

9

Apologies

9.1 INTRODUCTION

Apologies offer a distinctive way for states and churches to narrate their response to historical abuses and operate as a key site where power and emotions intersect. At their best, apologies can empower survivors, admit wrongdoing and responsibility, recognise the rights of victim-survivors, and make solemn commitments to address the past through other transitional justice mechanisms, as part of a redefined state or church. At their worst, apologies can be mere tactical ploys or cheap political theatre to minimise legal liability without any material consequences. Section 9.2 evaluates apologies in transitional justice through the four dimensions of power. Section 9.3 assesses apologies for historical-structural injustice regarding emotions before Section 9.4 examines the national practice of state and church apologies for historical abuses. While several official apologies admit wrongdoing and/or acknowledge the suffering of victim-survivors, most apologies tend to function as episodic forms of power, while retaining the broader structural, epistemic, and ontological forms of power intact. The dominant emotion expressed in such apologies is shame, which may preclude an examination of the root causes and ongoing social consequences of historical-structural abuses.

9.2 ASSESSING APOLOGIES IN TRANSITIONAL JUSTICE

There is growing consensus around the necessary elements of an effective apology.¹ Conceptually apologies can be distinguished from excuse, which

¹ 'Report of the Special Rapporteur on the Promotion of Truth, Justice, Reparation and Guarantees of Non-Recurrence: Apologies for Gross Human Rights Violations and Serious Violations of International Humanitarian Law' (United Nations 2019) <https://apologies-abuses-past.org.uk/assets/uploads/UN_report_Apologies_in_Transitional_Justice-1.pdf>; Matt

implies a wrong was unintentional and from a justification, which points to factors that made wrongdoing necessary.² Blatz, Schuman, and Ross suggest that apologies can be assessed through the following elements:³ 1 = Remorse; 2 = Acceptance of responsibility; 3 = Admission of injustice/wrongdoing; 4 = Acknowledgement of harm and/or victim suffering; 5 = Forbearance; 6 repair; 7 = Praise for minority group; 8 = Praise for majority group; 9 = Praise for present 10 = Dissociation of injustice from present.⁴ These thorough criteria are employed to categorise the apologies in this chapter in Appendix 3. As with each chapter in Part II, the nature and practice of apologies can be evaluated across the four dimensions of power and the contexts of emotions and national myths.

9.2.1 Apologies and Agency

Apologies can be individual, institutional, or communal in nature. Apologies tend to be theorised from the interpersonal to state or communal levels.⁵ While individual apologies may therefore be complemented with other apologies, they should not be equated.⁶ Aaron Lazare notes that apologies involve an exchange of power and shame between offender and offended that may rehabilitate the offender and empower the offended.⁷ McAlinden argues that ‘an apology may assist in: the displacement of internalised shame or self-blame by victims; the acknowledgement of blame and expression of shame and remorse by wrongdoers; and the acceptance of responsibility by institutions of Church and State and wider society for their involvement in sustaining abusive regimes’.⁸ There is some practice of individualised and personal apologies from perpetrators and institutions responsible for historical-structural abuses.⁹

James, ‘Wrestling with the Past: Apologies, Quasi-Apologies, and Non-Apologies in Canada’ in Mark Gibney and others (eds), *The Age of Apology* (University of Pennsylvania Press 2008) 142.

² Daniela Kramer-Moore and Michael Moore, ‘Pardon Me for Breathing: Seven Types of Apology’ (2003) 60 *ETC: A Review of General Semantics* 160.

³ Craig W Blatz, Karina Schumann and Michael Ross, ‘Government Apologies for Historical Injustices’ (2009) 30 *Political Psychology* 219, 221.

⁴ *ibid* 227.

⁵ Nick Smith, ‘Political Apologies and Categorical Apologies’ in Mihaela Mihai and Mathias Thaler (eds), *On the Uses and Abuses of Political Apologies* (Palgrave Macmillan UK 2014) 43–44.

⁶ Danielle Celermajer, *The Sins of the Nation and the Ritual of Apologies* (Cambridge University Press 2009) 6–7.

⁷ Aaron Lazare, ‘Go Ahead, Say You’re Sorry’ *Psychology Today* (New York, 1 January 1995) 40, 42.

⁸ Anne-Marie McAlinden, ‘Apologies as “Shame Management”: The Politics of Remorse in the Aftermath of Historical Institutional Abuse’ (2022) 42 *Legal Studies* 137, 148.

⁹ National Redress Scheme for Institutional Child Sexual Abuse Act 2018 (Australia) ss 54–56.

9.2.2 *Apologies and Structure*

In the absence of empirical data on individualised apologies, the primary focus of this chapter is on official apologies by those representing state or church institutions. For Stephen Winter, state apologies for historical abuse warrant special scrutiny, as they will likely involve people who had ‘nothing to do with the injustices being apologised for’¹⁰ but instead reflect the continuous claim to authority from state institutions.¹¹ State apologies may also seek to apologise on behalf of society as a whole, including societies long deceased. As a result, official apologies could be apt for addressing historical-structural injustices that involve both liabilities of specific actors and broader responsibility based on social connection.¹²

However, the structural power of the legal system has the potential to further support or undercut the impact of official apologies. Without more, an apology could be interpreted as an admission of legal liability and responsibility.¹³ However, the United States, United Kingdom, Canada, and Australia have introduced legislation to protect apologies from implying legal liability.¹⁴ Apologies could include or exclude the language of rights and responsibilities, or prefer a more ambiguous or moralistic discourse designed to avoid legal accountability. As a result, it remains critical that apologies are not seen as an alternative to truth, accountability, or material reparations but as a mechanism to accompany such reparations as a form of acknowledgement and recognition.¹⁵ Patricia Lundy and Bill Rolston argue that in the absence of accountability and official acceptance of responsibility, official apologies can function to shield state institutions from scrutiny or responsibility and to deny effective redress and voice to victims.¹⁶ For Martha Minow, unless accompanied by material acts such as redress reflecting responsibility for wrongdoing, an

¹⁰ Janna Thompson, ‘Is Political Apology a Sorry Affair?’ (2012) 21 *Social & Legal Studies* 215, 218.

¹¹ Stephen Winter, ‘Theorising the Political Apology’ (2015) 23 *Journal of Political Philosophy* 261, 277.

¹² Thompson (n 10) 219.

¹³ Susan Alter, ‘Apologizing for Serious Wrongdoing: Social, Psychological and Legal Considerations’ (Law Commission of Canada 1999); Lee Taft, ‘Apology Subverted: The Commodification of Apology’ (2000) 109 *The Yale Law Journal* 1135.

¹⁴ Anne-Marie McAlinden, ‘Apologies and Institutional Child Abuse’ (Queens University Belfast 2018) 14.

¹⁵ Ruben Carranza, Cristian Correa and Elena Naughton, ‘More Than Words: Apologies as a Form of Reparation’ (International Center for Transitional Justice 2015) 8.

