Apology as the First Step Towards Reconciliation:  
A Case Analysis of the Australian Apology

Mei Ching Liu

This article argues that public apology can have both practical and moral roles in reconciliation processes in transitional and post-transitional societies. To this end, this article examines the public apology offered by the Australian government to its Indigenous people in 2008. Regarding the practical roles played by public apology, this article argues that public apology facilitates historical truth-telling, which in turn helps to pour balm on the wounds of the victims. It is argued that public apology may aid in rebinding of social ties by establishing channels of communication between divided communities. With regard to the moral roles played by public apology, this article seeks to demonstrate that public apology is a powerful means to symbolically restore the humanity that was denied to the victims. It is argued that the willingness of the State to publicly acknowledge past wrongs and responsibility is seen as an act of compassion, humanity, and respect towards the victims, thereby promoting the process of reconciliation. Be that as it may, this article argues that public apology is only a small piece of a bigger puzzle in transitional justice, as both measures of symbolic and practical reparations are required to adequately address the legacy of past human rights violations, and to achieve reconciliation.
1. Introduction

Transitional justice is defined by the United Nations as the full range of processes and mechanisms associated with a society’s attempts to address mass atrocities, in order to establish accountability, serve justice, and achieve reconciliation. The United Nations set out four pillars of transitional justice: truth, justice, reparation, and guarantees of non-repetition. Public apology is considered to fall within the reparation pillar, as it provides satisfaction to victims by “acknowledging the facts and responsibility”. Increasingly, political leaders have been apologising for past wrongs committed by States: South Africa’s former president F. W. de Klerk apologised for the country’s racist policies, British former Prime Minister Tony Blair apologised for the 19th-century Irish potato famine, and Canada’s former Prime Minister Stephen Harper apologised to the victims of residential schools. As a “symbolic form of reparation”, public apology aims to promote reconciliation through public acts of contrition and repentance. Nevertheless, critics are sceptical about the potential of public apology in promoting reconciliation, as they consider public apology as “hollow” or a discourse aimed to minimise responsibility. In their view, saying “sorry” is unable to undo past wrongs.

In contrast to these critiques, this essay will argue that public apology can help to achieve reconciliation, as will be illustrated by an analysis of the Australian apology to its indigenous people in 2008 (hereafter the Apology). This essay will proceed in three parts. After giving an overview of the concept of apology, this essay will discuss the findings of transitional justice literature on public apology. It is then followed by a thick description of the Apology, which hopes

---

2 ibid.
3 UNGA Res 60/147 (16 December 2005) UN Doc A/RES/60/147.
to demonstrate the significance of public apology in promoting reconciliation. This is then followed by a brief conclusion.

2. Transitional Justice and Public Apology

2.1 What is Apology?

Apology is classified as an expressive speech act, as it conveys the state of mind, for instance, the feelings of regret and sorrow, of the apologiser to the offended person, for the wrongs done. The main task of apology is “to resolve conflict and somehow restore an antecedent moral order”. But how does an apology resolve conflict and restore moral order between the apologiser and the offended person? According to his analysis from a sociological perspective, Nicholas Tavuchis suggests that the apologiser’s genuine expression of sorrow and regret is the centrepiece of apology because such feelings could provide a reason for the offended person to overcome his feeling of resentment, and thereby forgiving the apologiser. Thus, in Tavuchis’s view, a genuine apology cannot be carried out by a proxy:

“[A]n authentic apology cannot be delegated, consigned, exacted, or assumed by the principals, no less outsiders, without totally altering its meaning and vitiating its moral force.”

On the other hand, from a psychological perspective, Aaron Lazare proposes that the symbolic exchange of power between the apologiser and the offended person is what inspires forgiveness:

“[W]hat makes an apology work is the exchange of shame and power between the offender and the offended. By apologizing, you take the shame of your offense and

---

8 ibid 5.
9 ibid 23.
10 ibid 49.
redirect it to yourself…In acknowledging your shame you give the offended the power to forgive. The exchange is at the heart of the healing process.”

In Lazare’s view, the act of apologising puts the apologiser in a vulnerable position, and the offended person who was originally at a disadvantaged position, now has the power to release the apologiser from the feelings of sorrow and regret. Through this symbolic reversal of power, the apologiser and the offended person could reconcile.

2.2 What is a Public Apology?

In contrast to the definition of “apology” offered in the previous section which assumes that an apology is offered by an individual to another individual, a public apology is a collective apology offered publicly by an official representative of a State for serious wrongdoings committed by the State.12 By transposition, the above sociological and psychological analyses presented by Tavuchis and Lazare suggest that public apology could be regarded as an important transitional justice measure, as it helps in promoting reconciliation in transitional and post-transitional societies.

