) the state effectively denies that the enduring injustices affecting Indigenous communities – in many ways continuous with those of the past – persist. The thought is that, in an effort to force a closure and draw a line between past and present, settler states “are increasingly using the conceptual architecture of transitional justice, including apologies, reparations, and TRCs, to reinforce the sovereign authority of the state over its Indigenous population” (Jung 2018, 256). The use of such strategies, says Coulthard (2007), “promises to reproduce the very configurations of colonial power that Indigenous peoples’ demands for recognition have historically sought to transcend” (439). This allows for a “move to innocence” congenial to settlers but which, in the eyes of Indigenous people, merely sidesteps the issues in need of attention (Jung 2018, 259-260). The worry is that while measures aimed at reconciliation may hit all the right notes, in neglecting to institute substantive reform and redress historical and enduring injustice they effectively fortify the status quo. As Coulthard (2014) notes elsewhere, “the reconciliation of Indigenous nationhood with state sovereignty is still colonial insofar as it remains structurally committed to the dispossession of Indigenous peoples of our lands and self-determining authority” (169).

Faced with these concerns it is no wonder that official apologies often fail to engender trust. Yet if official apologies in this context of mistrust cannot engender trust, or be perceived as trustworthy, then it is not clear that they can contribute to reconciliation at all. Trust is a key component to building the kind of healthy relationships envisaged by any feasible account of reconciliation. In this aspect trust has much in common with my discussion of the necessity of fulfilling the sincerity component of apology, for perceived sincerity is an indicator that recipients *trust* in the intentions of the apologizer (Nadler and Liviatan 2006). As we saw, the state can demonstrate sincerity through reparative acts, and it

⁶⁹ For similar arguments see Alfred 1999;2011; Coulthard 2014; Short 2003;2005; Moran 1998; Elgersma 2012.

is no wonder that Walker (2013) argues that one of the most important tasks of reparations is to inspire trust (209-210). Yet this emphasis on trust comes to the fore most of all in apology. As MacLachlan (2015) argues, “[w]e cannot describe the moral value of apology without referencing the moral value of trust” (446). Elsewhere she notes that “[t]he issue of trust – and its restoration – is central to the norms of apology” (2018, 367). The emphasis on trust is thus not a surprise in this context. Some of the most insightful works on reconciliation cite the establishment of trust of one kind or another as a key indicator of its achievement (e.g. DeGrieff 2008; C. Murphy 2010, 71-93). Some even seem to suggest that the (re)establishment of trust *is* reconciliation (Govier and Verwoerd 2002b). On any useful reading, then, if apology is a part of reconciliation then it should seek to promote trust between parties.

Trust involves a belief that offenses will not reoccur, and thus that the colonial mindset that enabled and legitimized the injustices at issue is eradicated. Trust in the state therefore entails that its actions will be predictable because of its adherence to the norms of the political relationships sought. The moral function of engendering trust, then, attaches most prominently to apology’s forward-looking aspects: the promise to forbear from future transgressions, the commitment to reform and to redress injustice. In a context of widespread distrust of the intentions of the state, it is in these forward-looking aspects that some of the greatest difficulties arise (MacLachlan 2013, 194 and 198-200). For these components of apology come in the form of promises, and it is not obvious how the state can convey its trustworthiness before it has fulfilled what it promises to do. This is why some commentators argue that an official apology can only be judged retrospectively (Smith 2008, 234). We have then a sketch of a paradoxical architecture to trust-engendering apology. An official apology can only engender trust if it is trustworthy, yet we can only confirm it as trustworthy long after its delivery. From a functionalist perspective it seems that this temporal inversion is an inescapable conclusion, and so we must work with this handicap in mind: an official apology must *become* trustworthy over time. A retroactive proof of trustworthiness will by consequence retroactively prove an official apology’s sincerity. If, as I have argued, an official apology should be judged by how well it promotes its moral functions, and if measures of redress are essential complements of official apology, the question to ask now is

what measures of redress (beyond reparations) will serve to concretize the message of trustworthiness and make it reasonable to trust the state.

3.5.1 Concretizing trustworthiness

The key to making trust in the state rational will be to undertake substantive measures of redress specifically designed to put the lie to the worries about the authenticity of the forward-looking commitments of an official apology. These measures, like reparations, will serve to buttress the words of the apology by offering discernible indications that the apology – and hence the apologizer – is trustworthy. Undertaking these measures will help to close what Regan (2010) calls the “authenticity gap” between official rhetoric – what we say – and action – what we do (235). To engender trust, the apology must demonstrate a genuine change in outlook on the part of the apologizer, for lacking this there would seem to be no reason for trust. To be sincere, then, this message must be backed up with those actions that would be expected to follow from its authenticity.

Let us look at the two fundamental criticisms of the means of reconciliation noted above (3.5) to determine which measures of redress might contradict their basic assumptions. If the state can counteract these assumptions, the likelihood that apology will (eventually) help to engender trust will be higher. First is the idea that measures of reconciliation such as apology divert attention from the real changes required to address enduring injustices and redress historical ones. Second is the idea that measures of reconciliation such as official apology reify state power and entrench the status quo by legitimating state sovereignty over colonized Indigenous peoples (e.g. Alfred 1999, 119). While connected, these criticisms are different in emphasis. The first proposes that the state is seeking to divert attention through a whitewash of the ongoing colonial dynamic and offering empty gestures that force premature closure on political and social issues in urgent need of concerted attention. The second proposes that the state is deviously harnessing the tools of transitional justice to bolster its legitimacy, thereby imposing a “colonial ceiling” on what Indigenous peoples can hope to achieve (Short 2005, 274). This cynical maneuvering obstructs more meaningful negotiation with Indigenous peoples over restitution and self-government (Cornthassel and Holder 2008).

With regard to the first criticism, it is self-evident that instituting the reform necessary to address the legacies of historical injustice would obviate the idea that apologies are

nothing but lip-service. In bolstering the credibility of apology in this way we are no longer talking about reparations per se, for reform does not necessitate an admission of historical responsibility for wrongdoing. It thus does not necessarily contain a moral message. Instead, reforms to such things as law, educational curricula or basic institutions are often undertaken as a response to current, ongoing injustices that stem from structural unfairness in a society. That is, we can justify reform on distributive or other grounds that make no reference to history. However, some of the strongest reasons for reform – and the justifications that interest us here – stem from the identification of the structural causes of past or enduring abuses affecting identifiable groups (Crocker 2003, 53). Reform justified on these grounds is initiated to avoid the persistence or reoccurrence of abuses not only because they are wrong in themselves, but also because recognizing that these injustices stem from historical wrongdoing highlights the urgency of addressing them (Lu 2011, 278). In this way, reform can contain moral messages akin to those of reparations insofar as they are stimulated by an acknowledgment of responsibility and undertaken to do justice for those who suffer from structural injustice.

As Alfred (2011) argues, “Indigenous-settler relations cannot be obviously reconciled without deconstructing the institutions that were built on racism and colonial exploitation” (168). Correcting structural injustice through reform requires alterations to such things as formal laws, social institutions and practices (Lu 2011, 279). In determining what these reforms should look like the findings of truth commissions are of value. As Hayner (2011) notes, given their broad investigative mandate “truth commissions are well positioned to evaluate the institutional responsibility for abuses and to outline the reforms needed to prevent further abuses” (22). This seems especially true when we consider that offended parties inform truth commissions directly, and thus suggested reforms can be responsive to their needs and demands. Given their commanding understanding of the injustices at issue, most final reports of truth or historical commissions offer explicit recommendations for reform (23). A good example of such recommendations comes from the Truth and Reconciliation Commission of Canada’s *Calls to Action* (2015b). This document suggests sweeping structural and institutional changes to such things as child welfare programs, education, health care, the judiciary, law and even the practices of the media, museums and business. In addition, the recommendations suggest measures aimed at the revitalization of

Indigenous languages and cultures, alterations to structures of governance, and negotiation or reaffirmation of treaties premised on a nation-to-nation relationship of mutual respect. In short, the recommendations seek through reform to counteract the effects of historical and enduring injustice through a process of decolonization. It is illuminating from the perspective of the trust-engendering function of official apology to consider that reforms such as these are often classified in international law as ‘guarantees of non-repetition’ because they seek to make further transgressions near impossible (Vrdoljak 2008, 225). By carrying out these reforms, the state can demonstrate that it has forsworn the practices of the past, and hence that trust is rational.

Unfortunately, states are often reluctant to implement the recommendations of truth commissions in full (Hayner 2011, 163). It is precisely this reluctance which motivates the criticism that measures of reconciliation such as apology are a politics of distraction. The unwillingness to implement some of the most far-reaching and significant reforms is likely related to governments’ fears that doing so will undermine state power, thus corroborating the second overarching critique of reconciliatory measures (Corntassel 2012, 96). But it might also stem from another feature of redress movements that is less sinister. As Brooks (1999) notes, all large-scale and successful redress movements come about through legislative action (6; see also Lean 2003, 176). It is thus only through political pressure that reform happens. Yet, on the most charitable interpretation, the laborious soul-searching involved in a truth commission can exhaust the political will to implement the changes it recommends. In failing to institute needed reforms, then, the state gives insufficient evidence of its sincerity and hence trustworthiness. Without the political will to implement these reforms, few will consider an apology trustworthy, and it will never engender trust.

The reform needed for reconciliation can only occur if non-Indigenous citizens support the project (Saul 2011, 281; Moellendorf 2007, 215). This is where the complicity approach developed in chapter 1 of this dissertation can offer some hope. Among other things, the complicity approach holds that, because of their contributions to the perpetuation of enduring injustices, non-Indigenous citizens have normative reasons for playing their part in redress. A truth commission, by identifying systemic patterns of accountability, can serve to educate these citizens about their moral responsibilities and galvanize public opinion,

marshalling political support for reform (Kiss 2000, 75). This will require concerted and costly effort at the dissemination of the commission's findings and proceedings, as well as a sustained effort to implant these into the public consciousness. But if this is not done, then what was it all for? In many ways, we should understand truth commissions as speaking to – and educating – non-Indigenous citizens more than anything else (Regan 2010, 11). We cannot forget that a state is ontologically dependent on its citizens (Govier and Verwoerd 2002b, 192). What a state does is dependent in part on what its citizens are willing to undertake (Thompson 2008, 37). Just as the sincerity of an official apology depends in part on citizen endorsement of the apologetic message, so too does reform depend on the will of citizens. The findings of a truth commission can be harnessed to mobilize the necessary political support for reform. By instituting these reforms, the state will prove its sincerity by retroactively demonstrating the trustworthiness of its apology.

With regard to the second overarching critique of measures aimed at reconciliation – the idea that the state is employing the tools of transitional justice in order to suppress Indigenous movements and impose a ceiling on their aspirations through the reification of state power – the measures that will put the lie to it are a little murkier. It is clear, however, that structural reform of the kind just discussed will not be enough to neutralize it. In many cases, most notably in Australia, structural reform manifests in attempts to 'close the gap' between Indigenous and non-Indigenous people in terms of social, economic and educational outcomes (Brennan 2004, 157). This narrow focus may be objectionable to Indigenous people in at least two ways. First, attempting to reframe reconciliation as a matter of ensuring distributively just outcomes may miss the forest for the trees: while eliminating distributive injustice is vital, the historical genesis of this injustice needs attention if it is to be responsive to Indigenous peoples (see 1.1). In this way a focus on distributive justice may indeed constitute a politics of distraction. Second, far from altering the terms on which settler states and Indigenous peoples interact, and far from establishing new moral and political norms to frame these interactions, a singular focus on economic equity can be interpreted as another attempt at assimilation (Woolford 2004, 440; Short 2003; 2005). By seeking to bring the economic outcomes of Indigenous and non-Indigenous people into line, the state diverts attention from transformative projects that would see Indigenous nations achieving greater

powers of self-determination, restitution of ancestral lands and cultural revitalization (Jung 2018, 262).

Some official apologies offered by settler states support this view. For instance, as we saw in the last chapter, Canada's 2008 apology to First Nations, Inuit and Métis people for the residential school system focused narrowly on the impact and legacy of residential schools and divorced these issues from the larger project of colonization. It thus closed the door to any transformative project of decolonization because "the apology [did] not offer any support for Indigenous autonomy or broader changes in crown-Indigenous relations" (Nobles 2014, 124). The apology, like earlier attempts at reconciling Indigenous rights with state sovereignty, tacitly asked that Indigenous people put the past behind them and move on within the existing constitutional order (see Henderson Youngblood 2002). As Dorell (2009) argues, "[t]he implicit call to federal citizenship within the Harper apology does not constitute a movement toward a new relationship between Canadians and Aboriginals, but, rather, the reinforcement of the existing colonial relationship" (36). Likewise, the forward-looking measures of Australia's 2008 national apology to the Stolen Generations focused (strategically?) on issues of housing, education and employment (Nobles 2014, 128). As Dominello (2017) notes, "the trouble with this approach is that it does not depart from the policy of assimilation that underpinned the removal of Indigenous children in the first place. The rationale of the policy [of removal] ... was to extend the benefits of Western civilization to them" (298).

An official apology in this context is supposed to represent a break from the past that signals a new relationship. Yet thus far apologies in settler states have failed to live up to this promise. Dominello (2017) convincingly argues that the scope of the state's powers over Indigenous peoples is largely unchanged (296). If an official apology were really the harbinger of a new relationship, this would not be so. By implicitly affirming a colonial relationship that is discernibly continuous with that of the past, settler-states fail to engender trust. In acknowledging the harms of colonialism, the state is meant to be repudiating its logic. This logic sought to eliminate the political autonomy and cultural identity of Indigenous peoples through the exercise of state power. By acknowledging that this project was illegitimate it seems that redress would demand its reversal, for a consequence of

recognizing that the subordination of Indigenous people was wrong is that there were (and are) limits to its putative sovereign authority (293; Nobles 2008, 29). Assuming the legitimacy of state sovereignty over Indigenous peoples is a failure of such apologies, for it is partly what is at issue. Unacknowledged presuppositions like this, says Tully (2008b) “are so deeply woven into contemporary societies that they function as the ‘hinge propositions’ around which negotiation and litigation continue to take place” (276-277). In failing to concede greater powers of self-determination to Indigenous peoples the state undermines its repudiation of the logic of colonialism (Dominello 2017, 293). As we have seen, the worry of the second critique of official apology is about the reification of state power and the legitimization of internal colonialism. The antidote to this is substantive reform involving a weakening of state power through the surrender of some sovereign powers and/or jurisdictions. This would be an expected consequence of the repudiation of the rationale behind colonialism. If the apology offered by the state is sincere, that is, it will entail a loss of some sovereign powers (Reilly 2009b, 14). This will represent a real break from the past, empower Indigenous peoples and help to engender trust.