¹⁶ Patricia Lundy and Bill Rolston, ‘Redress for Past Harms? Official Apologies in Northern Ireland’ (2016) 20 *The International Journal of Human Rights* 104, 104.

apology ‘may seem superficial, insincere, or meaningless’.¹⁷ Finally, the religious heritage of public apologies may complicate their use for historical abuses involving church institutions and actors.¹⁸ Victim-survivors may feel unwilling or unable to engage with theologically motivated concepts or practices.

9.2.3 *Apologies and Epistemic Justice*

Apologies represent a potential site to address epistemic injustice. Victim-survivors can be involved in the drafting and presentation of an apology, and their voices and experiences can be included in the text of the apology itself. McAlinden notes that an unambiguous apology provides a form of epistemic justice for survivors and can validate victim experiences, providing ‘recognition and the overt removal of blame from victims’.¹⁹ The drafting, delivery, and timing of a political apology are thus critical.²⁰ Alice MacLachlan notes that the value of an apology may lie in ‘the process of constructing what ultimately gets said – who is involved, how equal and collaborative the process is, and who is chosen to speak – rather than the isolated act of speaking those words sincerely’.²¹ Such engagement represents a site of episodic power for survivors, who may be given a role in shaping the narrative, timing, and material consequences of the apology. This interaction may briefly shift state-church and survivor power dynamics. However, MacLachlan notes that in contrast apologies can serve to reassert state control over the rhetorical space: ‘asserting a particular narrative while demanding that the hearer now respond’.²² An institutional or national leader can, through the act of apology, cast themselves as right-thinking and enhance their legitimacy. For Joram Tarusarira, a more ambitious, transformative apology ‘incorporates the reparative and rehabilitative dimensions but adds an epistemic dimension by uprooting the logic behind the offence, thereby ensuring its non-repetition’.²³ In this regard, apologies may

¹⁷ Martha Minow, *Between Vengeance and Forgiveness: Facing History after Genocide and Mass Violence* (Beacon Press 1998) 156.

¹⁸ Michel-Rolph Trouillot, ‘Abortive Rituals: Historical Apologies in the Global Era’ (2000) 2 *Interventions* 171, 180.

¹⁹ McAlinden (n 8) 146.

²⁰ ‘Report of the Special Rapporteur on the Promotion of Truth, Justice, Reparation and Guarantees of Non-Recurrence: Apologies for Gross Human Rights Violations and Serious Violations of International Humanitarian Law’ (n 1) 10–15.

²¹ Alice MacLachlan, ‘Gender and Public Apology’ [2013] *Transitional Justice Review* 126, 142.

²² *ibid* 137.

²³ Joram Tarusarira, ‘The Anatomy of Apology and Forgiveness: Towards Transformative Apology and Forgiveness’ (2019) 13(2) *International Journal of Transitional Justice* 206, 214.

function to address prior epistemic and ontological injustices, where survivor voices, experiences, and equal status are amplified and when apologies are combined with other transitional justice initiatives. Such an approach seems necessary in light of the context in which historical abuses have taken place and their replication as historical-structural injustices.

9.2.4 *Apologies and Ontology*

The continuous nature of some state and church institutions may also result in apologies engaging national identity and ‘the emotional fabric of a nation’.²⁴ Linking an apology to broader national and religious myths involves calculations and sensitisation regarding whether and how to recast a new political vision for a state or church, or to reaffirm the claimed values of these institutions.²⁵ Celermajer describes this as an act of ‘re-covenanting’ – acknowledging a collective failure to live up to normative ideals in the past and renewing a commitment to live up to those ideals in the future.²⁶ Janna Thompson suggests an apology ‘signals the commitment of those who make it, sponsor it and support it to a national undertaking, and whether we can regard an apology as meaningful depends on our reasons for thinking that this undertaking has been initiated and will continue’.²⁷

Several authors affirm the potential value of political apologies for their moral recognition of the status, rights, and harms suffered by victim-survivors.²⁸ Such moral recognition can reaffirm what was and should always have been true – that the wrongful conduct violated the rights, dignity, and status of victim-survivors and their families. In this regard, apologies may function to shift the ontological power dynamics by recognising the worth of those victim-survivors previously deemed ‘moral dirt’, ‘savage’, and so on.

In addressing national identity or myths, Cindy Holder notes that official apologies involve state officials repudiating one theory of the state and providing an alternative, which justifies an apology for past state action. In doing so, ‘contemporary officials accept that prior officials believed that what was done followed from their positions but deny that prior officials were right

²⁴ Danielle Celermajer and Joanna Kidman, ‘Embedding the Apology in the Nation’s Identity’ (2012) 121 *Journal of the Polynesian Society* 219.

²⁵ Mihaela Mihai, ‘When the State Says “Sorry”’: State Apologies as Exemplary Political Judgments’ (2013) 21 *Journal of Political Philosophy* 200, 218.

²⁶ Celermajer (n 6) 247.

²⁷ Thompson (n 10) 216.

²⁸ Trudy Govier and Wilhelm Verwoerd, ‘The Promise and Pitfalls of Apology’ (2002) 33 *Journal of Social Philosophy* 67.

about this'.²⁹ Similarly for Pablo de Greiff, an apology requires affirming a norm that the perpetrator and victims recognise as valid and binding.³⁰

As a result, states and churches will only apologise for transgressing some norm they believe important. They may resist apologising for the commission of harms, on which their existence or authority continue to rely – yet this dimension of an apology may be critical to ensure the non-recurrence or reproduction of structures of harm. Cuthbert and Quartly note: 'it is not enough to say sorry without fully articulating the grounds on which the wrongs were done. It is only through a sustained and historically informed acknowledgment of the power structures that lead to such injustices that we can ensure that they are not repeated.'³¹ For settler colonial states, it may be possible to apologise for specific sub-sets of harms, such as forced child migration or institutionalisation, but may remain impossible to apologise for the structure of settler colonisation itself. Churches and religious orders may apologise for harms committed in the conduct of their missional and salvific work but not for the claimed authority or idea behind the work as a whole. To do so would expose church and religious authority to the idea of theological error and fallibility. The willingness or capacity of a state or church to apologise for its very existence or authority structure may remain elusive.

Apologies for historical-structural abuses may thus operate at the limits of the potential for epistemic or ontological justice. Jacques Derrida suggests that the value of apology is at the highest when the challenge is at the highest,³² when it is confronted with the impossible tasks of issuing or accepting an apology for an unforgivable wrong.³³ An apology that can explicitly state that it alone cannot fix unfixable harms and can point beyond itself to material and structural efforts addresses the causes of wrongdoing and offers a more comprehensive and honest narration of the problems faced when addressing historical abuses. An effective apology for historical-structural injustices thus needs not only acknowledgement of wrongdoing, responsibility, and victim suffering but also the national myth or claims of authority on which those

²⁹ Cindy Holder, 'Reasoning Like a State: Integration and the Limits of Official Regret' in Mihaela Mihai and Mathias Thaler (eds), *On the Uses and Abuses of Political Apologies* (Palgrave Macmillan UK 2014) 206.

³⁰ Pablo de Greiff, 'The Role of Apologies in National Reconciliation Processes: On Making Trustworthy Institutions Trusted' in Mark Gibney and Rhoda Howard-Hassmann (eds), *The Age of Apology* (Pennsylvania State University Press 2008) 131.