However, Tavuchis’s emphasis on the expression of feelings of sorrow and regret raises a question as to whether meaningful apology could be offered by States. With regard to this issue, Tavuchis argues that the ultimate task of public apology is “to put things on record”, and “what goes on record…does not necessarily express sorrow”.13 Such a definition means that sincere feelings are not a constituent feature of public apology. By offering this definition, Tavuchis effectively bypasses the question of sincerity. Perhaps he realises that a representative, who offers a public apology on behalf of a State, may not have been personally involved in the perpetration of any

12 Davide Denti, ‘Public Apologies in the Western Balkans: The Shadow of Ambiguity’ in Daniël Cuypers and others (eds), Public Apology between Ritual and Regret: Symbolic Excuses on False Pretenses or True Reconciliation out of Sincere Regret? (Rodopi 2013) 104. It is acknowledged that this definition is broader than Ruti Teitel’s transitional apology which involves only a State’s “top political actor”, and narrower than Janna Thompson’s political apology which includes apology from non-State actors, such as a corporation or other organised group. See Ruti Teitel, ‘The Transitional Apology’ in Elazar Barkan and Alexander Karn (eds), Taking Wrongs Seriously: Apologies and Reconciliation (Stanford University Press 2006) 102; Janna Thompson, ‘Apology, Justice and Respect: A Critical Defense of Political Apology’ in Mark Gibney and others (eds), The Age of Apology: Facing up to the Past (University of Pennsylvania Press 2008) 31.
13 Tavuchis (n 7) 109.
wrongdoing, and thus the representative may be too remote from the wrongdoing to instil any feeling of regret and/or sorrow. Nonetheless, in bypassing the question of sincerity, Tavuchis’s conception of public apology still fails to explain the way in which reconciliation could be achieved. In other words, how does putting things on record help in promoting reconciliation?

On the other hand, in respect of Lazare’s symbolic exchange of power theory, there is no doubt that it would apply to some circumstances, particularly those concerning interpersonal apology. It is, however, unclear how the theory would work for public apology. The theory is flawed in two different aspects. First, it is doubtful whether a public apology would actually have its end result of redrawing the power relation between the State and the victims, as the power relation between these parties is asymmetrical. Second, even if it is assumed that the power relation is symmetrical (for example, a public apology from one State to another State), it still raises a question as to whether or not there would be any symbolic exchange of power. This is particularly true if one considers that both States are, in theory, equal sovereigns, thus the apology might only be a gesture that simply cannot be refused for political purposes. In light of the above, there are reasons to question the significance of the symbolic exchange of power in public apology.

In their seminal work, The Promise and Pitfalls of Apology, Govier and Verwoerd propose another theory that would overcome the above-mentioned problems. They argue that the thrust of public apology lies in the three-dimensional element of acknowledgement: acknowledgement of wrongs, acknowledgement of the victims’ moral status, and acknowledgement of the legitimacy of the victims’ feelings of resentment and anger. First, in apologising, the State is acknowledging that the past acts were wrong, and that it is responsible for such wrongs. Second, in acknowledging past wrongs and accepting the responsibility for such wrongs, the State is in effect acknowledging that the victims did not deserve to be wronged. Such an acknowledgement reaffirms the moral status of the victims. Lastly, in acknowledging that the victims did not deserve to be wronged, the State is acknowledging the feelings of resentment and anger that the victims may feel in response to being wronged, and thereby providing justification and legitimation for such feelings. Govier

---

16 ibid 69.
and Verwoerd argue that these acknowledgements help the victims overcome their feelings of resentment and anger, thereby promoting reconciliation:

“[A]n apology can ‘unstate’ the implicit claim that the wronged person has no moral worth and merits no moral consideration. It is the cancellation of this profoundly insulting and potentially humiliating message that can inspire the ending of anger and resentment on the part of the victim.”

Thus, an effective public apology does not require a State (or the representative who represents the State) to genuinely express the feelings of regret and sorrow, or to redraw the power relation. What matters is that the State acknowledges the nature and seriousness of the wrongs and harm done to the victims.

Figure 1: Model Illustrating the Hierarchy of Acknowledgements in Govier and Verwoerd’s Theory

In arguing that acknowledgement has only three dimensions, Govier and Verwoerd overlook another important aspect of acknowledgement in public apology: acknowledgement of a common moral ground. Govier and Verwoerd are correct to argue that when a State offers an apology, the apology “presupposes [a] moral agreement” between the State and the victims that the acts in

\[\text{ibid 70.}\]
question were wrong. Nonetheless, in order to recognise that the acts were indeed wrong, the State must also acknowledge that the moral agreement (or the shared values and norms) that was once ignored is now restored. Let’s say that abduction was once considered as an acceptable behaviour in the past, and the fact that a State has given its sanction to legally abduct children during X period of time means that it did not regard abduction as unacceptable during that time. Therefore, in acknowledging that abduction is wrong, the State is in effect acknowledging: (i) the existence of the moral agreement (or the shared values and norms) which indicates that abduction is wrong; (ii) it has violated the moral agreement; and (iii) its commitment to uphold the moral agreement. This in turn means that both the State and victims now share the same values and norms (or have a common moral ground) that abduction is wrong. As Lazare has argued, “by acknowledging that a moral norm was violated, both parties affirm a similar set of values. The acknowledgement re-establishes a common moral ground”. In this sense, public apology can be said to have a “rule-setting function”, which can restore those values and norms that were once ignored during conflicts.

Tavuchis has said, “we not only apologize to someone but also for something”. By acknowledging that both parties have a common moral ground, the victims are assured that the wrongs were not their fault, but the State’s which had once ignored or violated those shared values and norms. This acknowledgement of a common moral ground then provides justification and legitimization for the victims’ feelings of anger and resentment towards the State for its violations of those values and norms, while at the same time, restores their moral status and dignity, and thereby facilitates reconciliation.

---

18 ibid.
19 Lazare, ‘Go Ahead, Say You’re Sorry’ (n 11) 42.
20 Andrieu (n 4) 13.
21 Tavuchis (n 7) 4 (emphasis added).
The next part of this essay will now turn to the empirical analysis of the Apology. The case analysis will demonstrate the importance of these four dimensions of acknowledgement in promoting reconciliation.