Once again, I run into a wall here, because it is not for me to say what such jurisdictional, institutional or constitutional arrangements should look like.⁷⁰ Determining their character pre-politically is not appropriate, for it defies the spirit of reconciliatory projects. But it is worth speculating what these arrangements could involve. One thing that seems clear is that loss of some state sovereignty will surely mean the right of self-determination for those Indigenous peoples that seek it. Otherwise, a repudiation of colonialism and the colonial mindset will be mere rhetoric. Consequently, as I argue in a moment, newly negotiated arrangements will likely (though perhaps not always) also involve rights to restitution of various kinds – to homelands, culturally significant sites, artifacts or territories adequate to secure economic self-sufficiency and cultural integrity. However, the content of these rights is contentious, and it is beyond the scope of this dissertation to determine what they are (Vrdoljak 2008, 210). No doubt the resolution of their content will involve protracted negotiation between interested parties, and it is equally clear that the

⁷⁰ For discussion and some proposals, see Borrows 2017; Coyle 2017; Henderson-Youngblood 1994 and 2002; Papillon 2019; Tully 2008a.

solutions reached will differ on a case-by-case basis responsive to the history of relations between specific Indigenous nations and the settler state (Cairns 2002, 18-20). What seems certain, though, is that a sincere apology entails there is a case to be made for both restitution *and* self-determination. This is because self-determination without restitution will make self-determination harder, and restitution without self-determination would detract from the value of restitution.

“To refuse to allow Indigenous people to manage their affairs in accordance with their own cultural values and practices” argues Sparrow (2000) “is to support assimilation” (352; see also Alfred 2011). Rejecting the logic of elimination therefore requires that Indigenous peoples obtain greater sovereign authority should they desire it. According to Thompson (1990), sovereignty “is the exercise by a people – whether a clan, a tribe or a nation – of control over a particular territory through their political and social institutions” (315). Sovereign peoples govern their internal affairs, deal with other sovereign powers on a formally equal basis, and are free of external control by these powers. Paying attention to this core meaning of sovereignty, without putting much emphasis on the scope of powers and responsibilities often associated with it, is an advantage here given the political realities of settler states, where many Indigenous nations comprise 500 persons or less (Cairns 2005, 16).⁷¹ Alfred (1999) notes that sovereignty is an imported concept which may not reflect Indigenous ways of governance, and so its historically-laden meaning may not be appropriate (56). But we can understand sovereignty as minimally entailing the right to self-determination (as opposed to the more restrictive concept of ‘self-government’). Rights to self-determination entail the right to control the cultural and economic life of the area in question, rights to exclude others, and control of natural resources. Article 3 of the *United Nations Declaration of the Rights of Indigenous Peoples* (2007) holds that the right of self-determination of Indigenous peoples means that “they freely determine their political status and freely pursue their economic, social and cultural development” (8).

⁷¹ ‘Absolute’ sovereignty, or sovereignty over any and all matters in a territorially defined area, is the “quintessential” notion of sovereignty (Philpott 2020, sec. 1). However, this sort of sovereignty may not be possible for small nations within the geographical confines of settler states. As Cairns (2005) argues, “micro-nations cannot themselves handle macro-tasks” (20). An arrangement similar to the non-absolute sovereignty of the states composing the European Union may be a better way to think of this (see Philpott 2020, sec.1).

As many commentators have argued, sovereignty of this kind is the most reliable way of protecting a common way of life that is important for the well-being of cultural communities and – most importantly for liberalism – the people that compose them (Thompson 1990, 318-320; see Hendrix 2005, 768-771; Kymlicka 1995, 76 and 83-86). As Vrdoljak (2008) reminds us, many Indigenous peoples “maintain that the recognition of their collective right to self-determination is a prerequisite to their full enjoyment of all human rights, including cultural rights” (210). What self-determination will look like in detail will be a subject for negotiation. But to revitalize, affirm and protect the common ways of life of Indigenous peoples it is crucial that they have sovereign authority over their lands and communities if they see this as the best way of protecting this way of life.

There is an important connection between Indigenous sovereignty and the necessity of substantive restitution that we should take note of. The idea is that sovereignty justified with respect to the value of a common way of life must often be tied to land claims (Hendrix 2005, 768-771). Here it is not primarily property rights that matter, but what control over land can do to protect (or revitalize) cultural integrity and promote economic self-sufficiency (Thompson 1990, 328). Particularly in the case of many Indigenous peoples, stewardship of ancestral lands is often central to cultural integrity and identity (Vrdoljak 2008, 219). This attachment to lands also has affective dimensions in the sense that a connection to them is important for the lives of individuals (Moore 2019, 94). Protecting cultural integrity may additionally require some level of economic self-sufficiency. Getting reconciliation off the ground therefore requires meaningful discussion of restitution. As Cornthassel and Holder (2008) argue, “[a]s a part of a broader Indigenous self-determination strategy, substantive (versus symbolic) restitution has to occur before any discussion of rebuilding relationships or restoring dignity takes place” (470). Only this, they maintain, can counter the criticism that the architecture of settler state reconciliation projects is a politics of distraction (472).

If official apologies are ever to engender trust, there must be proof of their trustworthiness. This means undertaking those measures that would follow from a sincere apology. Substantive reform, restitution and the surrender of some of the state’s putative sovereign authority will go a long way towards moving apology from rhetoric to substance.

3.6 Conclusion

An official apology is a speech act, recorded in writing, that has enormous potential for advancing the moral goals of national reconciliation projects in the context of settler states. But without complementary measures of redress, we are unlikely to achieve any of these goals. Rehumanization, historical correctives, and engendering trust require substantive measures that go beyond words. By undertaking those measures that would follow from the sincerity of the messages and avowed intent of official apology, settler states can overcome the objection that apologies are mere lip-service, symbolic cop-outs or cheap grace. Given that we are operating under the assumption that official apology is a component of the process of reconciliation, and considering that these measures of redress are indispensable complements to official apology, it follows that we have now determined further measures of redress that are components of this process: reparations, reform, restitution, and the renegotiation of state sovereignty and/or jurisdictions.

Chapter 4 The outcome of reconciliation: positive coexistence

Introduction

Though there is some disagreement over what can reasonably be thought analytic to it, the term ‘reconciliation’ has a core meaning that is not contested: *the restoration of right relationships* (Philpott 2012, 5).⁷² However, this understanding is so vague as to be effectively useless for the political contexts of settler states. Questions immediately arise concerning what ‘right relationships’ look like, and how we might achieve them. These complexities highlight the real-world importance of having a workable concept of reconciliation that expands on its core meaning. Rettberg and Ugarizza (2016) understate the case when they note that “ambiguity in the translation of a large-scale reconciliation mandate into specific public policy may have practical implications” (518). To design policy for reconciliation it is necessary to have a conceptual star to lead us there. A clearly articulated concept has the potential to guide social discourse and thereby transform relations among those party to it (Kofi Annan Foundation 2018, 17). The need for a comprehensive definition of reconciliation, then, is of more than academic concern. By exploring what the use of official apology says about the aims of reconciliation, this chapter will complete the work of this dissertation by shedding light on some necessary elements of such a comprehensive definition.

As we saw in the preface to this dissertation, a common way of defining reconciled political relationships is to begin by asking what healthy political relationships look like, then to elaborate on the norms which best govern them (Radzik and Murphy 2019, sec. 2). This approach follows the usual method of concept-formation, where scholars first determine a conceptual ideal, and then ‘operationalize’ it: “[t]he conceptual analysis of reconciliation must be prior to the strategic analysis of reconciliation,” says Meierhenrich (2008, 214). However, notwithstanding how perennial disagreements over the nature of reconciliation suggest it has not worked, this method of establishing a definition not only forecloses context-dependent understandings of reconciliation, it is also question-begging insofar as it assumes the content of the concept it is trying to explore. This dissertation aims at an

⁷² Readers concerned about the use of the prefix ‘re’ can refer to footnote 1, in the preface to this dissertation, where I note that it is best to ignore the infelicity.

experimental inversion of the normal process of concept formation. It begins with the conditional premise that *if* official apologies for historical and enduring injustice are a part of reconciliation, then whatever effective official apology requires, whatever its normative foundations presume, whatever it aims to achieve – all will shed light on the concept of reconciliation. Allowing that official apology is a component of the process of reconciliation, and assuming that my analysis of this practice is correct, we thus have resources for deriving some necessary governing norms for a context-dependent understanding of reconciled relationships in settler states.

The findings of the previous chapters suggest that there is a moral substructure to official apologies and those mechanisms that promote its moral goals. Exploring these foundations allows us to approach the conceptualization of reconciliation by working backwards. The methodology of this chapter is based on the idea that there are several things that need to be presupposed before engaging in such apologies *would even make sense* to the parties that offer and receive apologies in this context. That is, if the apologizers and recipients both understand the ritual of apology, and if both parties recognize what makes for a good or bad one, then they must share an understanding of its purposes. By engaging in the social practice of official apology, then, parties tacitly acknowledge the value of its goals. Consequently, within apology lies the basis for a mutually agreeable vision of ‘right’ relationships, one which is cross-culturally acceptable and does not beg the question of what these relationships look like. Apology, I will argue, seeks both to circumscribe the range of reasonable interpretations of the past, and to acknowledge or engender attitudes of reciprocal respect and trust. The use of official apology, then, suggests that the practical implications of these aims constitute mutually agreeable normative expectations for reconciled relationships. As we will see, the apparent simplicity of this formulation masks the complexities that attend these goals when considered at various ‘levels’ of reconciliation. Happily, though, the conceptual dynamism of the attitudes of respect and trust can help us make sense of reconciliation as it applies to distinct kinds of relationships: that between individuals; that between individuals and collectivities; and that between collectivities.

4.1 Apology and governing norms of reconciled relations

Any conception of reconciliation should specify the type of improvement in relationship it

aims to achieve (C. Murphy 2010, 23-24). Govier and Verwoerd (2002b) refer helpfully to this as an issue of “content” which “concerns the kind of reconciliation involved” (180). For reasons that I revisit in sec. 4.1.3, it is not appropriate to determine the political, institutional, structural or constitutional arrangements that should emerge from the process of reconciliation pre-politically (see Schaap 2005, 8-11). Consequently, I restrict my focus to the governing norms, and normative expectations, of reconciled relationships.

Let’s return for a moment to paradigmatic interpersonal apology. Consider that apologies are *transactions* in which (at least) two parties must *engage* for the event to happen (Marrus 2007, 93-94; Tavuchis 1991, 46-47). “An apology is not a soliloquy,” says Minow (1998, 114). Parties to any apology have motivating reasons for engaging in the transaction. These motivating reasons stem from the perceived value of what the apology aims to do. By engaging in apology, then, parties (at least tacitly) accept the value of some or all of its goals. Since this is so, it follows that both deliverers and recipients likewise tacitly endorse normative reasons which count in favor of pursuing these goals. The normative reasons that concern us here are sometimes (self-regarding) prudential ones, sometimes irreducibly moral ones,⁷³ but they all derive from propositions that one or both of the parties think true. These normative reasons are what I will call the ‘substructure’ of apology – they are the reasons why parties think apology’s aims are worth pursuing, or why they think these aims are good. In this case, motivating reasons – why parties engage in apology – stem from normative reasons – why they *should* engage in apology. Since apology would not be an instrument of moral repair if it did not have any moral goals, the normative substructure of these goals undergirds the social practice of apology itself.

Looking to this substructure is useful because the normative reasons people have for pursuing the goals of a given apology speak to the normative expectations of the relationship the apology seeks to help create or repair. For example, if I am motivated to achieve the goal of reciprocal trust with you only for prudential reasons – say, because it makes possible the goods of trusting relationships to my benefit, and only incidentally to yours – you may

⁷³ For the purposes of this discussion I understand a moral reason to be a reason that can only be described in ineliminably moral terminology.

justifiably wonder whether I bear any goodwill towards you, and vice versa.⁷⁴ If there is no expectation of reciprocal goodwill, then the normative expectations of our relationship may be limited in a way analogous to those of a transactional business affiliation between trusting but aloof associates. Yet if we are both motivated to establish a relationship of reciprocal trust for the moral reason that the goodwill associated with trusting relationships is an intrinsically good thing, regardless of its attendant benefits, then the normative expectations of our relationship may be more demanding. I elaborate on this point below (sec. 4.1.2), but the takeaway here is that mutually recognized moral reasons imply shared moral precepts, which in turn imply shared understandings of the normative expectations that flow from them. For our purposes, the value of looking to the goals and substructure of apology is that defining ‘right relationships’ in an a priori manner is to beg the question; to define them with respect to what parties to reconciliation recognize as morally desirable is not. Allowing that official apology is a component of reconciliation, exploring the substructure of the goals of apology can help us discern the governing norms of healthy relationships that parties to reconciliation implicitly assent to *already*.

As we have seen, two crucial moral goals of official apology in the context of settler states are rehumanization and engendering trust.⁷⁵ If the analysis in preceding chapters is correct, the mere fact that parties engage in official apology in this context suggest these goals are endorsed by both deliverers and recipients alike. Chapter 2 argued that one impact of grave wrongdoing is that it sends the de facto message that victims are of lesser moral value (2.3.1). The rehumanizing function of apology is a corrective to this. Apology affirms a moral equality, says Govier (2003), because “to receive acknowledgement that these things did happen, that they were wrong and should not have happened, is to receive confirmation, validation, of one’s dignity and status as a human being, and a moral being of equal worth” (85; see also M. Murphy 2011; MacLachlan 2015). Additionally, in repudiating the logic of colonialism an official apology is meant to inspire trust by serving as a harbinger of new relationships. As we saw in chapter 3, the reparations that give substance to an official

⁷⁴ Whether this would really be an instance of trust instead of mere reliance is beside the point here. I discuss this further below.