³¹ Denise Cuthbert and Marian Quartly, 'Forced Child Removal and the Politics of National Apologies in Australia' (2013) 37 *American Indian Quarterly* 178, 198.

³² Jacques Derrida, *On Cosmopolitanism and Forgiveness* (Routledge 2001).

³³ Jean-Marc Coicaud, 'Apology: A Small Yet Important Part of Justice' (2009) 10 *Japanese Journal of Political Science* 93, 101.

harms were based, and finally a new vision for what the future of a state and/or church that can incorporate historical abuses into the narrative, myth, and self-image of the institution should look like. Such apologies offer the means to demonstrate continuities of historical violence with present injustices and to illustrate the national and religious understanding of responsibility for both of these forms of harm. Regrettably, these dimensions have proven the most elusive in the practice of apologies regarding historical abuses.

9.2.5 *Apologies for Historical Abuse and Emotion*

Based on existing examples, state and church apologies are likely to use emotive language and may claim to have an emotional effect on speakers, victim-survivors, members of institutions, and society at large, which may or may not be validated in the context of further material consequences flowing from an apology. Govier and Verwoerd suggest in an effective apology, the perpetrator's emotion, especially regret, may provide a reason for victims to move from resentment to acceptance.³⁴ An emotional apology may indicate an offender 'gets it' and takes responsibility.³⁵ MacLachlan notes that no one single emotion entirely captures what it is to be apologetic, which may include: 'sorrow, guilt, regret, shame, or anger'.³⁶ As outlined in Appendix 3, in the non-exhaustive list of ninety-five apologies, thirty-one make reference to regret and twenty-two contain reference to shame. Mihai suggests that 'shaming a community into acknowledging its violent past is a risky political strategy that can trigger a conservative backlash'.³⁷ Instead, she suggests an apology 'must engage all possible objections in a way that goes back to the community's pre-existing guiding principles and shows that, in spite of their plurivocality, these principles require that we firmly reject certain dangerous visions of the past'.³⁸

McAlinden suggests reintegrative shaming may work especially well for individual apologies and fostering offender accountability, 'via the censure of wrongdoing rather than wrongdoers'.³⁹ However, as discussed in Chapter 5, the use of shame also risks reharmed victim-survivors at structural and official levels. Sara Ahmed highlights shame's contradiction: 'It exposes the nation,

³⁴ Govier and Verwoerd (n 28) 69.

³⁵ McAlinden (n 8) 146–7.

³⁶ Alice MacLachlan, 'Fiduciary Duties and the Ethics of Public Apology' (2018) 35 *Journal of Applied Philosophy* 359, 362.

³⁷ Mihai (n 25) 208.

³⁸ *ibid* 215.

³⁹ McAlinden (n 8) 144.

and what it has covered over and covered up in its pride in itself, but at the same time it involves a narrative of recovery as the re-covering of the nation.’⁴⁰ As a result, apologies may serve to alleviate the interpersonal and lived experience of shame from victim-survivors but may be more problematic when expressing a state or institutional form of collective shame that results in a closure and limited engagement with the causes of historical-structural abuses by these actors. Others doubt whether institutions such as churches or states can effectively express emotions relevant to interpersonal apologies and instead should be judged exclusively by the policy ‘consequences they trigger’.⁴¹ Consequently, in the absence of other meaningful policy consequences, an apology, especially one framed in shame, may seek to settle historical abuses determinatively and in an exclusionary fashion. An apology is part of a national or institutional commitment to addressing injustice, not a substitute for such a commitment.

9.3 NATIONAL AND CHURCH EXPERIENCES WITH APOLOGIES

9.3.1 *United States*

Several states have provided for apologies regarding the treatment of Native Americans, slavery, and Jim Crow.⁴² These limited US official apologies arose from the initiative of government officials and not as a response to activist pressure.⁴³ Speaking on behalf of the Bureau of Indian Affairs (BIA), Kevin Gover, also a citizen of the Pawnee Nation, issued an apology in 2000 for the historical treatment by the BIA of Native peoples.⁴⁴ The apology received mixed reactions, with some Native leaders appreciating it while others concluding that an apology without addressing ‘intrusions on tribal sovereignty, under-funding of treaty-mandated Indian programs and the evasion of responsibility for fixing the trust management system’ was not adequate.⁴⁵ Such an apology did not challenge the broader ontological or structural conditions

⁴⁰ Sara Ahmed, *The Cultural Politics of Emotion* (Edinburgh University Press 2014) 112.

⁴¹ Mathias Thaler, ‘Just Pretending: Political Apologies for Historical Injustice and Vice’s Tribute to Virtue’ (2012) 15 *Critical Review of International Social and Political Philosophy* 259, 267.

⁴² Alexandra Minna Stern, ‘Eugenics and Historical Memory in America’ (2005) 3 *History Compass* 1, 5.

⁴³ Michael Tager, ‘Apologies to Indigenous Peoples in Comparative Perspective’ (2014) 5 *International Indigenous Policy Journal* 8.

⁴⁴ Christopher Buck, “Never Again”: Kevin Gover’s Apology for the Bureau of Indian Affairs’ (2006) 21 *Wicazo SA Review* 97.

⁴⁵ Tager (n 43) 9.

facing Native peoples. In 2009, President Barack Obama signed a further apology into law, which acknowledged responsibility for historical abuses to Native Americans but excluded any potential liability or reparations. Obama never read it aloud, leading some to question whether it constitutes a meaningful apology.⁴⁶

Apologies regarding slavery are limited both structurally and in terms of challenging national myths and identity. Beginning with Virginia in 2007, several state-level apologies were issued regarding slavery and Jim Crow. Angelique Davis argues the text of these apologies

allow for the legacy of slavery to continue and compound its present-day impacts in three ways: first, by minimizing the continuing legacy of the European Slave Trade; second, by thwarting concrete remedial measures including reparations claims; and third, by absolving White Americans, state governments, and the federal government for their role in these horrors and allowing them to continue to benefit from the continuing legacy of slavery in the United States.⁴⁷

In addition, several of these apologies explicitly exclude the possibility of reparations, minimising the potential material impact of the apologies and undermining the symbolic or communicative dimensions.

In addition, in 2008, Congress passed a resolution offering the federal government's first formal apology to African Americans on behalf of the people of the United States.⁴⁸ The apology mentioned the wrongs committed against African Americans who suffered under segregation laws known as 'Jim Crow' laws. In 2009, the US Senate apologised for lynching campaigns against African Americans throughout much of the previous century.⁴⁹ However, in the absence of meaningful advancement of public inquiries or reparations regarding the treatment of African Americans, the acceptance and significance of the apology risk being hollowed over time. Tuğçe Kurtis et al suggest that the enduring beliefs in American exceptionalism and manifest destiny form part of collective identity in the United States and are formidable barriers

⁴⁶ Rob Capriccioso, 'A Sorry Saga: Obama Signs Native American Apology Resolution; Fails to Draw Attention to It' *Indian Law Resource Center* (13 January 2010); Sheryl Lightfoot, 'Settler-State Apologies to Indigenous Peoples: A Normative Framework and Comparative Assessment' (2015) 2 *Native American and Indigenous Studies* 15, 27.