3. The Australian Apology to Indigenous People

3.1 Brief Historical Background

The Australian national apology to the Stolen Generation came about as one of the recommendations of the Bringing Them Home report (hereafter BTH report) by the National Inquiry into the Separation of Aboriginal Children from Their Families. The phrase “Stolen Generation” is used to describe those Indigenous children who were forcibly removed from their families between 1910 and 1970. The forced removal was conducted under Australia’s assimilation policy.

---

that aimed to ensure that “all persons of aboriginal blood or mixed blood in Australia will live like other white Australians”.23

The BTH report, which traced past laws and policies that caused the forced removal of Indigenous children, was tabled to the Parliament in 1997. It consists of extensive first-hand testimonies of the victims. Based on the assimilation policy, Indigenous children were assigned as either “full blood” or “half-caste”.24 Those Indigenous children who were deemed to be “half-caste” were taken into care or sent away to work for the white population in the hope that they would be accepted and “merged” into the white population, thereby causing them to lose their Indigenous identities.25 The living conditions of “half-caste” Indigenous children were akin to “concentration camps”,26 whereby they were accommodated in sub-standard huts,27 given food from the “rubbish dump”,28 and frequently punished by their white managers.29 On the other hand, those “full-blooded” Indigenous children were segregated.30 The BTH report concluded that “between one in three and one in ten Indigenous children were forcibly removed from their families”.31 However, the total number of victims is unclear, as many historical records were damaged or destroyed, and not all the removals were recorded.

The impact of the forcible removal was catastrophic. The segregation of “full bloods” and absorption of “half-castes” into the white population sent an unrelenting message to Indigenous people: Indigenous people were inferior, and thus Australia had no place for them. As Jimmie Barker puts it,

“I learnt that as I was black, or partly coloured, there was no place in Australia for me.
I learnt that anyone of my colour would always be an outcast and different from a

23 ibid 28.
24 ibid 22.
25 ibid 24.
27 ibid.
28 Bringing Them Home (n 22) 138.
29 Harris (n 26) 391.
30 Bringing Them Home (n 22) 24.
31 ibid 31.
white person. It gave me the firm idea that an Aboriginal, even if he was slightly
coloured, was mentally and physically inferior to all others.”

Members of the Stolen Generation were told that their biological parents were “worthless”, or that they had been abandoned or rejected by their parents. This had resulted in emotional distress, and led some of the Stolen Generation to commit violence, self-harm, and other anti-social behaviours. Moreover, the education provided to the Stolen Generation was only aimed to prepare them for a future as “menial workers” or “cheap labour”. As a result, there is a huge gap between Indigenous and non-Indigenous people in terms of educational achievement and economic opportunity.

When the BTH report recommended the government to offer an apology to the Stolen Generation, Prime Minister John Howard resisted the pressure to apologise. Howard believed that if the current generation of Australians express regrets for things, “[they] are collectively and in a direct sense responsible”. Therefore, instead of offering an apology, Howard responded to the BTH report with his “practical reconciliation” policy, which sought to address socioeconomic disadvantages faced by Indigenous people. As the name of the policy suggests, the policy’s focus on practicality puts it precisely against the abstractness and symbolism of apology. By 2003, Howard considered that there was no more request for an apology, as he said, “people no longer ask me for an apology”. Be that as it may, the Senate Legal and Constitutional References Committee’s report found that Howard’s practical reconciliation policy was “failing Indigenous people”. In fact, the title of the Committee’s report says it all: Reconciliation: Off Track. The prospect for an apology was renewed when Kevin Rudd won the federal election, as he promised

33 Bringing Them Home (n 22) 134.
34 ibid 155.
35 ibid 148.
to apologise if elected.\footnote{Auguste (n 36) 318.} On 12 February 2008, the Parliament was sworn in after an Indigenous ceremony. It was the first time in Australian history that Indigenous people took part at the opening of Parliament.\footnote{AIATSIS, ‘Apology to Australia’s Indigenous Peoples’ <https://aiatsis.gov.au/explore/articles/apology-australias-indigenous-peoples> accessed 1 September 2021 (hereafter AIATSIS).} The next day, “we are sorry” resonated throughout Australia.

3.2 The Apology and Reconciliation

The stage for the Apology was set at the House of Representatives chamber in Parliament. Members of the Stolen Generation were invited to hear the Apology first-hand from the gallery. Prime Minister Kevin Rudd began his apology by emphasising that Indigenous people are Australians. “[T]hat today we honour the Indigenous peoples of this land”, he said.\footnote{Australian Government, ‘Apology to Australia’s Indigenous Peoples’ <https://info.australia.gov.au/about-australia/our-country/our-people/apology-to-australias-indigenous-peoples> accessed 1 September 2021 (hereafter Apology to Australia’s Indigenous Peoples Speech).} He then went on with a call to reflection on the mistreatment inflicted upon Indigenous people, particularly members of the Stolen Generation. His description of the mistreatment was specific and unwavering,

“We apologise for the laws and policies of successive Parliaments and governments that have inflicted profound grief, suffering and loss on these our fellow Australians.

We apologise especially for the removal of Aboriginal and Torres Strait Islander children from their families, their communities and their country.

For the pain, suffering and hurt of these Stolen Generations, their descendants and for their families left behind, we say sorry.

To the mothers and the fathers, the brothers and the sisters, for the breaking up of families and communities, we say sorry.
And for the indignity and degradation thus inflicted on a proud people and a proud culture, we say sorry.”