⁷⁵ Another core of aim apology is to issue correctives to history. I take up the consequences of this goal below (4.2.1). I separate the discussions because attitudes have more to say about the normative expectations of reconciled relationships than do correctives to history.

apology are premised on an assessment of what is due as a matter of justice to those whose moral equality was previously implicitly or explicitly denied (3.2-3.3). These reparations contribute to the rehumanizing function of apology and are likewise meant to inspire, among other things, trust. Since official apology for grave wrongdoing and its indispensable sincerity-bolstering mechanisms aim to affirm moral equality and engender trust, and since we are assuming apology is involved in reconciliation, it follows that a mutually agreeable vision of reconciliation will involve trust and an acknowledgement of moral equality.

4.1.1 Rehumanization and recognition respect

To see what follows from the mutual endorsement of these goals of official apology, then, we need to explore their normative substructure: why people think it worthwhile to pursue them. To avoid overcomplicating the discussion for now, in what follows I will continue to explore this normative substructure through the lens of interpersonal apology for grave wrongdoing. Later (4.2.2-4.2.3) I explain how this substructure translates to collective-level apology.

As we have seen, in committing grave wrongs perpetrators dehumanize victims by treating them as though their interests simply do not count (see 2.3.2). A morally significant apology for such grave wrongdoing thus requires a repudiation of this message through what I have termed ‘rehumanization’ (see 3.3). To rehumanize is to affirm that a victim’s interests are as important as one’s own in virtue of their moral equality. I begin our discussion with this goal of rehumanization because, while parties can have diverse and divergent motivating reasons to achieve the aims of apology, the goal of rehumanization hinges on the proposition that all persons ought to be treated as moral equals. That is, whatever ancillary motivations there may be, parties to apology accept that the moral equality of persons is a *moral* reason which counts in favor of engaging in the transaction, one which motivates parties to engage in apology. As I argue below, acknowledgment of de facto moral equality underpins the practice of apology itself, and so we cannot understand this practice without exploring the goal of rehumanization.

An inescapable consequence of an acknowledgement of the moral equivalence of people is a normative requirement to have an attitude of respect for others born of the recognition of the equal moral status of all persons. Normatively, one reason people think apology worthwhile is because it engenders and/or acknowledges a kind of respect that

attends its rehumanizing function. In terms of motivation, one reason I seek apology from you is because I want you to acknowledge that you treated me in a disrespectful way unbefitting of my moral status; you apologize to me because you recognize this. As an acknowledgement of de facto moral equality, the practice of apology is a way of recognizing the moral equivalence of the parties involved in the transaction. Since these parties are morally equivalent, it follows that respect is reciprocally owed. The normative substructure to the goal of rehumanization is built from idea that we *should* respect moral equals because moral equals *are* deserving of respect.

It may be wondered why I leap from a recognition of moral equivalence to a normative requirement of reciprocal respect. Admittedly, respect born of a recognition of moral equality is an attitude that places significant normative demands on the respecer. These consist in positive duties and negative constraints. Yet these fall readily out of what an acknowledgment of moral equality demands of moral agents. A useful descriptor for these demands is what Darwall (1977) calls ‘recognition respect.’ In Darwall’s sense, respect for something – whatever it is – “consists in giving appropriate consideration or recognition to some feature of its object” (38). The feature of interest here is the moral status of the person. “[To] have recognition respect for persons is to give proper weight to the fact *that they are persons*” (39, emphasis added). More specifically, it is “identical with recognition respect for the moral requirements that are placed on one by the existence of other persons.” (45). Tully (2008a) notes that this sort of respect is recognized in Indigenous and liberal-democratic traditions alike, where “human beings are said to warrant a certain respect in virtue of being human, as being of equal dignity and thus treated as ends rather than means” (242-243). The moral requirements of recognition respect are coextensive with the normative expectations placed on a person in a human community of moral equals. These are manifold, but we can highlight some salient ones here. When you respect someone in this sense you recognize their moral equivalence in a way that stimulates an epistemic humility. This disposes you to listen to their concerns, arguments and ideas. You understand that you do not have a moral monopoly when it comes to values. You are willing to consider openly and honestly what they say. You recognize that, while you may not agree with them on all things, their positions on matters of culture, spirituality or tradition are as worthy of consideration as yours. Recognizing their humanity, you understand that you should consider their legitimate

interests as objectively equal to your own. For these reasons, where seeking solutions on matters of mutual concern you cannot run roughshod over them. In virtue of others' rights as persons of equal moral worth, recognition respect places moral constraints on the actions you may take if these actions affect others. These, then, are some of the normative expectations of the 'right relations' sought by apology.

Some will argue that I am reading too far into the conceptual underpinnings of apology. They may point out that disingenuous apologies occur all the time, or that recipients seek apology for assorted reasons, some of which are purely prudential. While general morality requires that we respect all persons, the simple fact that apology is used in our context does not prove that parties to *these* apologies implicitly acknowledge the moral value of achieving reciprocal recognition respect for one another. While, objectively, the value of rehumanization is a moral reason which counts in favor of engaging in apology, it need not translate into a motivating one. Motivating reasons can come from somewhere else, and parties need not have the same ones. If this objection holds water, then the idea that apology for grave and dehumanizing wrongdoing presupposes a shared acknowledgment of the moral value of reciprocal recognition respect among persons evaporates. For our purposes, this would not be satisfying, for it suggests that if respect is involved in reconciliation it falls out of general morality rather than apology – something that evacuates the significance of apology in deriving necessary governing norms of reconciled relationships.

While parties engage in apology for diverse reasons, the value of recognition respect born of acknowledgment of de facto moral equality underpins the practice. That is, apologizing would not even make sense without it. We can see this most clearly in the case of disingenuous apologies. While these are common, we should remember that we use them for reasons of expediency. For example, when an insincere apology forestalls needless conflict between strangers, the deliverer considers it expedient to be disingenuous rather than waste time arguing with someone they will never meet again. This does not change the fact that undergirding the wider practice of apology is a presupposition that parties have – and should have – recognition respect for one another. The disingenuous deliverer's pro forma apology would not even make sense were it not for the fact that it is a *token* of a conceptual *type* that in its moral foundations presupposes the moral value of recognition respect.

It's useful to recall that this dissertation offers a normative account of good apologies for serious wrongdoing. Good apologies are generated for the right reasons and delivered in the interest of victimized parties (Smith 2014, 47). An insincere apology is not a good apology, and nor is the meaning of any accompanying reparation what it could be, because these are undertaken for reasons of expediency. This reduces the recipient to a “pawn” in a “game” (M. Murphy 2011, 51). Yet these instruments are only expedient because they rely on the background idea that apologies and reparations are given to people who deserved better treatment because they merit (and always merited) respect in virtue of their moral equality. If a faux apology succeeds, it's only because the deliverer has capitalized on this fact to let the recipient think they are doing something more than playing a game. That is, the deliverer pretends that their motivating reason stems from a morally laden normative reason when it in fact does not. Official apologies in the context of reconciliation are sought for moral (and not only prudential) reasons, and thus their moral work can only be done when they are sincere. When sincere, and when recognized as such, parties to the practice acknowledge the moral value of recognition respect.

4.1.2 Apologies and reciprocal trust

Recognition respect says little about trust, the other attitudinal component of reconciliation that I have suggested falls out of the analysis of the normative substructure of apology. As discussed in chapter 2 (2.3.4), one of the aims of apology in this context is to engender trust. Part of the reason apologies are employed in the context of reconciliation is because it seems self-evident that ‘right’ relationships are not possible in the absence of reciprocal trust. This seems equally true in many interpersonal contexts. In most cases, apologies arise in response to a breach of norms, a breach which gave evidence offenders are not trustworthy. In tendering apology (and reparation), wrongdoers signal that they seek to repair the harms of the breach. In committing to change their behavior in future, they aim to establish their trustworthy character and encourage the development of a trust-based relationship. For these reasons – and not just because ‘right’ relationships invariably involve reciprocal trust – it follows that parties to apology in settler states acknowledge the value of trust. Given my earlier argument (sec. 4.1), this entails that a mutually acceptable understanding of reconciliation will involve reciprocal attitudes of trust. But the normative substructure to the value of trust is not obvious. Put another way, it is not clear why parties to apology think that

reciprocal trust is worth working towards. Since the motives for trusting (and being trustworthy) inform the normative expectations of reconciled relationships, this question is worth exploring. Whether these motives are prudential or moral – or both – bears on the moral character of reconciliation.

Trust, like reconciliation, is a concept that admits of varying interpretations. For reasons I detail in a moment, Karen Jones' (1996) will-based account of trust is apt for our purposes. According to Jones, trust is an "attitude of optimism that the goodwill and competence of another will extend to cover the domain of our interaction with her" (4). Distrust is a pessimism about the goodwill and competence of another in this domain (8). Jones stresses that the trusting person's optimism concerns, specifically, the goodwill and competence of the trusted party, and not the success of, say, a joint project (6-7). The character of 'goodwill' is variable and responsive to the type of relationship at issue (specific to a domain); it need not imply warm feelings or friendliness. For instance, a stranger's 'goodwill' might derive from basic decency and extend only so far as to refrain from harming us (7). Likewise, optimism about the competence of a trusted party need extend only over their conjectured competence in a specific domain of interaction. I trust a fellow driver (a stranger) if I am optimistic that their goodwill, whatever its exact character, is sufficient to motivate them to follow the rules of the road (the domain) – but only provided I have confidence that they are a competent driver. Importantly for my argument below, Jones adds a further, cognitive element to trust: the trusting person has an expectation that "the one trusted will be directly and favorably moved by the thought that [the trusting person is] counting on her" (4). This expectation is grounded in optimism about the *goodwill* of the trusted party (11). For this reason, "[o]ur expectation is usually grounded in the very same evidence that grounds our attitude of optimism" (ibid.).

Whether or not Jones' (1996) account offers an understanding of trust that is applicable to all instances of trust, we can make use of it here. Jones' view is not only intuitively compelling, it also meets an empirical test of applicability which can help us make sense of how we should think about trust in this context. Colleen Murphy (2010) correctly notes that "[a]ny diagnosis of how relationships are damaged will also be prescriptive, suggesting how political relationships should change or be rebuilt" (23-24). Now consider

that those things required to realize Jones' account of trust answer to some of those harms which made for a lack of it in the context of settler states. Goodwill on the part of settler states has historically been lacking. Indigenous people(s) had a right to expect that these states would not oppress them. Instead, states have done the opposite. Indigenous people(s) had a right to expect that settler states would prove competent when it came to abiding by treaty relationships, acting in good faith or establishing just relations. Instead, states showed themselves incompetent, as least insofar as they willfully failed to exercise their competence in this domain of interaction. Instead of being favorably moved by the thought that Indigenous people(s) trusted in settler states, many took (and take) advantage of Indigenous vulnerabilities to limit their self-determining authority or territorial claims. These harms are how relations went wrong, and they inspired the pessimistic attitudes associated with distrust. Identifying the effects of these relevant harms suggests their antidote: the trust suggested by Jones.

That achieving something like Jones' (1996) trust equates to the repair of some the damage of settler colonialism suggests it has instrumental value insofar as it makes the goods of healthy relationships possible. This is a (prudential) normative reason that counts in favor of engaging in apology, one which suggests that one motivation to do so concerns the practical benefits of apology. The reciprocal character of the trusting attitudes sought means that it would be inconsistent for party A to expect party B to consider A's interests in B's deliberations, but for party A to pay no attention to the interests of B in A's deliberations. Each party wins. As a reciprocal relationship, each is favorably moved by the thought that the other is counting on them, for each knows that the other would do the same for them. Yet if this were the only motive for trusting and being trustworthy, then, strictly speaking, this would not be a trusting relationship of the kind that concerns us. At best, such a relationship involves only an attenuated sort of 'goodwill' – one which offers *indirect* and prudential reasons for being favorably moved by the thought that parties are counting on one another. This makes it almost indistinguishable from mere reliance (see Jones 1996, 9). While there is nothing wrong with valuing trust for prudential reasons, these alone will not meet the stringent requirement of Jones' account: namely, that the one trusted be "*directly* and favorably moved" by the thought that the other is counting on them (4, my emphasis).

The moral character of apology, wherein parties seek to affirm and acknowledge moral equivalence in part because *that is the right thing to do* hints that there may be more than instrumental value to trust in this context. The use of apology, a categorically moral instrument, suggests that we are seeking to create a particular kind of relationship, and hence trust of a thicker kind. Here the requirement that the one trusted be ‘directly and favorably moved’ by the knowledge that the trusting person is counting on them recommends we make further use of the recognition respect component of reconciled relationships, a use which speaks to the moral character of reconciliation.

For Jones (1996), “the confident expectation that the one trusted will respond directly and favorably to the thought that the truster is counting on them is itself grounded in the attitude of optimism” (6). To re-iterate, this latter optimism concerns the *goodwill* of the person trusted. We cannot talk about goodwill without talking about motive – *why* a trusted person cares enough to consider the interests of the trusting person. We have just seen that one motive can be instrumental. But since an apology is not fully effective unless it promotes all its moral goals, it follows that the goodwill associated with trust in this context must extend at least as far as respecting the moral requirements imposed on one by the existence of other persons. This very minimal level of goodwill is coextensive with the demands of recognition respect. This means that the normative substructure to the perceived value of establishing trust is partly moral in nature. The motive to respond directly and favorably to the thought that the trusting person is counting on the trusted person is not just about what trust *does* for each party, but also stems from a shared acknowledgment that parties to the trusting relationships emerging from apology are morally valuable in themselves. Accordingly, one of the grounds for being optimistic about the goodwill of a trusted party lies in the fact that you know she has recognition respect for you, with all that entails in terms what she owes to you as a person, and with all it says about which actions she can permissibly undertake given your moral equivalence. When parties to a trusting relationship have reciprocal recognition respect for one another, each considers the interests of the other to be a reason for responding directly and favorably to the thought that each is counting on the other *because that is the right thing to do*. This says much about the character of the reconciliation we seek to understand. It might be a political project, but it is a moral one too.