⁴⁷ Angelique M Davis, 'Apologies, Reparations, and the Continuing Legacy of the European Slave Trade in the United States' (2014) 45 *Journal of Black Studies* 271, 275.

⁴⁸ US House of Representatives. (2008). H. Res. 194: Apologizing for the enslavement and racial segregation of African-Americans <www.govtrack.us/congress/bill.xpd?bill=hr110-194>.

⁴⁹ US Senate. (2009). S. Con. Res. 26: A concurrent resolution apologizing for the enslavement and racial segregation of African Americans <www.govtrack.us/congress/bill.xpd?bill=sc111-26>.

to any serious reckoning with historical abuses.⁵⁰ Unless there is meaningful national pressure and commitment to reimagine national self-image and materially address the consequences of historical abuses, these federal- or state-level apologies are likely to be in vain.

9.3.2 *Canada*

The government and churches of Canada have offered several apologies to Indigenous peoples, particularly regarding residential schools. While they have increased in scope and recognition of wrongdoing, the apologies persist in maintaining the legitimacy of an integrationist approach to nation-building and avoid challenging settler ontology, thus limiting their transformative potential regarding Canada's relationship with Indigenous peoples. In 1998, the Minister for Aboriginal Affairs apologised for 'the tragedy of physical and sexual abuse' at residential schools⁵¹ but did not admit state responsibility. James and Stranger-Ross note that this statement 'minimized Canadian wrongdoing by presenting as incidental sites of abuse what were in fact manifestations of a state-mandated policy of cultural destruction that was abusive in its very conception'.⁵² By 2005, several Indigenous organisations were demanding 'a more narratively comprehensive and ceremonially robust residential schools apology',⁵³ amid growing political and financial pressure on the government to apologise due to the extensive litigation discussed in Chapter 7.⁵⁴

In 2008, Canadian Prime Minister Stephen Harper apologised to Canada's Indigenous community for its residential school policy.⁵⁵ Harper recognised that the primary purpose of the schools had been to remove children from their families to assimilate them into the dominant culture, stating 'these objectives were based on the assumption Aboriginal cultures and spiritual

⁵⁰ Tuğçe Kurtis, Glenn Adams and Michael Yellow Bird, 'Generosity or Genocide? Identity Implications of Silence in American Thanksgiving Commemorations' (2010) 18 *Memory* 208, 222.

⁵¹ Jane Stewart, 'Address by the Honourable Jane Stewart Minister of Indian Affairs and Northern Development on the Occasion of the Unveiling of Gathering Strength – Canada's Aboriginal Action Plan' (7 January 1998) <www.aadnc-aandc.gc.ca/eng/1100100015725/1100100015726>.

⁵² The Landscapes of Injustice Research Collective, Matt James and Jordan Stanger-Ross, 'Impermanant Apologies: On the Dynamics of Timing and Public Knowledge in Political Apology' (2018) 19 *Human Rights Review* 289, 295.

⁵³ *ibid.* 294.

⁵⁴ Rosemary Nagy, 'The Truth and Reconciliation Commission of Canada: Genesis and Design' (2014) 29 *Canadian Journal of Law and Society/Revue Canadienne Droit et Société* 199.

⁵⁵ 'Statement of Apology to Former Students of Indian Residential Schools' <www.aadnc-aandc.gc.ca/eng/1100100015644/1100100015649>.

beliefs were inferior and unequal. Indeed, some sought, as it was infamously said, “to kill the Indian in the child”. Today, we recognise that this policy of assimilation was wrong, has caused great harm, and has no place in our country’. Significantly, after years of denial, this apology did not qualify state responsibility and explicitly used the word ‘apologise’.⁵⁶

The apology led to a range of responses from Indigenous leaders and communities. Phil Fontaine, then National Chief of the Assembly of First Nations, responded that the apology marked ‘a new dawn’ in the relationship between Aboriginal people and the rest of Canada.⁵⁷ In contrast, Clem Chartier, President of the Métis National Council, noted that many issues regarding the relationship between Métis people and residential schools were still unresolved.⁵⁸ The timing of the apology also prompted a range of responses. Holder suggests that an apology that wrestled with the TRC’s findings might therefore have provided a more useful basis for promoting well-informed Canadian discussions about self-determination and political transition in Indigenous–settler relations.⁵⁹ However, James and Stanger-Ross note the irony that the government had originally insisted on awaiting the conclusions of the TRC, which had been rejected by Indigenous peoples and advocacy organisations as obfuscation, particularly given the elderly age of many residential school survivors.⁶⁰

Neil Funk-Unrau concludes that while Harper’s apology acknowledged past wrongdoings and committed to improved future relations, it does not fully address the contemporary disparities arising from this historical injustice.⁶¹ Several scholars concur that the apology had the effect of bracketing off the schools’ policy as an aberration and of absolving contemporary Canadians from responsibility for historical and contemporary injustices.⁶² Although the

⁵⁶ Holder (n 29) 207.

⁵⁷ ‘Indian Residential Schools Statement of Apology: Phil Fontaine, National Chief, Assembly of First Nations’ <www.aadnc-aandc.gc.ca/eng/1100100015697/1100100015700>.

⁵⁸ Truth and Reconciliation Commission of Canada, *Canada’s Residential Schools: The Final Report of the Truth and Reconciliation Commission of Canada, Volume 1, Part 2* (McGill-Queen’s University Press 2015) 578.

⁵⁹ Holder (n 29).

⁶⁰ The Landscapes of Injustice Research Collective, James and Stanger-Ross (n 52) 296–7.

⁶¹ Neil Funk-Unrau, ‘The Canadian Apology to Indigenous Residential School Survivors: A Case Study of Renegotiation of Social Relations’ in Mihaela Mihai and Mathias Thaler (eds), *On the Uses and Abuses of Political Apologies* (Palgrave Macmillan UK 2014) 138, 149.

⁶² James (n 1) 204; Jennifer Henderson and Pauline Wakeham, ‘Colonial Reckoning, National Reconciliation?: Aboriginal Peoples and the Culture of Redress in Canada’ (2009) 35 *ESC: English Studies in Canada* 1, 2; Eva Mackey, ‘The Apologisers’ Apology’ in Jennifer Henderson and Pauline Wakeham (eds), *Reconciling Canada: Critical Perspectives on the Culture of Redress* (University of Toronto Press 2013) 50.

apology took responsibility for residential schools, 'it was silent about the policy's underlying, colonial goal: to weaken the ability of Indigenous communities to resist the settler colonialism'.⁶³ Holder attributes this omission to the influence of Canadian integrationist conceptions of citizenship and democracy, which preclude seeing the imposition of state structures on Indigenous communities as political or moral wrongs.⁶⁴ Jennifer Henderson and Pauline Wakeham emphasise that the limiting and isolation of the apology in this manner does not disturb Canada's national image as a 'progressive beacon', nor does it enable linkages between this apology and issues of Indigenous land restitution, sovereignty, or contemporary reproduction of historical-structural injustices.⁶⁵

In 2017 and 2019, Justin Trudeau continued the use of official apologies with a further apology to Innu, Inuit, and Nunatu Kavut people of Newfoundland and Labrador residential school survivors for the federal government's treatment of Inuit with tuberculosis. The former group had been excluded from the Harper apology as the residential schools in those regions had not been run by the federal government. These apologies continue the structure of Harper's apology in offering genuine regret, responsibility, but by being limited in not repenting of the broader colonial and settler contexts. A national apology to the missing and murdered Indigenous women and girls recognised in 2019 as being subjected to genocide remains outstanding. The Canadian experience with apologies shows that apologies can result from significant political and activist pressure and represent significant national moments but still also form an incomplete narrative regarding dealing with the past that does not challenge the legitimacy of the Canadian state or its myths of the benevolent peacemaker.