This painful acknowledgement of Australia’s past wrongs was unqualified, and complete with every detail. It specified the victims (Indigenous people, in particular the Stolen Generation), the cause of the injustices (Australia’s past laws and policies), and lastly, the nature of the victims’ suffering (forced separation, indignity, and degradation). Rudd did not try to diminish the severity of the injustices committed. He acknowledged that past laws and policies had caused “profound grief, suffering and loss” to Indigenous people in one of the “blemished chapter[s]” in the nation’s history. He also clearly identified the responsible parties, as he admonished “the successive Parliaments and governments” of Australia. He said “sorry” on behalf of these political institutions.

The explicit naming of those who were responsible is significant, as it was a direct response to Howard’s objection against apology. As stated above, Howard refused to apologise because he was of the view that the current generation of Australians should not apologise for the wrongs that they did not personally commit. This objection concerns the morality of public apology. On one level, it is difficult to disagree with Howard that it makes no logical sense for the current generation to take responsibility for wrongs committed in the past. This argument, however, overlooks the nature of responsibility that a public apology is crafted to address.

Public apology is not concerned with citizen responsibility. Rather, it is a means of acknowledging State responsibility for past wrongs. According to Michael Murphy, “State responsibility is linked to the concept of institutional or constitutional continuity”.

What it means is that a State is an ongoing body which may continue to exist through the passage of time, and it may survive beyond the lives of its citizens and political actors. This continuing existence means that the State inherits its obligations, laws, and policies from its predecessors, and so too its responsibility for past wrongs carried out under its authority or in its name. It is true that neither the current

43 ibid.
44 ibid.
45 ibid.
In acknowledging the historical injustices and responsibility, the Apology certainly cannot undo the wrongs and harm done to Indigenous people, yet it cannot be regarded as hollow and meaningless simply because it is unable to fix the history. In fact, no apology can right past wrongs. The main purpose of the Apology is not to fix the history, but to correct the official historical record by assigning responsibility to the responsible parties. It is, of course, admitted that the Apology cannot produce detailed accounts of historical record like a truth commission. Nevertheless, the Apology’s unequivocal statement in acknowledging the wrongs and responsibility makes clear that it does not bestow an undifferentiated collective responsibility on the current generation of Australians. Those who were at fault and responsible were the past Parliaments and governments.

The purpose of the Apology in correcting the historical record is to tell an official story that can de-legitimise the former illiberal regimes, or set of societal practices. As observed by Danielle Celermajer, after the BTH report was released, many Australians were shocked to learn that this is a part of Australia’s history. Some Australians even questioned the BTH report’s methodology, accuracy, and impartiality. They believed that Indigenous children had not been forcibly removed, but taken away out of concern for better education and opportunities. In offering the Apology, Rudd acknowledged that the removal policy was “a part of a broader policy of dealing

51 ibid.
with ‘the problem of Aboriginal population’ whose inferiority was presumed. This recognition is significant, as it demonstrates that the forced removal of Indigenous children was both legitimated and perpetuated by an unjust environment that was based on an assumption that Indigenous people were inferior to the white population.

In apologising, Australia is in effect acknowledging that it was wrong to hold such an assumption against Indigenous people. In this way, the Apology delegitimises the assumption and the very stereotypes that were used to justify the forced removal of Indigenous children. At the same time, it validates the victims’ testimonies in the BTH report, and elevates these testimonies to a new status - as evidence of great wrongs and great suffering. Consequently, the stories of Indigenous people’s suffering and experience of being wronged are legitimated. Understanding the Apology in this context, it is clear that this act of saying “sorry” not only speaks of responsibility, but also of the truth about the violence of the nation’s past. The Apology thus constitutes a vital part of truthful historical record that is necessary for social healing.

The idea that the Apology can contribute to truthful historical record has been challenged by scholars. A common line of attack made is that the Apology has presented a sanitised view of the nation’s history. In the ten years following the release of the BTH report, there was a fierce debate regarding what the history of Australia actually looked like. This debate had divided the nation on the issue of whether the Prime Minister should offer an apology. According to the BTH report, the intent of the forced removal of Indigenous children was genocidal. This claim was firmly rejected by Howard, who claimed that there was no Stolen Generation thus no apology was called for. In respect of this controversial history, Tony Barta argues that the Apology has buried the

---

55 Celermajer, ‘Stories Told and Untold: Reparation, Recognition and Reshaping National Memories in Australia’ (n 54) 78.
56 Bringing Them Home (n 22) 235.
57 Nobles (n 37) 98.
“real” history of genocide against Indigenous people.58 According to his argument, the burial of such a history is intended to enable non-Indigenous and Indigenous people to move on with less dissent into the future, and to reconcile.59 Barta’s concern is that the Apology has closed the debates vis-à-vis the wrongfulness of how Australia had mistreated Indigenous people and the rightfulness of Indigenous people’s claims. He argues that the burial of the “real” history of genocide would prevent “true reconciliation” in Australia.60

Leaving aside for a moment the issue concerning reconciliation, it is argued that it is difficult to have an answer to past injustices. As explained by Michael Ignatieff, there is no one interpretative truth concerning past conflicts:

“The problem of a shared truth is also that it does not lie ‘in between’. It is not a compromise between two competing versions. Either the siege of Sarajevo was a deliberate attempt to terrorise and subvert a legitimately elected government of an internationally recognised state, or it was legitimate pre-emptive defence by the Serbs of their homeland from Muslim attack. It cannot be both.”61

It is therefore important to remember that truth is subjected to one’s identity. The way in which an individual understands past conflicts depends on how they have experienced it, and thus there can be no immediate shared truth about the historical injustices committed against Indigenous people. One can argue that Australia has its own defences against the “real” history of genocide, but so do the victims. To put it in another way, even if the “real” history of genocide constitutes the truth, this truth may still be contested by some. In such circumstances, the Apology can neither be accused of burying the “real” history nor presenting a one-sided account of history washed of all its unpleasant past, considering that the victims’ version of history (or any other version) is no less one-sided. It also follows that the Apology cannot be regarded as a failure when it fails to produce a universally sanctioned narrative of historical injustices.