4.1.3 Considerations in favor of this view

Thus far I have argued that the use of apology in settler states suggests that attitudes of recognition respect and trust are mutually endorsed aims of apology, and that these entail a variety of necessary governing norms for reconciled relationships. While the analysis has focused for the most part on the interpersonal paradigm, sincere collective apology is close enough in intent and composition to its interpersonal progenitor to imply that these governing norms apply equally in the political realm (see 2.1.1). I take up this point below (4.2.2-4.2.3), but here it is worthwhile to step back and look at some of the considerations in favor of the view outlined above. For one might object that the answer to the question of ‘content’ for reconciled relationships does not go far enough – or indeed goes too far. The governing norms could be anywhere on a spectrum, from those associated with a basic coexistence to attitudes associated with normatively rich relationships, such as esteem, ‘civic friendship’ (May 2011), mercy or forgiveness (Tutu 1999; Meierhenrich 2008). Just because apology’s normative substructure implies that parties to apology endorse the moral value of recognition respect and trust, it does not follow that other oft-cited goals of apology are ruled out. For instance, some consider forgiveness to be the telos of apology (Tavuchis 1991, 20; Wenzel et al. 2018). Others might point out that while recognition respect and trust are mutually acknowledged moral goals of apology, the political project of reconciliation does not *require* that parties to apology establish any kind of relationship afterwards. For example, it is conceivable that participants in apology, while endorsing the objective moral value of these goals, could nonetheless subsequently operate separately and avoid interaction of any kind – a sort of begrudging coexistence no thicker than “a mutual agreement to coexist” (Quinn 2009b, 12). Why does my account rule out these options?

For both normative and empirical reasons, neither end of the spectrum offers a desirable answer to the question of content. First, consider the richer end, where such influential accounts of reconciliation as forgiveness (see Bhargava 2012; Meierhenrich 2008; Tutu 1999) or civic friendship (May 2011) might land. As illustrative examples, briefly considering why these accounts are inappropriate in this domain serves to demonstrate why we should rule out very robust or normatively ‘thick’ answers to the question of content. One count against these visions comes from the fact that, since most individual parties to reconciliation will never meet one another, the attitudes and affection associated with thick

relationships such as friendships are unreasonable if not impossible demands (Govier and Verwoerd 2002b, 196). More pointedly, accounts of something like ‘civic friendship,’ where “[t]he members of the society are concerned for the well-being of their fellow citizens as participants in a shared system of political, social, and economic cooperation” (May 2011, 589), must be rejected at the outset. The supposed need for a shared comprehensive vision of this kind, says Damien Short (2005), “is challenged by the existence of indigenous nations that have never shared a comprehensive vision with the colonisers nor wish to” (274). Including such a vision is a form of political question-begging, where the outcome is presupposed by the content of the concept. Not only do rich societal visions like this objectionably presuppose that the outcome of the process of reconciliation will result in a unified society under the auspices of the state, but they consequently do not allow for a flexibility in the concept that will allow it to be applicable to a broad variety of political architectures and worldviews. Similarly, building forgiveness into reconciliation is an instance of paternalistic moral guidance from settlers that is objectionable from the outset. While forgiveness may indeed eventuate from collective apology, requiring it of Indigenous people burdens them with yet another responsibility they should not have to shoulder (see Verdeja 2012, 169; Brudholm and Rosoux 2012; Govier and Verwoerd 2002a). And since most of the reparative work in reconciliation should fall on settlers, requiring forgiveness would be not only objectionable but misguided.

The other end of the spectrum of content has more going for it. Here we find notions of reconciliation conceived as “simple coexistence,” wherein an abeyance of hostility follows the redress of harms (Crocker 2003, 54). Earlier I referred to this as ‘begrudging’ coexistence, but that isn’t fair to coexistence, for it is quite possible that parties to reconciliation of this kind might adopt an accommodating live-and-let-live-attitude. Indeed, coexistence can obtain in a variety of ways, with a variety of different attendant attitudes. One can hate another but coexist with them; one can be indifferent to another and coexist with them; one can respect and admire another and coexist with them. This gives coexistence a flexibility that might be useful. Short (2005) favours this conception of reconciliation because of its sensitivity to the dynamics of ongoing internal colonialism in settler states. By emphasizing coexistence as opposed to, say, ‘liberal social solidarity,’ this end of the spectrum respects the requirement that the concept of reconciliation not presuppose the

political outcome: “if a reconciliation process is concerned to address colonial injustice and its legacy it should proceed without the assumption that settler and indigenous communities comprise one nation or that indigenous peoples wish to share in the settler state’s vision of the good life” (274-275; see Alfred 1999, 63).

Empirically, coexistence without interaction is difficult to imagine given the geographic realities of settler states. Like it or not, Indigenous peoples and settler states will need to have a relationship of some kind, whatever political architecture results from the process of reconciliation. Moreover, the tendering and receiving of apology – an instrument of moral repair that serves to pave the way for healthy relationships – strongly suggests that neither party seeks a completely detached *modus vivendi*. For these reasons, isolated coexistence seems to be a non-starter. Yet while coexistence *with* interaction suggests a relationship of some kind, it does not describe the attitudes, dispositions and behavioral constraints required of Indigenous and non-Indigenous people for a reconciliation between them. That is, it does not describe its content in any detail. From an attitudinal perspective, coexistence in a world of ‘right relations,’ where interaction is inevitable and a moderately healthy relationship desirable, is characterized at the very minimum by *tolerance*, or a tolerant attitude towards the other.

This sort of coexistence represents almost the polar opposite of forgiveness on the spectrum of content. The classic conception of toleration holds that it involves an “objection component” (Forst 2017). As Wendy Brown (2015) argues, we ‘tolerate’ those things and those people that we object to (161). “Tolerance does not remove but regulates prejudice and subordination... we only tolerate what we would prefer did not exist” (ibid.). For this reason, people rarely say that they *tolerate* those for whom they have an abiding goodwill.⁷⁶ On this reading, we could say that many settlers already ‘tolerate’ Indigenous people, and vice versa. But are we ready to say that these parties, considered as categories, have reconciled? The preponderance of reconciliation projects throughout the world suggests not. While

⁷⁶ Admittedly, this reading gives toleration short shrift. Forst (2017) notes that there are competing understandings of toleration, some of which do not have an ‘objection component.’ The purpose of the above discussion is to demonstrate why the *extremes* of the spectrum of content are not appropriate to this context. This is meant to give some support to the idea that certain attitudes need to be involved in reconciled relationships, while others cannot or should not be. That is why I focus on toleration as it is generally understood (i.e. as not involving positive feelings). These other conceptions of toleration do not lie at the extreme of the spectrum, so they do not interest me here.

coexistence may be a suitable term for the structure of relationships in reconciliation, the insights of this and previous chapters suggest that mere tolerance is not sufficient, and thus that this extreme on the spectrum of content is, like its antipode, not appropriate for this context.

This is not to say that ‘coexistence’ is a bad catch-all descriptor for the content of reconciliation. But it cannot be bare coexistence, and nor can it be an inappropriately ‘thick’ coexistence, for the reasons just canvassed. While it is beyond the scope of this dissertation to determine sufficient conditions for reconciled relationships, the discussion in this section suggests that the governing norms of reconciled relationships should be both constructive and beneficial to each party. While undoubtedly insufficient, reciprocal trust and recognition respect entail a variety of necessary norms that characterize such relationships, and this pushes our conception closer to the center of the spectrum of content than to any of its extremes. Since the use of apology entails that the attitudes of trust and respect are mutually agreed to be good – to be worth seeking – we can call this ‘positive coexistence.’

4.2 Issues of ‘quantity’: applying the norms to relationships

Before delving into the mechanics of what the norms of reciprocal trust and recognition respect demand in practice, we first need to determine which relationships are to be to focus of reconciliation. For Govier and Verwoerd (2002b) this is an issue of “quantity” concerning “the level at which reconciliation is sought” (180). This looks like a straightforward question. To put it mildly, Indigenous peoples and settler states have been at odds for centuries.⁷⁷ The relationship between them needs (re)building. As we saw in the preface, the *Summary of the Final Report of the Truth Commission of Canada* argues that “[r]econciliation is about establishing and maintaining a mutually respectful relationship between Aboriginal and non-Aboriginal peoples in this country”⁷⁸ (2015a, 6). In its broad outlines, such a pre-theoretic view is surely correct. But it masks some complexities. Here there is no mention of the settler state. And if “peoples” need reconciling, what about individuals? In what sense can groups reconcile with one another? If reconciliation were simply a matter of establishing better

⁷⁷ See footnote 21. Settler states have enough in common with the political entities (colonies) that they emerged from that it is reasonable to consider them continuously subsisting agents.

⁷⁸ Note that even this conception presupposes a political outcome, and thus forecloses some of the more ambitious nationalist aspirations of some Indigenous peoples.

relations between entities such as states and other collectives ('peoples'), one might think that formal structural changes alone could achieve the desired outcome. Yet the exhaustive recommendations of the *Report* (2015b) demonstrate that it does not hold this view. Moreover, the use of official apology – an interpersonal instrument in origin retroactively endorsed by the commission – implies that there may be affective dimensions to reconciliation that such changes might fail to address. To understand the application of the governing norms of trust and respect we need a more detailed picture of the relationships that are to be the focus of the project. For whether reconciliation concerns relations between individuals, between groups, or between groups and the settler state considered in the abstract will have important ramifications for what they look like in practice.

The previous section's arguments offer a basic understanding of the concepts of respect and trust as they apply to individual persons. The rudiments of official apology are nearly identical to those of its interpersonal cousin (see 2.1.1), so it is right to assess its normative substructure at this level. Yet clearly something like a state, being without a mind, cannot 'trust' or 'respect' in the same way as a person. The conceptual dynamism of the attitudes of recognition respect and trust allows us to translate their application from the interpersonal to the collective level of analysis. This section will revisit some of the harms of settler-colonialism discussed in the previous chapters to determine which relationships they harmed. This will offer an inventory of which need mending, allowing us to apply the governing norms of reconciled relations to each level in need of repair. Along the way, we will see some of the preconditions that foster such reconciliations, shedding further light on chapter 3's study of the process of reconciliation.

4.2.1 Reconciliation between Indigenous and non-Indigenous individuals

Putting a spotlight on the individualized components of reconciliation in this context draws attention to their importance. As we saw in chapter 1, the normative dimensions of large-scale injustices are not exhaustively described at the collective level of analysis; an individual-level analysis is required too (1.2). The complicity approach to understanding the remedial responsibility of individuals in the context of collective injustice suggests that we should not consider settlers idle bystanders in the enduring injustices associated with settler-colonialism. They are participants, albeit ones whose liability has fuzzy edges. In addition to

supporting the state in its perpetration of injustice, settlers are party to maintaining the third sort of injustice we examined. Namely, the colonial mindset that enabled and legitimated historical injustice in the first place.

The colonial mindset stems from deep-seated racist and paternalistic attitudes towards Indigenous people(s). This is not to say that all settlers are consciously racist or paternalistic, but rather that the worldview which informs our thinking has a legacy that is exceedingly difficult to erase. Without confronting this legacy, settlers will continue to operate through channels of thinking that have historically led to – and supported – the settler state’s mistreatment of Indigenous people(s). The complicity view, entailing as it does that the activities of individuals contribute to enduring injustices, suggests that these patterns of thought have survived to the present. Quite apart from the fact that it is natural to identify individuals with the activities of the state of which they are often proud to form a part (Sepinwall 2011), Indigenous people are likely to mistrust these individual agents of state-orchestrated wrongs, considered both as individuals and as members of the category ‘settler.’ Likewise, settlers who (consciously or unconsciously) materialize the colonial mindset may tend to look unfavorably on Indigenous people. A legacy of antagonism suggests the need for a reconciliation between Indigenous people and settlers considered as *individuals*.

The above discussion on the governing norms of reconciled relationships deriving from reciprocal recognition respect and trust applies most straightforwardly to interpersonal relationships of the kind at issue here. Interpersonal apology was the paradigm through which I derived these governing norms, and so it makes sense that we begin with a discussion of reconciliation between Indigenous and non-Indigenous people considered as individuals. Indigenous individuals hear and receive collective apologies, and settlers should endorse them (or so I argued in 2.2). It follows from my argument above (4.1) that these parties, as participants, tacitly acknowledge the value of achieving apology’s aims. To understand reconciliation at this level, then, it is as straightforward as noting that the governing attitudes of reconciled relationships between these parties will consist in reciprocal recognition respect and trust, with all these entail in terms of normative expectations, motives, behavioral constraints, positive duties and the like. Yet considering that most Indigenous and non-Indigenous people will never meet one another, a word on what such a reconciliation looks

like in practice is in order. For dissenters might note that it makes little sense to suggest that an interpersonal reconciliation can take place when most parties to reconciliation have never, nor will ever, meet one another. In what sense is this reconciliation at all?

The argument of this chapter concerns the governing norms of reconciled relationships – what they are, what they should be if we take the use of official apology seriously. Yet thus far most of my focus has been on showing that the attitudes of trust and respect fall out of an analysis of apology. These are attitudes which place normative demands on those who have them. To emphasize my point by example, when you have the attitude of recognition respect for others this means that you consider their interests objectively as important as your own; that you acknowledge that you do not have a moral monopoly when it comes to values; that you recognize that you cannot run roughshod over them; and so on. Having this attitude makes you *disposed* to act in a certain way when you encounter others, or when you deliberate on actions that will affect others. This has implications for what we can expect of reconciliation at this level.