9.3.3 *Australia*

Australia is among the most 'apology friendly' countries in the world. While again evidencing growth in the narrative sophistication of the apologies offered, Australia's apologies remain limited by the narration of national identity, which does not problematise the settler democracy conception of the state and society.

⁶³ The Landscapes of Injustice Research Collective, James and Stanger-Ross (n 52) 296; Holder (n 29) 203.

⁶⁴ Holder (n 29) 215.

⁶⁵ Henderson and Wakeham (n 62) 3–4.

The 1997 *Bringing Them Home* report called for those organisations responsible for forced removals to deliver apologies to Indigenous peoples.⁶⁶ Haydie Gooder and Jane Jacobs note that several state leaders and police forces had offered apologies on behalf of their governments and their constituents for their role in these laws, which ‘amplified the absence of an official apology from the Prime Minister’.⁶⁷ In May 1997, Prime Minister John Howard admitted past injustices to Indigenous Australians but also stated that ‘Australians of this generation should not be required to accept guilt and blame for past actions and policies over which they had no control’. Gooder and Jacobs noted that this received ‘jeers from an increasingly dissatisfied audience’ of Indigenous peoples, prompting Howard to go off script and ‘with raised voice and clenched fist, he defended recent government policies that had significantly eroded the material and symbolic gains that had come with recognition of native title in the early 1990s’.⁶⁸

In contrast, Prime Minister Kevin Rudd’s two national apologies were products of prolonged agitation and public inquiry.⁶⁹ During the 2007 election campaign, Rudd promised a formal apology to Australia’s Indigenous peoples, but as Michael Tager notes, to win parliamentary support for the apology, the new government rejected compensating the ‘Stolen Generations’, and Indigenous Affairs Minister Jennifer Macklin asserted, ‘the apology will be made on behalf of the Australian government and does not attribute guilt to the current generation of Australian people’.⁷⁰ Such an approach expressly disavows the ongoing impact of historical-structural injustices in the present. Rudd delivered the apology in parliament in 2008 and it received live national television coverage with approximately a hundred members of the Stolen Generations in attendance.⁷¹ Rudd admitted that the laws passed by former parliaments created the Stolen Generations and, therefore, those institutions should apologise. He received generally positive responses to his apology from

⁶⁶ Meredith Wilkie (ed), *Bringing Them Home: Report of the National Inquiry into the Separation of Aboriginal and Torres Strait Islander Children from Their Families* (Human Rights and Equal Opportunity Commission 1997) 652 Appendix 9, Recommendation 5a.

⁶⁷ Haydie Gooder and Jane M Jacobs, ‘“On the Border of the Unsayable”: The Apology in Postcolonizing Australia’ (2000) 2 *Interventions* 229, 237.

⁶⁸ *ibid* 230.

⁶⁹ Christine Fejo-King, ‘The National Apology to the Stolen Generations: The Ripple Effect’ (2011) 64 *Australian Social Work* 130; Denise Cuthbert and Marian Quartly, ‘“Forced Adoption” in the Australian Story of National Regret and Apology’ (2012) 58 *Australian Journal of Politics & History* 82, 85.

⁷⁰ Tager (n 43) 5–6.

⁷¹ *ibid*.

Aboriginal leaders.⁷² Celermajer notes the inter-generational nature of wrongdoing challenged many Australians: ‘An apology seemed to accuse them, when they could not see what they had done wrong.’⁷³ AD Moses surveys available Indigenous responses and concludes:

reading of the apology and ‘reconciliation’ as nothing or little more than the continuation of colonial domination misses the point that most Indigenous people thought the terms of their national inclusion had changed significantly. The Indigenous sense of participating in the Australian national story as respected equals now seemed palpable, an experience that indicates Indigenous and non-Indigenous traditions could be commensurable rather than only inimical.⁷⁴

However, the impact of the apology may have dissipated over time.⁷⁵ Damien Short suggests that while some Indigenous peoples may have accepted the apology without compensation, this remained an outstanding issue for others, which may have diminished the impact, quality, and sincerity of the apology.⁷⁶ In the absence of a recognition of Indigenous sovereignty, the apology failed to challenge the settler ontology in which Australia continues to operate.

In 2009, Rudd also made a formal apology on behalf of the nation to Australian-born children in care, often known as ‘Forgotten Australians’, and to former child migrants. Cuthbert and Quartly note that child removal was both the basis of apology to the Stolen Generations and also became the basis on which other non-Indigenous victim-survivors of historical abuse pursued their claims for an official apology.⁷⁷ The authors note, however, that such an approach risked reducing injustice to Indigenous peoples as relating to the Stolen Generation alone, and repositioned and de-indigenised historical abuse to mean only the suffering of children.⁷⁸ Cuthbert and Quartly argue ‘by 2009 reconciliation was no longer an exclusively Indigenous issue; and innocence, ideally childhood innocence, appears to be a precondition for receiving a national apology in Australia’.⁷⁹

⁷² *ibid.*

⁷³ Celermajer (n 6) 170.

⁷⁴ A Dirk Moses, ‘Official Apologies, Reconciliation, and Settler Colonialism: Australian Indigenous Alterity and Political Agency’ (2011) 15 *Citizenship Studies* 145, 155.

⁷⁵ Tager (n 43) 10.

⁷⁶ Damien Short, ‘When Sorry Isn’t Good Enough: Official Remembrance and Reconciliation in Australia’ (2012) 5 *Memory Studies* 293, 302.

⁷⁷ Cuthbert and Quartly ‘Forced Child Removal and the Politics of National Apologies in Australia’ (n 31) 187.

⁷⁸ *ibid.* 190.

⁷⁹ *ibid.* 192.