58 Barta (n 54) 211.
59 ibid.
60 ibid.
It is agreed that from a legal perspective, it matters whether or not an Indigenous child was removed for training, or for genocidal reasons. Nevertheless, the truth to this issue would not necessarily lead to reconciliation. If one thinks that truth would definitely lead to reconciliation, one is making the following assumptions: (i) there is only one truth, and not many; (ii) truth is indisputable; (iii) when truth is known, it would definitely be accepted universally; and (iv) truth has the magical ability to heal and reconcile.\(^{62}\) Indeed, there is still controversy over the truth of Australia’s past; nevertheless as Ignatieff has argued, “it is putting too much faith in truth to believe that it can heal”.\(^{63}\) Barta can certainly argue that the denial of the “real” history is damaging for the reconciliation process in Australia, so too can the insistence that there can only be a single version of truth concerning the historical injustices committed against Indigenous people. The past is an argument. It does not have the fixity or stability of a historic document which can be recovered and returned like a puzzle.\(^{64}\) Thus, what matters for reconciliation is not about recovering the exact facts of the historical injustices, such as the precise location where Indigenous children were taken from, or the accurate number of victims; rather, it is about presenting an official story that can help to reduce the number of lies that remain unchallenged in public discourse.

Coming back to the question of how the construction of an official story helps to promote reconciliation. As argued above, the Apology delegitimises the assumption concerning Indigenous people’s inferiority and the unjust environment that sustained the systematic wrongdoings. In this way, the Apology has created a public climate in which it is now impossible to claim that Indigenous children were forcibly removed for their own benefit, or that it is acceptable to treat Indigenous people as less full citizens and human beings. From this perspective, one can conclude that the Apology, at the very least, has ended the silences of denial of the historical injustices and the responsibility.

For victims, saying “sorry” is more than a symbolic gesture. It carries tremendous weight. By closing the door on denials of past injustices and the responsibility, the Apology can bring a sense of closure and satisfaction to victims. For those primary victims, although the Apology cannot obliterate the wounds, nevertheless the pain of the wounds can be eased by acknowledging that

\(^{62}\) ibid 111.
\(^{63}\) ibid 119.
\(^{64}\) ibid 113.
the injustices had been inflicted upon them unjustly. The idea of soothing by acknowledgement was embraced by Rudd, as he expressed the pain and suffering of Indigenous people in powerful and empathetic language, “I know there is nothing I can say today that can take away the pain you have suffered personally”. Many members of the Stolen Generation described the delivery of the Apology as a tearful moment. For Lorraine Peeters, it was “a day [she] will never, ever forget in [her] life because [the Stolen Generation] were being acknowledged as a group of people”. This sentiment was also shared by Archie Roach, Indigenous Australian singer and songwriter, who had written a song based on his personal experience as a survivor of the Stolen Generation,

“"We just needed an apology, for someone to just say ‘sorry that this happened, we’re sorry that this took place’ and it’s not laying the blame with anyone, it’s just expressing sorrow for something that happened.”

Besides the primary victims, the Apology also pays respect to secondary and tertiary victims (the descendants of the Stolen Generation) by acknowledging that they may continue to suffer the scars of past injustices. It is admitted that the Apology in this context cannot bring any comfort to the dead, but it may bring a sense of solace, and perhaps a light of hope, to those victims who may continue to bear the painful memories of injustices suffered by their ancestors. Therefore, memories of injustices, whether those committed against the primary victims or their descendants, are being honoured. This in turn may help the survivors and victims to overcome their feelings of resentment.

A refusal to apologise, on the other hand, can have painful consequences for reconciliation. By refusing to acknowledge past injustices and the responsibility, the division between Indigenous

65 Govier and Verwoerd, ‘The Promise and Pitfalls of Apology’ (n 15) 70-71.
66 Hansard (n 53) 170.
68 The title of the song is “Took the Children Away”. It was written in 1990, almost 20 years before Australia apologised to the Stolen Generation. The lyrics start with “this story’s right, this story’s true”, meaning that the forced removal of Indigenous children is true. Roach won an international human rights award for this song, See ibid.
69 O’Brien (n 67) (emphasis added).
70 Murphy (n 47) 54.
and non-Indigenous people can only widen, thereby making reconciliation even harder. It reinforces the unjust environment and past assumption of Indigenous people’s inferiority. Such circumstances happened when the Howard government refused to apologise. Notwithstanding that the BTH report provided detailed accounts of the devastating impact concerning the forcible removal of Indigenous children, the government chose to ignore their cries of pain and suffering as well as their request for an apology. The government’s silence could be understood as a form of denial. As Cheryl Lawther puts it, “the absence of reaction by those who have seen, known or heard about the situation - yet have still not reacted”. In such circumstances, the underlying messages sent by the Howard government were that: (i) it was indifferent to the wrongs and harm done to Indigenous people; and (ii) Indigenous people were so lowly to the extent that they did not deserve an apology. This had the effect of further humiliating and degrading Indigenous people. According to literature on trauma treatment, the moral contempt of silence could be as devastating as the original wrongs. This is known as “the second wound of silence”, and it could prolong the feeling of resentment on the part of the victims.