A useful analogy to help elucidate concerns a distinction between the dispositional and occurrent properties of things. According to Marquis (2010), “[a] thing has a dispositional property in virtue of having the capacity to exhibit a corresponding occurrent property under certain conditions” (27). Given the right circumstances, a thing that has a dispositional property will develop the corresponding occurrent property. “[S]oluble is a dispositional property; dissolved is the corresponding occurrent property” (ibid.) Stretching this conceptual distinction only a little, and remembering that we are here using the term ‘property’ loosely, we can say that when an individual *actually has* an attitude of respect for others they are *disposed* to fulfil the normative expectations that go along with it. They are disposed, for example, to treat others as moral equals because they *do* in fact respect others. In the right circumstances – in our case, when non-Indigenous and Indigenous persons encounter one another, or when they deliberate on actions that will affect the other – those who have the dispositional ‘properties’ associated with the norms and expectations of recognition respect will display their corresponding occurrent ‘properties;’ they *will* treat the other as a moral equal. As an outcome, then, reconciliation at this level involves individuals having attitudes that dispose them to fulfill the associated normative expectations of those

who have them. For the most part, that is, there will be no paradigmatic interpersonal reconciliation of the kind inaugurated by a handshake. However, this makes reconciliation at this level no less transformative.

To see how, it is worth considering for a moment what stands in the way of such attitudinal transformations. This requires we pay some attention to a core aim of official apology so far left out of the discussion: historical correctives. Issuing historical correctives is no less critical an aim of official apology in this context than are establishing reciprocal trust and respect. However, I chose to separate discussion of this goal from the others because, while the attitudes of trust and respect entail a variety of normative expectations that characterize reconciled relationships, correctives to history aim instead to provide a background context of mutually acceptable understandings of history within which these attitudes will manifest. That is, while no less important, wide acceptance of correctives to history is better understood as a precondition for reconciliation than a normative feature which characterizes reconciled relationships. Indeed, without basic agreement on the facts of history, it is very difficult to see how reconciliation can proceed at either the micro or the macro level.

That Indigenous people have historically been victimized at the hands of settlers implies that most of the work towards reconciliation at this level will have to be undertaken by settlers, for, at least considered as a category, they are the source of the warranted mistrust that exists. The concealed undercurrents of the colonial mindset that promote this mistrust must be acknowledged and expunged if reciprocal trust and recognition respect are ever to be achieved. After all, why would Indigenous people trust settlers, even well-intentioned ones, when important components of their mindset are continuous with the elemental cause of their current adversities? This suggests that obstacles to overcome in the process of reconciliation include not only the character of settler attitudes towards Indigenous people, but also their view of history. For without a realistic understanding of history the colonial mindset will be hard to dislodge.

In *Unsettling the Settler Within* (2010), Paulette Regan subverts the time-honored logic of the ‘Indian problem’ by encouraging us to consider instead the “settler problem” (11). Regan argues that the preeminent value of Canada’s Truth and Reconciliation

Commission lies in its potential to educate settlers about themselves and their history. Ignoring the legacies of injustice and the assumptions that underwrote settler-colonialism promises to lead to the reproduction of the oppressive and paternalistic dynamic of Indigenous-settler relations that has existed for centuries (e.g. 84). Settlers have long espoused the myth of Canada and themselves as benevolent – though sometimes misguided – peacemakers, a myth that the historical record emphatically does not support. As we saw in chapter 2, issuing correctives to history is one of the three principal aims of apology in this context (2.3.3). This suggests that settlers who endorse apology, and Indigenous people who receive it, mutually acknowledge the value of this goal in the same way that they mutually acknowledge the value of reciprocal recognition respect and trust. Therefore, the implications of this goal have something to say about reconciliation.

“Without a truth telling in which we confront our own history and identity, and make visible how these colonial practices continue today, there can be no ethical or just reconciliation with Indigenous peoples” (Regan 2010, 235). Changing settler attitudes is thus a necessary precondition for reconciliation of any other sort because what a state can do depends on what its citizens are willing to undertake (Thompson 2008, 37). Large-scale reconciliation projects in settler states, where settlers constitute a voting majority, are dependent on broad-based support from citizens (Moellendorf 2007, 215; Nobles 2008, 70; Saul 2011, 281). In part, that is why I direct my dissertation primarily towards settlers. Failing to address settler mindsets at the outset of the process of reconciliation is part of the reason reconciliation projects have manifested as tone deaf. As Elgersma (2012) argues in the context of Canada, “[r]ather than focus on reparations and justice, nonindigenous Canadians have turned reconciliation into the responsibility of indigenous people to heal, forgive, and ‘get over it’ so that the Canadian nation can move forward and progress” (93).

This failure to acknowledge the root of the problems at issue points again to why being convinced of one’s reparative duties on, say, distributive grounds is not enough. As I’ve repeatedly stressed in other chapters, motivations matter in reconciliation. Since a history of unjust treatment by settler states is significantly connected to the identity and dignity of Indigenous peoples, the normative motivations that underlie the justification for the redress associated with reconciliation will dictate the sorts of significance that it can have

in the context of the project. For settlers to simply go through the motions of reconciliation projects, without addressing the colonial mindset that is the ultimate reason for the necessity of their very inception, would offer only brushstrokes when we need a coherent landscape. Salient examples of such brushstrokes are found in extant apologies, where cynical underlying motives of nation-building contribute to the perception of insincerity (Philpot et al. 2008; see 3.5). Settlers, to greater or lesser degrees, continue to adhere to established patterns of colonial thinking in their dealings with Indigenous peoples. “As a result, the legacies and paradigms of the colonial mind continue to structure current policies and trends regarding Indigenous populations” (Elgersma 2012, 91).

Consider how such a mindset was exemplified in the words of former Canadian cabinet minister John Crosbie as recently as 2003: “[t]he need to *bring... Indigenous peoples into our national consciousness*, to deal fairly and equitably with them, *to reconcile them as part of the Canadian mainstream* and to *deal with their problems*, [is] likely the most important public policy issue of the 21st century” (quoted in Cairns 2005, my emphasis). This statement betrays a latent colonial attitude towards Indigenous peoples. The idea remains to absorb them; to solve their problems for them; to control them and see *them* as the problem. For this mindset to change, settlers need to come to terms with the past, revisit national myths or narratives, and thereby facilitate the development of reciprocal trust and recognition respect. One way to do this is to pay attention to the historical correctives apology calls for.

To get a grip on the difficulty posed by settler mindsets, let’s consider Regan’s (2010) settler problem. The problem, as I understand it, has at least three components. First, it consists of longstanding myths of settler benevolence, wherein well-intentioned but sometimes misguided settlers sought to help Indigenous people rather than eradicate them. Second, it involves a paternalistic attitude wherein settlers believe that they, and not the communities most affected by injustice, are best positioned to solve the problems facing Indigenous people. Finally, this paternalism suggests a mindset infused with latent racism and cultural chauvinism. What better way to begin addressing these issues than by looking to the facts of history?

Much of this dissertation can be read as an attempt to promote Regan’s (2010) call to address the settler problem. Chapter one justifies the imposition of reparative burdens on

contemporary settlers and the settler state from *within* the liberal liability framework in an effort to address (a majority of) settlers on their own terms, for an initial persuasion is required before any more transformative participation can ensue. Later chapters imply a response to each of the components of the settler problem. Consider first my discussion of official apology (chap. 2). By seeing what good, effective apologies require in this context, and by comparing this ideal to extant ones, we have a magnifying lens through which we can see the difficult-to-discern colonial mindset that persists. Good apologies reject the settler myths that are the focus of Regan's attention (MacLachlan 2013, 285). For the most part, however, official apologies have served only to reinforce them (see Dorell 2009; Moran 1998; Blatz, Schumann and Ross, 2009). Crucially, an effective and comprehensive official apology requires an explicit acknowledgement of the wrongs at issue. Recall that such an apology requires the endorsement of non-Indigenous citizens (2.2.2). Endorsement requires that settlers acknowledge the history of the state of which they form a part, for as Waziyatawin (2011) argues "[n]o one will be committed to righting the wrongs if they cannot recognize and name those wrongs" (176). As I argued (1.2.1), these wrongs were intentional in nature, and thus the myth of benevolence surely cannot endure. Consider next the discussion of those substantive measures which demonstrate the sincerity of an official apology (chap. 3). Of particular note is the truth or historical commission, which is meant to inform the constative elements of apology (3.4). In virtue of its function as the evidentiary basis of apology, this is the only form of reparation that I suggested was non-negotiable. By emphasizing the meaning and impact of history for Indigenous people(s), as well as the need to issue reformative correctives to official narratives, a commission brings history to bear on settler identity and informs the present circumstances in which we find ourselves. Focusing on enduring injustice and the colonial mindset, especially, promises to subvert the notion that the legacies of settler-colonialism are erased. In exposing the unpalatable events of the past and their enduring effects, truth commissions compel a reexamination of national narratives that cannot survive such an audit intact. The actual operation of such commissions likewise serves to erode paternalistic attitudes, for hearing the voices of previously silenced people encourages one to learn *from* Indigenous peoples as opposed to imperiously suggesting they have nothing to teach us. Finally, consider that the act of apologizing presupposes the moral equality of interlocutors that by its very undertaking will help to collapse any pretensions to cultural or racial superiority.

What this discussion points to is that the acknowledgments of wrongdoing featured in comprehensive official apology aim in part to circumscribe the range of reasonable interpretations of the past such that colonial attitudes are exposed as deeply flawed. Knowing the facts of history will help settlers reevaluate their mindset and contribute to an emerging relationship framed by mutually agreed views of fundamental aspects of the past, where there is significant overlap in parties' understanding of the facts and their significance. That is, one thing that apology aims to do in this context is constrain the field of reasonable discourse. For this reason, a "narrative equilibrium" of this kind demands settlers adjust their views accordingly (Dwyer 2003, 100).

One might object here that demanding settlers change their worldview in the interest of reconciliation is illiberal. For a state to force a citizen to think a certain way is indefensible. I do not deny this. As a response, it is useful to revisit the discussion in chapter 3 on the kinds of truth a truth commission is warranted in producing and disseminating (3.4.1). While a settler state cannot force citizens to accept a value-laden interpretive truth of the past, it *can* circumscribe the range of reasonable interpretations of the past by producing incontrovertible facts which inform social discourse. Arendt (2005) recounts an episode from the 1920s, when Clemenceau, the wartime leader of France, was asked what future historians might say about outbreak of the First World War. His reply nicely captures this idea: "This I don't know. But I know for certain that they will not say Belgium invaded Germany" (302). Uncovering such incontrovertible facts will not force a change in mindset, but it can stimulate one. Establishing a baseline view of history in this way is part of the value of correctives to history. As Hayner (2011) argues, there are some facts that are so fundamental, so undeniable, "that broad acceptance of their truth is necessary before real reconciliation can take place" (189).

This dissertation's attention to history has demonstrated that many of the narratives surrounding the colonial past are false. So too are those myths which suggest that colonial dynamics have disappeared. Regan asks: "[w]hat does our historical amnesia reveal about our continuing complicity in denying, erasing, and forgetting this part of our own history as colonizers while pathologizing the colonized?" (6). The attitudes that inspired settler-colonial injustices subsist in the present, she argues, "rooted in settler historical myths and colonial

mindsets” (ibid.). To combat this, “... a Canadian society of perpetrators and bystanders must remember itself not as ‘innocent’ but as complicit” (177). Doing so requires settlers approach with an open mind the re-evaluation of the history of relations between the settler state and Indigenous peoples. If they are willing to endorse official apology, they should be willing to do this, for apology cannot get off the ground without looking to history. This will expose the underlying principles of racism and cultural chauvinism which drove colonial injustice and facilitate the development of reciprocal respect and trust.

4.2.2 Reconciliation between Indigenous individuals and the settler state

Having addressed the individual level of reconciliation it is tempting, given the political characteristics of reconciliation projects, to move directly to reconciliation between the settler state and Indigenous groups qua groups. However, this would be a mistake. Chapter 1 argued for a strong distinction between collectives and the individuals that compose them. This was necessary to make sense of the remedial responsibilities of individuals in the context of collective injustices. One corollary of this approach is that a collective can theoretically form an intention that none of its members share. However, while not disturbing the distinction between individuals and organized collectives, the discussion of the endorsement criterion of official apology in chapter 2 drew attention to how politically inconsequential this corollary can be when considered in the context of reparative projects (2.2.2). I argued that while a state can apologize for historical injustice even in the absence of endorsement from co-responsible citizens, such an apology would be insufficiently meaningful, or at least politically ineffective. Inferring that citizens are apologetic because the state is apologetic is to commit the fallacy of division (Govier and Verwoerd 2002b, 191). Without endorsement from co-responsible citizens, an apology will not come from all parties with standing to apologize, will not be perceived as sincere, and thus cannot do its moral work. To be meaningful, I argued, an apology requires an indeterminate level of endorsement from the individuals composing the apologetic collective. I now want to suggest that a formally reconciled relationship between Indigenous groups, peoples or nations and the settler state would be similarly politically inconsequential were it not accompanied by a reconciliation between Indigenous individuals and the settler state.

I will elaborate on what such a reconciliation could look like in a moment, but first I should explain the need for it. A ‘formally reconciled relationship’ of the sort just mentioned would be one in which the collective entities party to it could be described as having reconciled, yet where none of the members of the respective collectives share in the constitutive attitudes of reconciled relations. A more precise way of saying this is that the parties qua collectives display a conjunction of propositional attitudes – say, they ‘believe’ the other to be trustworthy – that no individual member shares. Given the nature of much collective decision-making, such an eventuality is difficult to imagine.⁷⁹ It would be like saying that the state is apologetic, but *nobody* in the state is apologetic. Given the framework espoused in chapter 1, this does indeed make sense. But how politically useful or morally meaningful such a locution would be is open to question. Thus, to say that groups have reconciled when no member shares in the constitutive expectations associated with reconciled relationships at the collective level certainly puts a limit on what we can expect from formally reconciled relationships. After all, groups are composed of people. Since trust is a constitutive attitude of reconciled relationships, it would be odd at the very least to say that a group A trusts group B when no member of group A trusts group B. This is part of why we need to pay close attention to the individualized components of reconciliation.