A similar challenge arises in extending an apology to women and to single mothers who were obliged to engage in forced adoption,⁸⁰ as in the subsequent apology from Prime Minister Gillard in 2013. The Gillard apology sought to acknowledge the pain, suffering, and coercion experienced by women, men, and children affected by forced adoptions. It pointed towards provision of access to counselling services and to adoption records as a commitment by the state of the need for material consequences. While the apology includes many beneficial components, it did not address the context of patriarchal dimensions to society, of the marginalisation and discrimination against women and single mothers that gave rise to such practices, or any social structures of gendered exclusion that may persist in Australia. Cuthbert and Quartly note:

A more mature politics of apology and reconciliation would not elide race by installing a universalized figure of childhood suffering in the center of the reconciliation stage, just as it would not allow the specifics of gender-based power in the forced removal of children for adoption to be elided in favor of the figure of a suffering, gender neutralized parent whose installation occludes the specific sufferings of women at the heart of these practices.⁸¹

In 2018, Prime Minister Scott Morrison gave an apology to victim-survivors of child sexual abuse, which arose as a result of the publication of the report of the Royal Commission discussed in Chapter 6. Prior to the apology, the government appointed an independent, survivor-focused Reference Group to advise it on the form and content of the National Apology.⁸² The apology received a positive if qualified reception, with media coverage marginalising the Indigenous experiences of child abuse and views of the apology,⁸³ with emphasis turning quickly to the need for reparations for victim-survivors, discussed in Chapter 8.

The normalisation of official apologies in Australia may have the effect of raising the minimum expectation of victim-survivors of historical abuse to include a meaningful apology, but also raises the expectation for the apology to point beyond itself to material provision of redress and other elements of transitional justice and attempts to redefine the Australian nation and its relationship to settler colonialism. Shame played a prominent role in Australian apologies, with some Australian commentators suggesting perpetrator shame

⁸⁰ Cuthbert and Quartly “Forced Adoption” in the Australian Story of National Regret and Apology’ (n 69) 96.

⁸¹ Cuthbert and Quartly ‘Forced Child Removal and the Politics of National Apologies in Australia’ (n 31) 197.

⁸² <www.childabuseroyalcommissionresponse.gov.au/national-apology/reference-group>

⁸³ Tanja Dreher and Lisa Waller, ‘Enduring Silence: Racialized News Values, White Supremacy and a National Apology for Child Sexual Abuse’ (2021) 45(9) *Ethnic and Racial Studies* 1671.

was a necessary component of individual or social healing.⁸⁴ However, Sara Ahmed suggests shame may function as a form of epistemic injustice if the mere expression of shame is seen as ‘sufficient for a return to national pride’. Such references to shame may block ‘the hearing of the other’s testimony in turning back towards the “ideality” of the nation’.⁸⁵ By focusing largely on children to the exclusion of other forms of Indigenous harms and on the past as a different moral and political context, to the exclusion of continuities in the present, Australian apologies are inhibited in their potential to form the basis for significant transformation of Australian politics and law in light of historical abuses, whether through reparations, a treaty with Indigenous peoples, or more fundamental recognition of patterns of racism, misogyny, and class discrimination.

9.3.4 *United Kingdom*

In the absence of significant inquiries into the systemic nature of historical abuses in the United Kingdom, there is limited practice of official apologies.⁸⁶ Five British slavery apologies have been issued from 1999 to 2007. The City of Liverpool apologised in 1999. The other four British apologies for slavery arrived on the eve of the bicentenary of the Abolition of Slavery Act 1807. In 2006, Prime Minister Tony Blair expressed ‘deep sorrow’ over Britain’s participation in the slave trade, which he described as a crime against humanity, in a statement deemed a personal reflection and not an official state apology. Mihaela Mihai notes contrasting reactions, with liberal critics noting limited expression of responsibility for atrocities committed by Britain against Africans and limited commitment to addressing the structural injustices caused by the legacy of slavery. Instead, Blair’s account celebrated white abolitionists while ‘effacing the memory of black resistance’.⁸⁷ This approach formed a means to talk about historical abuses in a way that ‘limits the impact or influence of what was perceived as a potentially “damaging” event for Britain’s self-image’.⁸⁸

⁸⁴ Celermajer (n 6) 198.

⁸⁵ Ahmed (n 40) 119.

⁸⁶ Andrew McNeill, Evanthia Lyons and Samuel Pehrson, ‘Reconstructing Apology: David Cameron’s Bloody Sunday Apology in the Press’ (2014) 53 *British Journal of Social Psychology* 656; Jason A Edwards and Amber Luckie, ‘British Prime Minister Tony Blair’s Irish Potato Famine Apology’ (2014) 5 *Journal of Conflictology* 43.

⁸⁷ Mihai (n 25) 201.

⁸⁸ Emma Waterton and Ross Wilson, ‘Talking the Talk: Policy, Popular and Media Responses to the Bicentenary of the Abolition of the Slave Trade Using the “Abolition Discourse”’ (2009) 20 *Discourse & Society* 381, 395.

On Waterton and Wilson's account, this limited engagement with responsibility for the past is a form of epistemic injustice as it: 'skilfully worked to close down critical and dissenting voices from questioning Britain's responsibilities to contemporary communities. This was not simply a government implemented directive, but rather symptomatic of the manner in which issues of multiculturalism and diversity are talked about in Britain.'⁸⁹ In addition, media accounts of the apology suggest that the statement stops short of a formal apology due to fears of a subsequent need for reparations for slavery.⁹⁰ In response to these apologies, political and media backlash questioned how one generation could be responsible for wrongs perpetrated by another, particularly at a time when morals were different around the issue,⁹¹ and suggested the apology constituted an attack on British history.⁹²

In 2010, Prime Minister Gordon Brown made an apology regarding Britain's role in the Australian child migration scheme. Gordon Lynch notes that Brown inaccurately generalised from the experience of child migrants to Australia in the post-World War II period to the whole child migration process from the nineteenth century.⁹³ Lynch concludes that it is problematic if an apology functions to provide public sympathy for historical suffering alone and excludes criminal and civil justice or more nuanced understandings of the past.⁹⁴ In addition to these apologies, there was a recommendation in the 2017 Hart inquiry report in Northern Ireland for an apology to victim-survivors of residential institutions, which was delivered in 2022. The broader context of the UK's shifting and divided global self-image, in the context of Brexit and diminished global influence, may mask complex and underexplored impacts of practices of 'othering' and alienation within the territories of the United Kingdom and abroad. It may be the case that space for broader official apologies is especially narrow in this present context. In existing practice, the assumption that apologies can provide closure for historical-structural injustices fails to recognise how such injustices can be reproduced in the present.

⁸⁹ *ibid* 396.

⁹⁰ Gelien Matthews, 'The Caribbean Reparation Movement and British Slavery Apologies: An Appraisal' (2017) 51 *Journal of Caribbean History* 80, 89–90.

⁹¹ Michael Cunningham, "'It Wasn't Us and We Didn't Benefit': The Discourse of Opposition to an Apology by Britain for Its Role in the Slave Trade' (2008) 79 *The Political Quarterly* 252.

⁹² *ibid*.

⁹³ Gordon Lynch, *Remembering Child Migration: Faith, Nation-Building, and the Wounds of Charity* (Bloomsbury Academic 2016) 118.

⁹⁴ *ibid*.