Further, by refusing to apologise, it was implied that the Howard government sanctioned the morality and legitimacy of the wrongdoings. As explained in Section 2.2, public apology involves an acknowledgement of a common moral ground. By apologising, a State is also acknowledging the moral agreement with victims, and reaffirming its commitment towards the shared values and norms. Therefore, the implication of not acknowledging wrongs and responsibility is to deny the moral agreement. By refusing to apologise, the Howard government essentially implied that it did no wrong in the first place, hence there was no need for the government to apologise. In such circumstances, trust cannot be re-established. In his analysis of the relationship between trust and reconciliation, Pablo de Greiff states that “trust involves an expectation of a shared normative commitment”. To say that we trust a person means that we have reasons to expect the person to behave in a certain way, and the expectation arises from our commitment to the norms and values that we share. Trust is important for reconciliation. In order to achieve reconciliation, citizens need to trust one another and their State. Trust, in this context, means that (i) citizens are sufficiently

72 Govier and Verwoerd, ‘The Promise and Pitfalls of Apology’ (n 15) 71.
73 ibid.
74 de Greiff (n 14) 125-126.
75 ibid.
committed to uphold the shared rules and norms incorporated in their State; (ii) sufficiently confident that those who are in power would operate on the same basis; and (iii) sufficiently secure that their fellow citizens’ commitment to abide by the shared values and norms.\textsuperscript{76} In other words, there is a collective expectation that citizens and their State would operate based on the shared values and norms.

As has already been addressed, the forcible removal of Indigenous children was committed against a background in which the inferiority of Indigenous people was assumed, and all norms were inverted. Without the rule-setting function of an apology, those shared values and norms that were once ignored cannot be restored and reaffirmed, and thus there would be no expectation of commitment towards the same. According to psychology literature, the absence of an acknowledgement of a common moral ground may lead to a feeling of fear.\textsuperscript{77} In such circumstances, the victims would naturally want to distance themselves from the offender because there is no guarantee that similar wrongdoings would not happen again.\textsuperscript{78} Applying this to the Australian context, it means that it is harder to achieve reconciliation, as Indigenous people have no expectation or trust that the State would operate based on the shared values and norms. Thus, without an apology, those shared values and norms that were once ignored cannot be re-established; the trust of Indigenous people that was once broken cannot be restored; those relationships once damaged cannot be healed. This argument is supported by the statement of Audrey Kinnear, the co-chair of the National Sorry Day Committee. In response to Howard’s refusal to apologise, Kinnear said,

“Howard hasn’t got the heart to [apologise]. So, we’ll wait till we get another Prime Minister, who has a heart”.\textsuperscript{79}

By describing Howard “hasn’t got the heart”, Kinnear was not only conveying that Howard had no intention to apologise, but also implying that Howard (or his government) had not shown any humanity, compassion, and respect towards Indigenous people. Kinnear’s statement not only exudes a sense of bitterness and frustration, but also a measure of alienation. It is therefore obvious

\textsuperscript{76} ibid 126-127.


\textsuperscript{78} ibid 38.

\textsuperscript{79} Audrey Kinnear in Nobles (n 37) 125-126.
that Howard’s resistance against an apology had prolonged the feeling of resentment on the part of Indigenous people and caused them to further distance themselves - the antithesis of reconciliation.

Apart from the above, it also appears that Howard’s refusal to apologise had caused Indigenous people to be fixated on the past, as they vowed to wait for another Prime Minister to do so. On the issue concerning fixation on the past, Alexander Reilly argues that the Apology aims to aid the forgetting of the harm done to Indigenous people in the name of reconciliation.80 He argues, the very point of the Apology is to encourage “moving on to a new beginning where the past can be forgotten”.81 However, the Apology has never intended to help Indigenous people to forget the historical injustices in question. It is argued that the Apology functions as an important instance of remembering, while at the same time, it also affords a discontinuity - letting go of the past.

It was reported that when Rudd delivered the Apology, thousands of people gathered outside the Parliament to witness the historic speech.82 Those who were not physically present outside the Parliament watched the Apology on televisions.83 As Rudd delivered the first of three “sorry”, the crowd rose to their feet in applause.84 It was a standing ovation. Many people were tearing and crying, some were smiling, and others just “quietly said yes”.85 Through this “singular, concentrated moment of public attention”,86 the history and legacy of Indigenous people’s suffering are legitimated and inscribed into living public memory. Thus, Murphy is correct to argue that public hearings of truth commissions are unable to compete with the power of public apology to inscribe events long past into living public memory.87 In furthering Murphy’s argument, it is argued that public apology can indeed inscribe the legacy of historical injustices well beyond the historic day of the delivery of public apology, and in this case analysis, beyond 13 February 2008. Immediately after the Apology, the government has drawn up an action plan,

80 Reilly (n 54) 99.
81 ibid.
83 AIATSIS (n 41).
85 ibid.
86 Murphy (n 47) 56.
87 ibid.
known as *Closing the Gap Strategy*, to improve socioeconomic disadvantages faced by Indigenous people.\(^{88}\) Each year since the Apology, the Prime Minister has delivered a statement in Parliament, and tabled a report regarding the progress of closing the disparity between Indigenous and non-Indigenous people.\(^ {89}\) To date, 13th February has been celebrated annually by Indigenous and non-Indigenous people across Australia.