Metaphysical issues notwithstanding, the fact is that individuals often interpret states as having attitudes towards them, especially when the state’s actions affect them directly. Individuals’ interpretations of the actions of the state then play a role in forming a collective’s stance towards that state. Radzik (2009) offers an illuminating Strawsonian discussion of individuals’ reactive attitudes in in this domain, though her focus on institutions such as the Catholic Church is narrower than mine. “In interacting with institutions... we frequently take the participant stance. We experience reactive attitudes, such as resentment and gratitude, toward them because we expect our dealings with them to be shaped by basic standards of morality” (184). If the discussion of the expressive messaging of injustice in chapters one and two is broadly correct, Indigenous people will justifiably interpret the

⁷⁹ But not impossible. “Consider a group of three [individual] agents, A, B, and C, that tries to conform to majority voting in the formation of its [the group’s] judgments; a similar lesson might be derived for preferences. Imagine that under the pressure of decision and action, they have to form judgments, now on whether P, now on whether Q, now on whether R, and yet again on whether P&Q&R. All but A may vote for P; all but B, for Q; all but C, for R; and, consequently, none for P&Q&R: each will reject it because of rejecting one conjunct” (Pettit 2007, 181).

actions of the settler state as expressing negative attitudes towards them, because “[the state’s] operations communicate messages of respect or disrespect, goodwill or hostility” (184). Such facts about human psychology cannot be ignored in moral theory (Dwyer 2003, 97).

Justifiable perceptions that the state does not respect Indigenous peoples contribute to unhealthy relationships at the collective level. As Govier and Verwoerd (2002b) note, there is a “complex interdependency between individuals and groups” (192). Just as individuals’ perspectives are informed by those of their group, so too can individual perspectives inform those of that same group. I flag this here to highlight the practical, if not theoretical, importance of individual attitudes on distinctively collective ones. To illustrate using our operative example of trust, many living Indigenous individuals have been direct victims of the injustices perpetrated by settler-states. Residential school survivors in Canada are one example. These individuals may distrust the settler state for what it has done to them personally, because what it has done justifiably generates negative reactive attitudes. Their experience, and the resultant anger and distrust, informs the collective attitude of their group, which in turn informs the views of other members who were not direct victims. This interdependency is one reason a reconciliation between Indigenous individuals and the settler state is required for a subsequent macro-level reconciliation between Indigenous groups and the state.

However, this ‘micro’ reconciliation is of more than instrumental value. Emphasizing the need for a reconciliation between Indigenous individuals and the settler state has additional advantages beyond its importance for generating macro-level reconciliation between groups and the state. For not only does it consider the importance of the well-being of individuals, it also accommodates a demographic reality sometimes glossed over in this area. In some settler states a sizable proportion of Indigenous individuals live and work outside of Indigenous territory. This is especially notable in Canada, where more than half of Indigenous individuals live in urban spaces (Statistics Canada 2017, 9). Many of these individuals do not have a close association with First Nations, Métis or Inuit bodies, meaning that they lack the political leadership associated with territorially defined groups (Cairns 2005, 12). Pretending that reconciliation is simply a matter of reconciling the settler state

with homogenous groups occupying Indigenous lands will result in an impoverished account of what it involves. Ignoring demographic realities threatens to leave many individuals behind (15).

The injustices perpetrated by the settler state send expressive messages which have consequences for the prospects of reconciliation. Historical injustices sent the message that Indigenous people are of lesser moral worth. Enduring injustice compounds this message while simultaneously expressing moral contempt. Repeated transgressions over the centuries, combined with the failure to redress these injustices, communicate, in aggregate, that the state cannot be trusted to act justly or take the interests of Indigenous people seriously. Unjust treatment engenders negative reactive attitudes such as resentment, distrust, wariness, anger. In virtue of its causal and moral responsibility, the state must undertake to change these attitudes by making amends and communicating corrective messages if ‘right’ relationships are ever to be possible. Of course, the state cannot dictate a change in attitude, but it can provide evidence that warrants it. Some of the ways it can do so were canvassed in the last chapter, so I will not elaborate on this point here. Provided we keep this unfinished business in mind, we can now circle back to ask what a reconciliation between Indigenous individuals and the settler state would look like if the state ever offered enough evidence of trustworthiness, respect and goodwill. In what follows I am not going to argue that Indigenous people need to come to *like* the state for reconciliation to be possible. Nor that Indigenous people need to reconcile with ongoing internal colonialism in the ‘reconciliation-as-resignation’ sense I discussed in the preface (see Alfred 2011, 168; Regan 2010, 60). Instead, the idea is that genuine reconciliation demands the achievement of attitudes in both the state *and* Indigenous individuals.⁸⁰

On the state’s side of this equation, the arguments of sec. 4.1.1 concerning recognition respect hold equally in this relational domain and need not be re-examined in detail. Official apologies in this context are delivered not just to Indigenous groups, peoples or nations, but also by extension to Indigenous individuals who are affected by injustice in

⁸⁰ To be clear, by ‘demands’ I do not mean that the thing subject to the demand is the state or the individual. The thing subject to the demand is the state of affairs ‘reconciliation.’ That is, if reconciliation exists, so too must these attitudes.

virtue of their membership in a category. This suggests that a state's apology and reparation to Indigenous people aims to express a form of recognition respect towards Indigenous individuals premised on an acknowledgement of their moral status.⁸¹ Since states can act, they can likewise abide by the normative constraints of recognition respect, as well as fulfill its associated positive duties. At least in a functional sense, the state must have the attitude of recognition respect for Indigenous people for us to be able to say that a necessary condition for reconciliation between the state and these individuals is met.⁸² Recall that recognition respect in our sense "consists in giving appropriate consideration or recognition to some feature of its object" (Darwall 1977, 38). The feature of interest here is the dignity that attends the moral status of Indigenous individuals. Concomitant with such a recognition will be much of what is involved with recognition respect at the interpersonal level: an appreciation that the state does not have a moral monopoly on cultural practices, law or tradition; a willingness to listen, learn and incorporate or consider a variety of perspectives and worldviews; an acceptance that the interests of Indigenous individuals are as important as those of any other, and that these interests cannot be defeated by the mere fact of Indigenous difference. In short, as was the case with recognition respect among individuals, acknowledgement of the moral status of Indigenous people suggests moral constraints on, and normative expectations of, the state.

The other side of the equation is harder to come to grips with. As argued in sec. 4.1.1, the use of apology suggests that recognition respect should be reciprocal. Yet it is unclear how Indigenous individuals can have recognition respect for the state, for it is not a moral person in any conventional sense. This side of the equation is more complicated, for not only is a state *not* owed recognition respect in virtue of moral equivalence, as is the case in interpersonal contexts, but because the 'feature of its object' due recognition respect must be determined politically. These points need elucidation. Consider that when parties engage in

⁸¹ Admittedly, the use of the term 'recognition' in 'recognition respect' is infelicitous considering the robust criticisms of the 'politics of recognition' offered by some scholars. In these criticisms, 'recognition' of subaltern groups by and within a settler state is seen as an extension of colonialism, a means to mollify Indigenous people and thereby defuse more transformative projects (e.g. Coulthard 2014). In tendering recognition, some argue, the state necessarily communicates the subordinate status of Indigenous peoples. But that is not what is meant by 'recognition' in 'recognition respect'.

⁸² The next section will elaborate on how states can have attitudes.

interpersonal apology, they seek to affirm a moral equivalence. The shared moral precept that persons are equal in moral status implies a normative expectation of *reciprocal* recognition respect for this feature of persons. This means that an inescapable aspect of the practice of interpersonal apology is *respect-seeking* on the part of the apologizer.⁸³ In affirming recognition respect for recipients, apologizers simultaneously (implicitly or effectively) ask recipients to reciprocate. A state's apology is analogous.

As an apologizer with standing, one of the things the state seeks in delivering apology is recognition respect from Indigenous people. But it is recognition respect of a distinctive character. Here is where the conceptual flexibility of recognition respect is of value for understanding what is going on in these instances. While the recognition respect we can owe to a state differs from that we owe to beings with equal moral status, it is still recognition respect insofar as it consists in respect for some *feature* or *features* of the object (the state) which suggest constraints and normative expectations related to what sorts of things people can or should do to (or within) it. More specifically, a secondary motive of apology tendered by a state is that it is seeking a sort of recognition wherein its rights, jurisdiction and sovereignty are respected. This is analogous to the constraints and expectations on individuals defined by the recognition respect owed to all persons.

Before I expand on this, it must be stressed that I am not suggesting that Indigenous people need to reconcile themselves to the colonial status quo. Nor am I suggesting that Indigenous people need to have "appraisal respect" for the state, wherein they respect it in virtue of some quality that they admire in it (Darwall 1977, 38-39). Instead, my contention is simply that official apology is an instance of the state seeking a recognition of its jurisdictions, powers, rights, and so on. We can give recognition respect to an institution, a law or a state just as we can give it to a person; it is just the relevant facts that are different. "Strictly speaking, the object of recognition respect is a fact. And recognition respect for that fact consists in giving it the proper weight in deliberation" (Darwall 1977, 39). Recognition

⁸³ This view is inspired by Tavuchis (1991) who argue that apologizers, through apology, seek readmission into a moral community, their membership in which was called into question by their wrongdoing (18). Lazare (2004) holds much the same view.

respect in this area, then, would consist in individuals paying due attention to the fact that the settler state has rights, powers and jurisdiction in defined areas when deliberating on actions.

As Muldoon and Schaap (2012) argue in the context of Australia's 2008 apology for the Stolen Generations, in making its apology the state was seeking a recognition of its own sovereignty. Such recognition-seeking on the part of the state is often masked in this context because "a state's claim to sovereignty is less often perceived as a demand for recognition than are the claims of subaltern groups" (185). Yet in presumptively assuming that Indigenous Australians were unalloyed members of the Australian nation, this recognition is part of what the apology was trying to achieve (194). That this presumption was objectionable does not negate that this was a secondary goal of the apology. While it may oftentimes be an unpalatable feature, official apologies in this context seek to enact a recognition respect defined by the parameters of state sovereignty.

This is partly why I mentioned earlier in this dissertation that official apologies have been damagingly premature (2.3.3; see Dorell 2009). In presupposing the legitimacy of the status quo, they undermine the process of reconciliation. It is also why above I intimated that this side of the equation is a politically tricky question. The rights, jurisdiction and powers of a state cannot be determined in this context pre-politically. This would be to defeat part of the purpose of the process of reconciliation. The 'features' (rights and powers) of the 'object' (the state) are subject to (re)negotiation during this process. Yet if official apology is a part of reconciliation, and if official apologies seek to enact a recognition respect on the part of Indigenous individuals, it follows that the shape and parameters of state sovereignty – whatever these end up being – must be acceptable to Indigenous people.

This is not really a surprising conclusion. Nor is such an outcome inconceivable. Indeed, it has happened before in settler states. For example, Britain's 1763 Royal Proclamation and the 1764 Treaty of Niagara between the British Crown and 22 Indigenous nations sought to enact a form of reciprocal recognition respect which recognized the rights and sovereignties of separate legal orders (Royal Commission 1996a, 107-108; Borrows 2017, 22; see Coyle 2017). That such an arrangement seems in some places to be a long way off now does not mean that something like it is unnecessary for genuine reconciliation considered as an outcome. For consider that if Indigenous people rejected the legitimacy of

settler states' sovereign powers – or indeed their very right to exist – it would be strange to suggest that these parties have reconciled. This of course does not entail that Indigenous people need to be a part of these states. Nor does it imply that they cannot be a part. But recognition respect requires that whatever the political structures of these states are, whatever territory and territorially defined powers they have – these must be broadly acceptable to Indigenous individuals in the same way that I find the rights, powers and jurisdiction of Sweden, Germany or Japan to be broadly acceptable to me.⁸⁴

As we have seen, in addition to recognition respect another attitudinal requirement for reconciliation suggested by the use of official apology is reciprocal trust. This means that – in a reconciled world – Indigenous individuals trust the state, and the state trusts Indigenous individuals. However, regarding the latter desideratum, the power differential between a state and a solitary individual makes it unfruitful to delve too deeply into how, or how far, a state can trust a person. For the asymmetry in the vulnerabilities involved here means a state's trust is almost risk-free, and hence we are stretching the notion of trust. Nonetheless, it seems reasonable to say that if the settler state can appreciate that Indigenous individuals have recognition respect for its rights, powers and jurisdictions, it follows that it can be reasonably optimistic about both these individuals' competence in respecting them, and that their goodwill, whatever its character, will be sufficient to motivate them to do so. To that extent, the state can trust individuals.

As chapter 2 made clear, however, the real focus should be on how official apology is meant to inspire trust in the state on the part of Indigenous people (2.3.4). If we take an evidentialist perspective on justifications for trust and distrust, it seems that Indigenous people can reliably conclude that they are warranted in distrusting the state, or that trust would be misplaced. This is because of the state's long record of injustice, broken promises and mistreatment of Indigenous people. Once again, and in parallel with the argument above (4.1.2), Jones' (1996) account of trust is useful for understanding the remedy for this. Consider again that those things required for Jones' account of trust answer to many of those

⁸⁴ This is an apt analogy to note, because often countries have an obligation to be *more* scrupulous towards non-nationals than towards citizens. States cannot tax, conscript or expropriate anything from the non-nationals, while they can do these things to citizens (Goodin 1988). That is, recognition respect does not call for subordination.

harms which made for a lack of it in the context of relations between Indigenous individuals and the settler state. Goodwill on the part of the state has rarely been on display. Indigenous individuals had a right to expect that the state would refrain from harming them. Instead, as with Canada's residential school system, it did the opposite. Indigenous people had a right to expect that the state would prove competent when it came to dealing fairly and treating them as full members of the moral community. Instead, it willfully failed to develop competence in this area, as evidenced by statistics on incarceration, health, education violence or socioeconomic indicators canvassed in this dissertation (1.3). Instead of being favorably moved by the thought that Indigenous people trusted in the intentions of the state, as after the Treaty of Niagara, the state took advantage of this trust to further entrench colonial dominance. Combined, these injustices and failures produced distrust towards the settler state. Identifying the effects of these relevant harms suggests their antidote: the trust suggested by Jones, where Indigenous individuals are optimistic about the goodwill and competence of the state in a negotiated domain of interaction.