9.3.5 Ireland

Ireland has had five official state historical abuse apologies and several from religious orders and churches but all were undermined by the treatment of victim-survivors in other aspects of transitional justice. In 1999, Taoiseach Bertie Ahern accepted the state's complicity in the abuse of children in residential schools due to the 'failure to intervene, to detect their pain, to come to their rescue'.⁹⁵ The apology announced the establishment of both the inquiry process and redress scheme for residential schools, support services, and limited legislative changes to enable civil action against individual perpetrators. The apology was repeated by Taoiseach Brian Cowen upon publication of the Ryan report in 2009. Emilie Pine notes that the apology lacks recognition of Ireland's failure to admit and acknowledge abuse in residential schools for decades, especially since the state was made aware of such abuse since the 1970s.⁹⁶ While the apology was coupled with an inquiry and redress, the experience of survivors in both of those processes, discussed in Chapters 6 and 8, respectively, is likely to have impacted negatively on perceptions of that apology.

On publication of the McAleese report into the Magdalene Laundries in 2013, Taoiseach Enda Kenny made two statements, including an apology. McAlinden's interviews with survivors indicate that many survivors valued Kenny's apology, emphasising its value in separating the Irish state from Catholic and religious influence. Others in turn emphasised that the apology was mere 'crocodile tears' in the absence of a meaningful material response from state and church.⁹⁷

McAlinden notes that 'Kenny ends his seminal 2013 apology with reference to a radically transformed Ireland in the present and future based on a new shared normative identity',⁹⁸ emphasising compassion, empathy, and heart. However, such an approach may have been undermined by the apology's emphasis on shame. The Taoiseach uses the word 'shame' three times in his apology, referring to Ireland's present shameful knowledge of the past, second, a shameful recognition that historical Ireland rejected women institutionalised in Magdalene Laundries and, finally, in describing Ireland's forgetting of survivors and failing them as a 'national shame'.

⁹⁵ 'Bertie Ahern, Apology For Institutional Child Abuse' (1999) <www.rte.ie/archives/2019/0430/1046590-apology-to-victims-of-institutional-child-abuse/>.

⁹⁶ Emilie Pine, *Politics of Irish Memory: Performing Remembrance in Contemporary Irish Culture* (Palgrave Macmillan 2014) 22–3.

⁹⁷ McAlinden (n 8) 152.

⁹⁸ *ibid* 153.

Clara Fisher notes the central role of shame in the 2013 apology related to Ireland's treatment of survivors of Magdalene Laundries, not the ways in which the women were shamed themselves: 'Shame, once attached to and produced in Ireland's "fallen women," is displaced onto the Irish nation, precisely for its shaming of the women institutionalized in Magdalen Laundries. Interestingly, Kenny does not refer to the Church, to the religious orders, nor to the state as bearers of shame.'⁹⁹ In noting Kenny's attempts to distinguish an abusive past from a more compassionate present that is ashamed of prior wrongdoing,¹⁰⁰ Fischer concludes: 'By creating the distinction between a dark, less feeling, but more-or-less finished past of "Magdalen Ireland" and an enlightened, empathetic present, the Taoiseach's apology deflects from the contemporary shaming of populations who are similarly constructed as deviant and subjected to problematic state policies.'¹⁰¹

In 2021, Taoiseach Michael Martin issued a public apology to survivors of mother and baby homes. The apology frames the Commission report as the 'definitive account' of these institutions, which is problematic in light of the report's limitations. There was no involvement of survivors in drafting the apology. It is arguable that the apology, given the day after the publication of the Commission report, was delivered too soon, especially given that many elderly survivors were still struggling to obtain physical copies of the report. There is no mention of the word 'adoption' in the apology, no responsibility for any coercive or forced adoptions or forced labour abuse evident in the claims of survivors. As a result, it remains unclear what the Taoiseach apologises for. The event of the apology raises expectations that the state will react in a meaningful way. However, in light of the prior mistreatment of survivors documented in prior chapters, survivors would be wise to be cautious and suspicious of government processes.

Ireland's official apologies were well received by some victim-survivors and, in the case of Kenny's, aim at a new more compassionate Ireland. However, these apologies are arguably undermined over time by the state's treatment of survivors discussed in other chapters. In addition, the apologies largely exclude the roles of class, race, and gender as structural forms of injustices and minimise the extent to which historical-structural injustices persist in Irish society.

⁹⁹ Clara Fischer, 'Revealing Ireland's "Proper" Heart: Apology, Shame, Nation' (2017) 32 *Hypatia* 751, 756.

¹⁰⁰ *ibid* 760.

¹⁰¹ *ibid* 761.

9.3.6 *Christian Churches and Religious Orders*

Christian churches have a long and problematic use of apologies for historical abuse. Luigi Accattoli has identified ninety-four instances where Pope John Paul II acknowledged wrongdoing committed by the church or asked forgiveness,¹⁰² including apologies for violence during the Crusades and Reformation and for involvement in colonisation and slavery. In 2000, Pope John Paul II apologised for non-recent wrongs committed by the church against Jews, Indigenous peoples, women, and the poor.¹⁰³ However, Michael Marrus notes that in most cases Pope John Paul II apologised to God, not to victim-survivors or their descendants.¹⁰⁴ Such apologies fail to achieve an essential goal of the concept of apology as a dialogue between two parties or to serve the goal of restoring trust among a broken community or society. Pope Benedict XVI expressed his ‘dismay’, ‘deep sorrow’, and ‘distress’ at institutional and child sex abuse but did not denounce the cover-up of such abuse by the church or articulate concrete steps to hold to account bishops who failed to protect children.¹⁰⁵ In 2010, the Permanent Observer Mission of the Holy See (the UN representative from the Roman Catholic Vatican) issued a statement noting that the Doctrine of Discovery had been abrogated or annulled by subsequent church doctrine. However, such a statement did not amount to an apology and seems inherently inadequate in light of the pervasive impact of the doctrine in the nations studied in this book.¹⁰⁶

In addition to papal apologies, several religious order and national, diocesan level apologies exist relevant to residential institutions in Canada, Ireland, Northern Ireland, and Scotland, with further apologies for clerical abuse in open settings. However, such apologies typically fall short across the accepted criteria – they rarely accept responsibility, offer repair, or speak to the values of the institution or church involved. Janet Bavales notes that in Canadian church apologies regarding residential schools: ‘Most of the churches’ references to their offenses avoided describing themselves as agents of wrongful

¹⁰² Luigi Accattoli and Jordan Aumann, *When a Pope Asks Forgiveness: The Mea Culpa's of John Paul II* (Alba House 1998).

¹⁰³ Alessandra Stanley, ‘Pope Asks Forgiveness for Errors of the Church over 2,000 Years’ *New York Times* (New York, 13 March 2000).

¹⁰⁴ Michael R Marrus, ‘Papal Apologies of Pope John Paul II’ in Mark Gibney and others (eds), *The Age of Apology: Facing Up to the Past* (Pennsylvania State University Press 2008) 265.

¹⁰⁵ ‘Pastoral Letter of the Holy Father Benedict XVI to the Catholics of Ireland’ <www.vatican.va/content/benedict-xvi/en/letters/2010/documents/hf_ben-xvi_let_20100319_church-ireland.html>.