In light of the foregoing, the Apology cannot be said to aid the forgetting of Indigenous people’s suffering and experience of being wronged. This simple act of apologising has, in fact, helped to advance reconciliation in practical terms: promoting the nation to move on and reconcile, while remembering the historical injustices in question. Although the Apology has afforded a discontinuity, it does not mean the forgetting of the injustices against Indigenous people. Rather, it means letting go of past practices, progressing towards a future that embraces all Australians, and guarantees that similar injustices will never happen again.

The guarantee of non-repetition is a core feature of the Apology when Rudd declared that the Parliament is committed to ensuring similar injustices “must never, never happen again”.\(^ {90}\) Janna Thompson has said, a vow to break with past practices and promise of non-repetition is a core feature of an effective public apology, and a constructive step towards reconciliation.\(^ {91}\) In ensuring that similar injustices will never be committed again, the Apology can help to relieve Indigenous people’s nagging suspicion as to whether or not there is a clean break with past practices that made the injustices possible. Vesna Pešić observes that “[e]thnic conflict is caused by the fear of the future, lived through the past”.\(^ {92}\) Thus, transitional justice should focus on removing fear on the part of victims in order to achieve reconciliation. By assuring that the Australian government and Parliament have no intention of causing harm to Indigenous people again, the Apology gives a signal to Indigenous people that there is a break with past assumptions and practices, which had been a source of division between Indigenous and non-Indigenous people. This in turn helps to remove the feeling of fear felt by Indigenous people, and thereby re-establishes trust. This argument is supported by the testimony of Ian Hamm, a member of the Stolen Generation. He said

\(^{88}\) AIATSIS (n 41).

\(^{89}\) ibid.

\(^{90}\) Apology to Australia’s Indigenous Peoples Speech (n 42).

\(^{91}\) Thompson (n 12) 41-42.

the Apology has given him a sense of “peace”, and more importantly, it is “a breath of air into our lungs to revive you and keep you going”.\textsuperscript{93}

As has already been mentioned, Howard responded to the \textit{BTH} report with his practical reconciliation policy. By only offering the practical reconciliation policy, Howard failed to appreciate the interdependent relation between symbolic and practical reparations. Howard mistakenly assumed that (i) symbolic and practical reparations were mutually exclusive; and (ii) reconciliation could only be achieved by practical means. In Howard’s template of apology, public apology is merely a symbolic event, which is incapable of overcoming the disadvantages of Indigenous people, not to mention reconciling the divided nation. After the Apology was delivered, Reilly concluded that Indigenous people were merely “passive witnesses to the performance” of the Apology.\textsuperscript{94} In coming to this conclusion, it is clear that Reilly also shares Howard’s view that public apology is merely a symbolic event.

It is admitted that Rudd’s presentation of the Apology statement in Parliament was a short event, however it is argued that the apology process is not limited to the presentation in Parliament. In fact, the apology process was initiated since 1997 when the \textit{BTH} report was released, and ended when the \textit{Closing the Gap Strategy} was drawn up. Throughout the evolution of the apology process, it included Indigenous people’s active request for an apology from the Prime Minister, Indigenous people’s campaign that led to the first “Sorry Day” in 1998, the crafting of the Apology statement which involved months of cooperation and communication between Indigenous people and the government, and lastly, the initiation of a process showing commitments towards making practical amends (including the drawing up of the \textit{Closing the Gap Strategy} and annual reporting in Parliament).\textsuperscript{95}

In view of the above, a few important points can be made. First, the Apology should not be construed as an event that is limited to those moments in which the speech act of apologising was performed in Parliament, but rather a process that can inspire forgiveness on the part of the victims. As Govier and Verwoerd have argued, “apology should be construed as a process and not simply as an event...[it] initiates a process showing commitment to reform and practical

\textsuperscript{93} Ian Hamm quoted in Mao (n 82).
\textsuperscript{94} Reilly (n 54) 99.
\textsuperscript{95} For a detailed discussion of the evolution of the apology process, see Auguste (n 36).
amends”. Second, during the apology process, bridges of communication have been established. This can help to generate a more constructive and cooperative relationship between the divided communities for ongoing efforts of reconciliation, and if possible, to help Indigenous people to overcome their feelings of resentment. Third, in contradiction to Reilly’s argument, Indigenous people were not passive witnesses in the apology process. Their active involvements since 1997, coupled with their public acclamation of the Apology, could be framed as positive signs towards reconciliation. Last but not least, by construing public apology as merely a symbolic event, Howard had allowed exactly the kind of false reconciliation that he tried to forestall. Howard failed to realise that practical reparations without an apology fall short of what is necessary to adequately address the moral indignation felt by Indigenous people.