Goodwill is the linchpin for trust in this context, but again we face some limits to what we can say about it. The character or content of 'goodwill,' as we saw, is responsive to the type of relationship at issue – the domain of interaction. As noted, Jones (1996) uses an example of trust in strangers to illustrate this: our expectation is that the goodwill of strangers, whatever its motive or character, extends at least over their not harming us (7). This reflects the ternary relation of trust that often obtains in a given domain: "A trusts B to do [or not do] X" (Hardin 1993, 506). Here X stands in for the normative requirements of trusting relationships. But what is X in this context? In the case of an Indigenous individual trusting in the state, optimism about the goodwill of the state need extend only so far as is required for the specified domain of interaction. That is, optimism about goodwill is justified if the goodwill appropriate for the domain of interaction is evident. Yet, frustratingly for those who seek a detailed picture of reconciliation as an outcome, it is the character and scope of this domain of interaction that is *precisely what is at issue*. It is – or should be – subject to (re)negotiation. So, a priori, very little can be said about the goodwill that the state must have towards Indigenous individuals without first determining the political architecture of postcolonial settler states.

However, and again in parallel with the discussion above (4.1.2) we *do* know that recognition respect for Indigenous people is a fundamental requirement of reconciliation between Indigenous individuals and the state. As such, the minimal goodwill required of the state must extend to cover those things owed to people in virtue of the respect that attends their moral status. That is, the minimal content of this goodwill is recognition respect, and with recognition respect comes a variety of normative expectations governing interactions with moral agents. When the recognition respect associated with goodwill has been demonstrated over time, this will encourage optimism about not just the goodwill, but also (in light of a solid record) the competence of the settler state. Furthermore, appreciation that states acknowledge the moral value of individuals will ground the confident expectation that it will be directly and favorably moved by the thought that Indigenous individuals are counting on it to fulfill these normative expectations, even if for no other reason than that they are persons. These components comprise the trust required for reconciliation, and it will take a lot of evidence to warrant it.

As necessary conditions, the elements to reconciliation in this domain might seem rather paltry. However, their slightness is what makes them appropriate as a priori conditions for reconciled relationships. Suppose some Indigenous groups do not seek self-determination, and instead their composite members seek full and undifferentiated citizenship in the settler state. Our minimal conditions would stand, albeit with further requirements of goodwill suitable for such a relationship. Suppose other Indigenous groups seek full withdrawal and independence from the state. These requirements would still stand, as they do for Japan and me when I visit Tokyo. This conception not only meets the desideratum that the concept of reconciliation not presuppose the political outcome of reconciliation, it also allows for maximum flexibility in that outcome. What's more, trust sufficient for a specified domain of interaction, combined with recognition respect premised on the moral equivalence of people, means that it is amenable to a variety of worldviews.

4.2.3 Reconciliation between the settler state and Indigenous groups, peoples or nations

Chapters 1, 2 and 3 discussed several of the injustices attendant on settler-colonialism in some detail. As Moore (2019) argues, there is no single thing that is wrong with colonialism.

To get a fuller picture of the harms involved, it was necessary to consider several of those that fall under the umbrella ‘settler-colonialism’: discrete *historical* injustice such as dispossession, cultural genocide and broken treaties; *enduring* injustice such as the failure to make amends for historical injustice, and those structural injustices which resulted from historical ones; and a persisting *colonial mindset* that legitimized and facilitated the latter injustices in the first place.

An illuminating thing to note about the first form of injustice – the historical – derives from the state-as-agent thesis defended in chapter 1. Namely, historical injustices were always perpetrated intentionally by the *settler state* against Indigenous *groups, peoples or nations*. Even if one wishes to re-describe these injustices as harms to groups’ individual members, it was nonetheless their status *as members* of a specific nation, or the undifferentiated category ‘Indian,’ that led to their persecution. The state undertook deliberate policies to marginalize, assimilate or eradicate Indigenous peoples *as peoples*. It is telling that the *Report of the Truth and Reconciliation Commission of Canada* (2015a) begins, on page one, by noting that the activities of the settler state in this era merit the label ‘cultural genocide,’ which encompasses “the destruction of those structures and practices that allow the group to continue *as a group*” (emphasis added). The perpetration of genocide is ipso facto a group or group-based harm. In settler states, spiritual practices and the wearing of Indigenous regalia were banned, families disrupted, populations forcibly moved, languages outlawed (ibid.). The residential school system in Canada, or the Stolen Generations of Australia, are a case in point. Children were abducted from their families because they were members of Indigenous communities that the state wished to eliminate (see Holder 2014). Because the assimilation of Indigenous peoples into mainstream society was considered an essential part of the civilizing mission of settler states, the focus was on eliminating groups, peoples or nations.

Likewise, injustice of the second variety – the enduring – affects Indigenous people in virtue of their status as members of Indigenous groups, peoples or nations. As quoted in 1.2.3, structural injustice obtains

when social processes put large *categories of persons* under a systematic threat of domination or deprivation of the means to develop and exercise their capacities, at the

same time as these processes enable others to dominate or have a wide range of opportunities for developing and exercising their capacities. (Young 2006, 114, emphasis added).

The proper translation of Young's passage for this context would see "categories of persons" read as "Indigenous groups, peoples or nations." That structural injustices manifest in harms to individuals composing a category of persons does not negate the fact that systemic iniquities affect them in virtue of their membership in that category. That is, structural injustice can meaningfully be said to affect groups.

Similarly, the enduring injustice of the settler state's failure to make reparations for historical injustice – a distinct injustice affecting groups in material, psychological and symbolic ways – is primarily an injustice which targets groups, peoples or nations. As we saw in chapter 1, Indigenous peoples, because of their enduring identity as identifiable collectives – organized or not – deserve redress for historical injustices perpetrated against them (1.2). This is the case whether reparations translate into 'individual' forms or collective, 'rehabilitative' ones (Brooks 2003, 108). In the case of historical injustice, the justification for each form appeals to collective identity. Admittedly, certain injustices addressed through the courts have resulted in reparations to individuals who have suffered by them, as in the cases of the Indian Residential School system in Canada or the Stolen Generations in Australia. But, quite apart from Western legal systems tending towards individual solutions anyway, the focus of these schemes has been on direct victims because many of these individuals are still alive. It is not because such reparations absolve the state of all reparative obligations. That is, tendering individual reparations does not exhaust the moral responsibilities of the state. A strong moral – and indeed legal – case can be made for collective reparations for these state-directed injustices because of the cultural harms resulting from them, harms which cannot be reduced to the individual level of analysis (Anker 2016, 20-22; Chrisjohn and Wasacase 2011, 203; see Vrdoljak 2008).

This brief return to the discussion of historical and enduring injustices highlights the collective dimensions of settler-colonialism. Unsurprisingly, it suggests that one relationship in need of concerted attention is that between Indigenous groups, peoples or nations and the settler state, both categories considered as distinct from their members. The settler-state, in

targeting Indigenous peoples because of their status as Indigenous peoples, sowed the seeds of protracted conflict between the parties. The hope of relationships premised on mutual respect and trust was repeatedly undermined by these injustices, the perpetration of which demonstrates that the state has not been capable of healthy political interaction. Reconciliation, if it is to mean anything at all, demands the creation of healthy relationships at this level.⁸⁵

Even if reconciliation were to occur between Indigenous and non-Indigenous individuals, and between Indigenous individuals and the state, we still could not say that Indigenous groups, peoples or nations and the settler state have reconciled. Although individuals' attitudes matter for macro-level relationships between collectivities (see 4.2.2), to suggest that Indigenous individuals' reconciliation with the state entails that Indigenous groups, people or nations have reconciled with the state is to commit the fallacy of composition (Govier and Verwoerd 2002b, 191). That said, the 'micro' reconciliations we have already canvassed have much in common with the 'macro' reconciliation I discuss here. As with all other levels, the use of collective apology and its attendant sincerity-bolstering mechanisms implies that recognition respect and trust are mutually endorsed goals of reconciliation between Indigenous groups, peoples or nations and settler states. As such, they describe cross-cultural values that should feature in an understanding of 'right' relations between them. Additionally, the importance of historical correctives in apology suggests each party agrees that there need to be upper and lower bounds to what constitutes a reasonable interpretive view of history. However, since the focus now moves to the collective level, how we should understand these components differs from their formulation at other levels in significant ways. While we can draw on the conclusions of the previous subsections for our analysis, there are notable differences. In the first place, the constitutive attitudes of trust and recognition respect will require substantive and permanent reforms to organizing features of collectives for them to be applicable at all. In the second, reciprocal

⁸⁵ For reasons of clarity, note that the reconciliation required at this level is not to be simplistically understood as obtaining between the state and some undifferentiated mass 'Indigenous peoples,' but rather between the settler state and each Indigenous group, people or nation that has suffered at its hands. This adds a rarely emphasized layer of complexity to reconciliation. Failing to account for this complexity can contribute to the mistaken impression that reconciliation is a matter of repairing a relationship between the state and an imagined generic group of people denoted by the umbrella term 'Indigenous.'

recognition respect at this level concerns not just one, but two features of the respective parties.

The first obstacle to understanding reconciliation between collectivities as the establishment of trust and recognition respect is that we need to explain how collectivities can be said to have attitudes. Govier and Verwoerd (2002b) note that scholars do this in one of two ways. The first is through a distributive understanding, wherein “groups have these attitudes only to the extent that some, most, or all of their members have them” (189).⁸⁶ Above (4.2.2) I argued that distributive considerations are important to keep in mind when assessing the political efficacy or usefulness of reconciliation processes or outcomes considered at the macro-level. For not only is the meaning and significance of an official apology dependent on a certain level of ‘distribution’ of shared sentiment in settlers, but also – in practice if not in theory – a certain distribution of trusting and respectful attitudes among members of collectivities is necessary for any substantive and politically tenable reconciliation between collectivities. Yet, since we cannot infer macro-level reconciliation from the achievement of micro reconciliations, more than individual attitudes and dispositions are required to establish reconciliation between collectivities, and so this account will not do.

The second way of explaining how collectivities can have attitudes, the ‘collectivist’ or ‘nondistributive’ approach, draws on the theory discussed in chapter 1 of this dissertation (1.2). It appeals to the idea that, in virtue of policies, procedures, and structured pathways of decision-making, collectives can constitute agents distinct from their individual members (Govier and Verwoerd 2002b, 189). As such, they can meaningfully be said to take actions and form intentions.⁸⁷ The case is similar with respect to attitudes. To take just one way of defending this idea, if a collective acts in such a way that an attitude is the most plausible explanation for the action, then that attitude can be posited for explanatory reasons, even if there is no ‘group mind’ behind it (*ibid.*). As an example, we can cash this out by saying that the propositional attitude of optimism with respect to the goodwill and competence of collectivity B expressed by the statement ‘collectivity A trusts collectivity B’ can be inferred

⁸⁶ See Van Den Beld 2002 for an example of the distributive approach.

⁸⁷ See also Kukathas 2003, 181; Pettit 2007, 187; Isaacs 2011, 27; French 1979.

from the actions of A. Since we need an account of collective attitudes that respects the ontology of collectivities, this is the approach we should take.

Parties to collective apology, like parties to interpersonal apology, tacitly acknowledge the moral value of reciprocal recognition respect. But what is recognition respect at this level? As we have seen, one form of recognition respect that can be owed to a state or collectivity concerns their defined rights, jurisdictions, powers, and the like. This conclusion is in line with the discussion above (4.2.2), where I argued that the recognition respect we can owe to a state consists in paying due attention to these features when deliberating on actions. Analogously, when collectivities have recognition respect for one another, this can be inferred by observing how each pays attention to the rights and powers of the other. Since official apology in this context is meant to repudiate a logic of colonialism wherein Indigenous groups, peoples or nations were thought to have only very limited rights, powers and jurisdictions, acknowledging their newly recognized rights, powers and jurisdictions is part of what a good comprehensive official apology should aim to do.

Importantly for our investigation into the content of recognition respect at this level, the rights, jurisdictions and powers of collectivities frame their domain of interaction. For instance, the domain of interaction between Japan and Sweden – formally equal sovereign powers – is different than that between Ontario and Canada’s federal government, where the former’s powers are limited to those not devolved from the latter. That is, the structure of the relationship bears on the normative (and legal) expectations associated with recognition respect. Yet because the domains of interaction between Indigenous groups, peoples or nations and the settler state have in many cases yet to be defined through (re)negotiation, we cannot say much about the shape of the features that are due recognition respect in these relationships. We can however say, given the argument above, that the attitude of recognition respect can be inferred by attending to the actions (or inaction) of the respective parties to reconciliation. If each collectivity respects the defined jurisdictions, powers and rights of the other, then recognition respect of this kind is reciprocal.

Perhaps more than at any other level, trust and recognition respect are here inextricably intertwined. This is because, considering history, trust will not be rational without *assuring* recognition respect. Allowing that organized collectivities can have

attitudes – at least insofar as they can display them through action (or inaction) – the nature of their organization becomes significant. As independent agents, organized collectives are governed by rules, established procedures, policies, constitutional documents and so on. These rules constrain or suggest the actions that collectivities can or should take just as they constrain or suggest the actions that individual members can or should take. The importance of this facet of organized collectives is apparent when we remember that trust involves a grounded optimism about not just the goodwill, but also the *competence* of the trusted party. A collectivity cannot ground this optimism with the simple announcement that it has competence with respect to a negotiated domain of interaction. Instead, such optimism will only be grounded if collectivities take steps to enshrine the governing norms of interaction of the domain in those policies, rules and procedures that constrain and suggest the courses of action available to it in its dealings with other (trusting) collectivities. That is, the normative demands of recognition respect at this level of reconciliation must be enshrined in the organizational structure of collectivities for trust to be warranted. For obvious reasons, the bulk of the work here falls on the state.