The point here is that there is an interwoven relationship between practical reparations and apology. As demonstrated throughout this essay, the Apology can help to lay the necessary groundwork for reconciliation in Australia, for example, by removing the feelings of fear, anger and resentment, by providing victims with a sense of closure and satisfaction, by reaffirming the shared values and norms that is necessary for moving on to a future that embraces all Australians, and by establishing bridges of communication in the divided nation. The conception of reconciliation herein does not mean “thin” reconciliation that is “nothing more than ‘simple coexistence’”, or the “off track” reconciliation that is forced upon Indigenous people; but rather, a “thick” conception of reconciliation that necessarily involves mutual acknowledgement of past suffering and mutual trust and civility between the divided communities in Australia. As Tom Calma, the Aboriginal and Torres Strait Islander Social Justice Commissioner, said in response to the Apology:

“By acknowledging and paying respect, Parliament has now laid the foundations for healing to take place and for a reconciled Australia in which everyone belongs. For today is not just about

98 See Section 3.1; Reconciliation: Off Track (n 39).
99 For a detailed understanding of the notion of reconciliation, see Crocker (n 98); Elin Skaar, ‘Reconciliation in Transitional Justice Perspective’ (2013) Transitional Justice Review 1; Susan Dwyer, ‘Reconciliation for Realists’ (1999) 13(1) Ethics and International Affairs 81.
Thus, the Apology is the first step towards reconciliation. However, this does not mean that the Apology is a substitute for practical and substantive reparations. Without practical reparations, the Apology risks being regarded as meaningless and superficial, considering that there is a sense that “sorry isn’t enough”. As observed by Calma, there are many other practical reparations recommended by the BTH report which have yet to be implemented, in order to fully address the long term effects of the historical injustices. Hence, the Apology is merely a piece of a much bigger puzzle in the reconciliation process in Australia. In order to achieve reconciliation, it is likely to require a measure of both symbolic and practical reparations.

4. Conclusion

What did the Apology demonstrate in relation to the relevance of public apology in reconciliation? It shows that public apology, via its four-dimensional element of acknowledgement, can have both practical and moral roles in reconciliation processes in transitional and post-transitional societies. With regard to the practical roles, public apology is an important tool to set down a historical record of what happened in the past, in a narrative that is legitimated and sanctioned in the name of the State, while in the same breath, publicly acknowledging responsibility for past wrongs. This process of historical truth-telling can help to pour balm on the wounds of victims and survivors, as the memories of injustices are being honoured and preserved. This in turn would prevent historical amnesia. Public apology can also serve as a mechanism to reaffirm the shared values and norms that were once ignored, thereby opening the door to mutual respect and trust in the aftermath of mass atrocities. Public apology may further aid in the rebinding of social ties by establishing channels of communication and increasing cooperation between divided


102 Response to Government to the National Apology to the Stolen Generations (n 101).
communities for ongoing efforts to address the contemporary legacy of wrongdoings committed in the past. In moral terms, public apology is a powerful means to symbolically restore the humanity that was denied to the victims. The willingness of the State to publicly acknowledge past wrongs and responsibility is seen as an act of compassion, humanity, and respect towards the victims, and thus may aid the victims in restoring their own dignity, and to overcome their feelings of resentment and anger. In short, public apology helps to lay a foundation for social healing. It is the necessary first step towards reconciliation.

To conclude, public apology is only one small piece of a bigger puzzle in transitional justice. The importance of this small piece of puzzle should not be undermined, nor should we overestimate its significance and regard it as the most powerful transitional justice mechanism. Calma has said, the Apology is only “the first step” to adequately address the disadvantages that continue to relegate Indigenous people.103 Thus, transitional and post-transitional societies will require a measure of both symbolic and practical reparations, in order to adequately address the legacy of past injustices and to achieve true reconciliation.

103 ibid.
Bibliography:

UN Documents:

- UNGA Res 60/147 (16 December 2005) UN Doc A/RES/60/147

Secondary Sources:

- Auguste I, ‘On the Significance of Saying “Sorry”: Apology and Reconciliation in Australia’ in Frances Peters-Little, Ann Curthoys and John Docker (eds), Myth, Memory and Indigenous Australia (ANU Press 2010)

• Celermajer D, ‘Stories Told and Untold: Reparation, Recognition and Reshaping National Memories in Australia’ in S Elizabeth Bird and Fraser M Ottanelli (eds), The Performance of Memory as transitional Justice (Intersentia 2015)


• Denti D, ‘Public Apologies in the Western Balkans: The Shadow of Ambiguity’ in Daniël Cuypers and others (eds), Public Apology between Ritual and Regret: Symbolic Excuses on False Pretenses or True Reconciliation out of Sincere Regret? (Rodopi 2013)

• Dwyer S, ‘Reconciliation for Realists’ (1999) 13(1) Ethics and International Affairs 81


• Herfroy-Mischler A ‘Post-Transitional Apology: Expressing Contrition Whilst Addressing the Holocaust Transitional Justice’s Failure’ in Daniël Cuypers and others (eds), Public Apology between Ritual and Regret: Symbolic Excuses on False Pretenses or True Reconciliation out of Sincere Regret? (Rodopi 2013)

• House of Representatives, Parliamentary Debates: Apology to Australia’s Indigenous People (13 February 2008)
• Ignatieff M, ‘Article of Faith’ (1996) 5 Index of Censorship 110
• Matthews J, *The Two Worlds of Jimmie Barker* (Australian Institute of Aboriginal Studies 1982) 57
• Murphy M, ‘Apology, Recognition, and Reconciliation’ (2011) Human Rights Review 47
• Reilly A, ‘How Sorry Are We - The Limits of Apology to the Stolen Generation’ (2009) 34 Alternative LJ 97
• Skaar E, ‘Reconciliation in Transitional Justice Perspective’ (2013) Transitional Justice Review 1
• The Senate Legal and Constitutional References Committee, *Reconciliation: Off Track* (Commonwealth of Australia 2003) Foreword