These last points need some defense. Consider that settler states have amply demonstrated that they are not competent when it comes to dealing justly with Indigenous groups, peoples or nations. They have also shown that they often only belatedly realize – or acknowledge – that what they have done was morally wrong (Muldoon 2009). Given their incompetence in this area, it follows from Jones' (1996) account of trust that many Indigenous groups cannot reasonably trust in the state. This is part of why the last chapter argued that a certain loss of state sovereignty is required for genuine comprehensive apology (3.5.1). By constraining the state's remit through structural, institutional and/or constitutional reform, gross abuses of power will no longer be possible. To prove itself competent, that is, the state needs to make *binding* changes (Reilly 2009a, 99).⁸⁸ The upshot of this is that reconciliation between Indigenous groups, peoples or nations and the settler state will not be possible without transformative institutional, structural, and perhaps constitutional reform.

We cannot specify the nature of these reforms in precise detail for reasons already discussed, but, as we saw in chapter 3 (3.5.1), the underlying logic of comprehensive official

⁸⁸ See Muldoon 2009 for an argument on why these changes should be embedded in constitutional documents.

apology for historical and enduring injustice speaks to their scope. As Smith (2008) notes, “[a] declaration promising to reform behavior and redress injuries obviously differs from one that actually honors such promises” (233). A good apology will signal that the state will undertake these reforms, and as such reconciliation minimally requires that they be achieved. We can think of these reforms as enshrining the norms, structure, rules and procedures that will govern a negotiated domain of interaction. What this domain of interaction will look like, of course, we cannot say. Yet as many scholars working in this area have noted, if we hope to eliminate patterns of unjust interaction and the legacies of colonialism, then reconciliation at this level requires broad-based and programmatic reform. This may involve such things as significant restitution of lands (Alfred 2011; Corntassel and Holder 2008; Thompson 1990), cultural revitalization and affirmation (Alfred 1999;2005; Coulthard 2014; Henderson and Wakeham 2009), structural and institutional changes (Muldoon 2009; Lu 2011), and constitutional reform or reinterpretation (Cairns 2003; 2005; Borrows 2017; Henderson Youngblood 1994; 2002; Papillon 2019). The broad and transformative reach of reform is suggested by the comprehensive rejection of the logic of colonialism implicit in meaningful official apology in this context. As Dominello (2017) argues, “[a]n offer of an official apology would signify that the old way of doing things has failed, providing justifications for changes in the content and direction of state policies and laws in line with Indigenous peoples’ demands for justice” (285).

So much for competence. What about the reciprocal goodwill required for trusting relationships between collectives? Here again we find that trust and recognition respect intertwine. To be ‘directly and favorably moved’ by the thought that either party is counting on the other, goodwill is required. Previously I understood goodwill towards individuals as minimally encompassing recognition respect, where the moral status of persons constitutes both a moral and motivating reason for being directly and favorably moved by the thought that they are counting on us (4.1.2). In that domain, goodwill must extend at least as far as respecting the norms of decency in dealings with moral beings. Goodwill for other individuals entails that one considers their interests, even if for no other reason than that they are persons. Yet, although they approximate moral agents in that they can act, form intentions and be held responsible for their actions, collectives are not moral beings in the same sense as individuals. If the recognition respect associated with goodwill towards

individuals stems from the moral value of persons, the respect associated with the goodwill of collectives for other collectives must be different. Of course, one reason for a collective to have a kind of recognition respect associated with goodwill is prudential. Collectivity A will respect the defined rights and powers of collectivity B because A ‘knows’ that B will likely not do so for A if A does not. The importance of recognition respect here speaks to the motive for trusting (if indeed this even is trust). However, the fact that goodwill in the interpersonal context is additionally (and non-instrumentally) motivated by a recognition of the moral status of persons hints that the practice of collective-to-collective apology may hinge analogously on a recognition of the moral status of collectives.

To say that something has moral status is to say that the interests of that thing matter morally for their own sake, or that that thing is an end in itself (Agnieszka and Tannenbaum 2018). Can a collective have interests that matter morally for their own sake? When we ask why it is that a person has moral status the response will usually refer to some irreducible, intrinsically valuable feature of humans, such as autonomy or the dignity that attends personhood, wherein a person is thought to have moral status simply because they are a person. The question of moral status is thus a question about the grounds of moral status. When we ask about moral status, that is, we are asking if something is valuable in its own right, notwithstanding its being valued by any person, and if it is, whether that is enough to ground moral status of any kind. Unlike persons, collectives do not appear to have intrinsic dignity in any straightforward way, and the ontology of collectives means that their functional autonomy may not be of the same character as a person’s. That is, the line of questioning over the moral status of collectives may not end by citing some irreducible feature of collectives. There are other disanalogies to consider as well. For example, whereas a morally repugnant human being is nonetheless still thought to have full moral status in virtue of their personhood, collectives are generally required to have some “minimal threshold of value” before we can say they have any value at all (Renzo 2012, 112). If they have no value, then they cannot have moral status. This threshold of value is usually measured against some vision of universal values external to the parochial values of the collective (e.g. Horton 2007, 880-883). The Nazi party, in failing to meet this minimum threshold, was not a collective with moral status.

In our context the question of what might give a collective moral status approximates the question of what might give a culture moral status, for the respective parties to reconciliation embody cultures to greater or lesser degrees.⁸⁹ If we allow that collectives of the type we are discussing – states, nations, peoples – embody distinct cultures, the question of the moral status of collectives is much the same as that of the moral status of culture. Some argue that cultures are valuable because of what they are able to secure for the individuals who share in them (Thompson 1990, 318-320; Kymlicka 1995). Others might argue that cultures (also) have value in and of themselves, at least inasmuch as they can be considered irreducibly social goods (Taylor 1995). Suppose we were to ask someone why they think their culture is worth preserving. She might respond with the liberal line that ‘my culture is worth preserving because it offers me and others like me a route to the things we think valuable in their own right, such as a sense of identity, meaningful relationships and an orientation towards the world that frames our experience in such a way that we can lead a fulfilling lives.’ Or she might respond with something harder to unpack but no less powerful, such as ‘my culture is worth preserving because this common way of life is a good thing in and of itself.’ These are instrumental and non-instrumental reasons, respectively: it is good for me and others like me, or it is good simpliciter. In the first instance, the culture is seen as a means to intrinsically valuable goods. If it is seen as a *mere* means, it cannot be valuable in its own right, and so cannot have moral status. In the second instance, our interlocutor’s culture is seen as valuable in its own right, and so could arguably have independent moral status. However, we seek an understanding of reconciliation that is amenable to a variety of worldviews. The mere fact of disagreement on the source of the value of culture suggests that we should hedge our bets and err on the side of caution by allowing that cultures may not have any value in their own right. Therefore, they may not have moral status in any way analogous to that of persons.

So, we have to allow that cultures may not have moral status due recognition respect. Notice, however, that with both approaches to understanding the value of a culture our interlocutor responds using ineliminably moral terminology. She *values* her culture, valuing

⁸⁹ Although liberal democratic states often comprise a multiplicity of cultures, they nonetheless have a political culture that is generally thought valuable.

what it values; she thinks it *good*, either intrinsically or derivatively. That is, she offers moral reasons – reasons that cite normative claims – for preserving her culture. The bar for holding that a particular culture has no intrinsic or derivative value is higher than the bar for saying that a self-evidently repugnant political association like the Nazi party has no value.

Measured against universal morality, there is no sense in which the Nazi party met a minimum threshold of value. From a necessarily blinkered vantage point, though, it is much harder to argue that a culture has no value at all when we remember that there are many people – namely, those like our interlocutor who are a part of the culture – who probably value it quite a bit. To show that a culture has no value, we would have to show why these people are mistaken in their assessment by demonstrating why their culture cannot meet a minimum threshold of value. That is, it would take compelling evidence to suggest that a culture has no value.

The value people place on their culture may not be always be independent moral value, but it is value nonetheless because the culture *is valued*. Because of the importance of culture for both individual and group identity, Taylor (1994) argues that we should presume the moral equality of all cultures (66). This position, though defeasible in the face of compelling evidence to the contrary (think of the political culture of the Nazi party), seems the most morally appropriate one to have when we consider that those embedded in other cultures will often find their culture just as valuable to them as ours is to us. As socially embedded beings, it is right to take Taylor's presumption of moral equality seriously in the interest of epistemic humility. Of course, cultures can involve morally repugnant practices just as individuals can have morally repugnant features. The latent colonial mindset which characterizes the political culture of settler states is an example of such a morally repugnant feature. But just as a morally repugnant person does not surrender their moral status as a person through their repugnance, so too might cultures retain moral value despite some of its practices clashing with universal morality. Cultures are dynamic and changing, and a moral failure on their peripheries does not entail that the whole thing is irredeemable and without value. People value their cultures, and a culture's significance for the lives of individuals and communities should be recognized. While moral value is not a function of what people think, still epistemic humility (and recognition respect for persons) demands we pay attention to the normative claims people tend to make about the value of their culture. We can disagree on

how or whether a particular culture has independent moral value while still agreeing *these* cultures can have moral value in some way or other. The important takeaway here, then, is that we can understand the value of collectives in our context to be (at least partly) of a moral nature. Whether we agree that the cultures and collectives in question are instrumentally valuable, or intrinsically valuable, or both, one corollary remains the same: the collectives in our context have moral value insofar as their value cannot be described without citing normative claims which feature ineliminably moral terminology. People value culture, and that matters. It is in the recognition of the moral value of the collectives party to reconciliation that we can find a properly moral motivation for the goodwill between collectives.

As with respect for individuals, this non-instrumental reason for goodwill stems from the acknowledged moral value of each collective party to reconciliation, whatever its exact source or character. By hedging our bets, we can hold that either the moral status of a collective is owed recognition respect in its own right, or we can hold *that* the members of a collective value that collective is a fact owed recognition respect. This is a form of recognition respect that is additional to that owed to the rules and norms of a negotiated domain of interaction, and indeed functions as a motivating reason for respecting these. At this level, the ‘feature’ (moral value) of the ‘object’ (a collective) demands its own recognition respect. Minimally, *that* a collective is valued is something collectives need to take into account when deliberating on actions, for this is a requirement that falls out of recognition respect for persons (see 4.1). The use of apology – a moral instrument – suggests that more is going on than a pro forma instance of acknowledgement or recognition. Apologies to collectives, like reparations, are demonstrations of respect for the moral value of groups, peoples or nations. In apologizing to groups, we acknowledge their value. By publicly acknowledging the wrongs of the past and present, and by tendering reparations, the settler state seeks to demonstrate a form of respect that will govern norms of interaction going forward. When a reciprocal form of this respect is achieved, it suggests a goodwill that will encourage the parties to reconciliation to respond directly and favorably to the knowledge that each is counting on the other, for each recognizes the moral value of the other.

Tully (2008a) argues that respect of this kind requires a public attitude of mutual respect for the *cultures* embodied by the collectives party to reconciliation. Mutual “cultural respect” of this kind “creates the positive and mutually supportive climate that enables relations among cultures to be harmonious, rather than the acrimonious and strife-ridden relations of the colonial culture of disrespect” (244). In our context, this describes a relationship of trust premised on a respect derived from the recognition of the moral value of the collectives party to reconciliation, a relationship which contrasts sharply with that which has characterized the relations between settler states and Indigenous groups, peoples or nations for centuries.

4.3 Reconciliation as positive coexistence

This chapter offered necessary conditions of reconciliation conceived as an outcome, but the focus was narrow. The aim was to explore only what the use of official apology says about the normative expectations associated with reconciled relationships. As such, there are many questions the chapter – and the dissertation more broadly – could not answer. How long will reconciliation take? What exactly will the political architecture of settler states look like in 20, 50 or 100 years? What else is involved in reconciliation, both as a process and an outcome? However, provided we keep in mind that these conditions are not sufficient, the conclusions offer a frame of reference that can help us (or, more likely, our descendants) identify when reconciliation has been achieved. It is important to remember, though, that the attitudes and normative expectations described in this chapter are not to be demanded of any Indigenous person or group that is unwilling or unprepared to embrace them, or that does not think they are warranted, or that thinks they are all so much pie-in-the-sky rhetoric. Strictly speaking, the words ‘require’ and ‘demand,’ used so freely in this chapter, apply to the outcome of reconciliation itself. That is, *reconciliation* demands this; *reconciliation* demands that. We cannot take this conception of the governing norms of reconciliation and burden Indigenous people(s) with cultivating their attendant attitudes. This chapter says only this: when these attitudes are in evidence, we are closer to reconciliation.

The outcome of reconciliation in this context has a multivalent character operating on at least three distinguishable levels. As we saw, a precondition for reconciliation of any kind is a change in the attitudes of settlers. We will know the colonial mindset is erased when

settlers have a balanced view of their country's history, have rejected myths of settler benevolence, and when attitudes of paternalism, cultural chauvinism or racism are no longer on display in even latent form. Eradicating the colonial mindset contributes to reconciliation between Indigenous people and settlers considered as individuals. One necessary feature of such a reconciliation is that parties have reasonably consonant views of history, views which bound the realm of acceptable discourse. Indeed, agreement on the characterization of historical settler-Indigenous relations seems to be a precondition for reconciliation at any other level. Reconciliation at this level further requires that individuals of each category acknowledge the moral value of one another, that trust appropriate to a negotiated domain of interaction is apparent, and that the goodwill associated with trusting relationships involves a recognition of what is due to others in virtue of moral equality. Goodwill towards individuals, this time on the part of the state, is likewise required for reconciliation between Indigenous individuals and the settler state. At this level, reconciliation is not achieved until trust appropriate to a negotiated domain of interaction is established. Yet this trust is not possible until the domain of interaction is acceptable to Indigenous individuals, where Indigenous individuals have recognition respect for the negotiated spheres of the state's jurisdiction. Recognition respect of this latter kind is similarly necessary for reconciliation between Indigenous groups, peoples or nations and the settler state, and requiring that each party be satisfied with the parameters of a negotiated domain of interaction, and that the normative expectations of this domain are enshrined in governing policies and procedures of states to ensure competence. Finally, another kind of reciprocal respect is required at this level, one which is premised on the acknowledged moral value of the respective collectives. Such respect informs the goodwill that each party must have for the other in the context of trusting relationships.

In short, if apology is a necessary component of the process of reconciliation, then reconciliation as the outcome of 'positive coexistence' minimally requires mutually acceptable interpretations of history, reciprocal recognition respect and trust.

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