¹⁰⁶ Truth and Reconciliation Commission of Canada, *Canada's Residential Schools: The Final Report of the Truth and Reconciliation Commission of Canada, Volume 6* (McGill-Queen's University Press 2015) 30–1.

actions. In four of the six apologies (Anglican 1993, Catholic 1991, Oblate 1991, and United 1998), not one of the 18 clauses describing an offense was in active voice with the church (or “we”) as agent.¹⁰⁷ Several of the Canadian churches have since repudiated the Doctrine of Discovery and affirmed the need for Indigenous self-determination.¹⁰⁸

In the United States, Anthea Butler White notes that while the Southern Baptist Convention’s apology regarding slavery is commendable, ‘it does not consider the theologies that were constructed around slaveholding or the perpetuation of those beliefs in the denomination. It does a great job at apologizing, but it does not address restitution for the structural racism within the denomination.’¹⁰⁹ In addition, both individual bishops and the US Conference of Catholic Bishops have apologised for successive state-level child abuse crises, but these apologies are undermined by ongoing resistance to implementing the church’s own child abuse standards and an aggressive litigation strategy against survivors.¹¹⁰

In Australia, churches and religious orders made submissions of apology regarding the Stolen Generations to the Bringing Them Home inquiry.¹¹¹ Swain notes the changing character of Catholic apologies in Australia over the course of several inquiries:

Catholic apologies before the Bringing Them Home inquiry positioned their sorrow as the product of hindsight, expressing regret for policies and practices considered beneficial at the time. They also sought to share the blame, arguing that it was government, not the church that was responsible for the removal of Indigenous children from their families, and that it was never critical, at the time, of the institutions in which they were placed. As the scandal around sexual abuse grew, the church became increasingly suspicious of the media coverage, arguing that it was intent on celebrating the fall from grace of a respected institution which had claimed to be the moral guardian of society.¹¹²

Both the Anglican and Catholic Churches in Australia apologised for their roles in child sexual abuse in response to Scott Morrison’s 2018 apology.

¹⁰⁷ Janet Bavelas, ‘An Analysis of Formal Apologies by Canadian Churches to First Nations’ (University of Victoria 2004) Occasional Paper 1 12.

¹⁰⁸ Truth and Reconciliation Commission of Canada (n 106) 31–2.

¹⁰⁹ Anthea D Butler, *White Evangelical Racism: The Politics of Morality in America* (The University of North Carolina Press 2021) 93.

¹¹⁰ Jo Formicola, ‘The Politics of Clerical Sexual Abuse’ (2016) 7 Religions 9, 7–10.

¹¹¹ Wilkie (n 66) chapter 14, 250–3.

¹¹² Shurlee Swain, ‘A Long History of Faith-Based Welfare in Australia: Origins and Impact: A Long History of Faith-Based Welfare in Australia’ (2017) 41 Journal of Religious History 81, 93–4.

Early apologies by the Catholic Church leadership in Ireland limited responsibility for harm, with a 2003 statement from Cardinal Seán Brady apologising for the ‘hurt caused’ and ‘damage done’ by abuse and framed responsibility in pastoral, rather than legal terms, and finally emphasised that most child abuse occurs in the context of a family.¹¹³ In his apology in response to the Murphy Report, Archbishop Desmond Connell apologises in oblique terms, largely without naming child abuse, and by doing so, ‘attempts to deflect personal responsibility for his own failures (i.e. mishandling of cases)’.¹¹⁴ In contrast, Archbishop Diarmuid Martin’s 2009 apology is more explicit in naming sexual abuse, acknowledging the inherent inadequacy of apologies, and admitting efforts to protect the reputation of the church.¹¹⁵ McAlinden notes that the context in which some Irish religious apologies occur challenges their sincerity. For instance, while the Christian Brothers issued an apology on the publication of the Ryan report, their conduct during the Commission to Inquire into Child Abuse (CICA) inquiry had delayed the commission and resulted in a right to anonymity for their members. Until publication, the Brothers had denied wrongdoing. McAlinden concludes: ‘Such a contradictory sentiment illustrates a context in which apologies are unlikely to be regarded as sincere.’¹¹⁶

While the 2004 apology of the Sisters of Mercy who also operated residential care institutions and industrial schools in Ireland more clearly acknowledges victim-survivor hurt and congregational responsibility, leading to support for the ‘unambiguous’ apology by victim-survivors,¹¹⁷ this approach is likely facilitated by the existence of an indemnity for religious orders related to the industrial schools in Ireland. For instance, in 2013 in response to the McAleese report the four religious orders involved in Magdalene Laundries issued statements of apology. However, some of these are ambivalent and struggle to address the criteria of effective apologies laid out above. The Sisters of Mercy note that while conditions in the laundries had been harsh, ‘some very supportive, lifelong friendships emerged and were sustained for several

¹¹³ Seán Brady, ‘Time To Listen: Confronting Child Sexual Abuse by Catholic Clergy in Ireland’ (4 December 2003) <www.armagharchdiocese.org/4-dec-launch-of-time-to-listen-confronting-child-sexual-abuse-by-catholic-clergy-in-ireland-report-of-royal-college-of-surgeons-in-ireland/>.

¹¹⁴ ‘26/11/09 Personal Statement of Cardinal Desmond Connell’ <www.dublindiocese.ie/261109-personal-statement-of-cardinal-desmond-connell/>; McAlinden (n 14) 7.

¹¹⁵ Diarmuid Martin, “I Am Aware That No Words of Apology Will Ever Be Sufficient” *Irish Independent* (Dublin, 27 November 2009) <www.independent.ie/irish-news/i-am-aware-that-no-words-of-apology-will-ever-be-sufficient-26585955.html>.

¹¹⁶ McAlinden (n 14) 12–13.

¹¹⁷ *ibid* 7–8.

decades', while the Good Shepherd Sisters stated that laundries were 'part of the system and the culture of the time'. In 2021, religious orders apologised after the publication of the report into mother and baby homes. Though some of these statements meet many of the criteria of effective apologies, many neglect any offer of amends or redress to survivors, and the statement of the Sisters of Mercy again redirects responsibility to Irish society.

McAlinden's research with survivors indicated that an apology should address not only the direct experience of physical or sexual abuse endured by survivors but also the longer-term impact on survivors of non-recent abuse, such as 'inter-generational transmission of shame via the life-long consequences of the denial of opportunities for education'.¹¹⁸ McAlinden affirms that the failure of Irish church apologies related to their epistemic and ontological dimensions: these apologies lacked 'a common understanding of the injustice and . . . a narrative about the past which has been accepted by victims and perpetrators'.¹¹⁹

In the United Kingdom, the General Synod of the Church of England offered a slavery apology in 2006. The apology detailed the knowledge by church bishops of the cruel treatment of slaves, and the church's financial benefits from the slave trade and accepted direct responsibility. Itay Lotem notes the negative reaction to the apology both from African-heritage groups who criticised it as insincere and from the conservative press who thought it diverted attention from the 'celebrations of British past benevolence and moral rectitude'.¹²⁰ In response to the Northern Irish Institutional Abuse inquiry, a number of religious orders made limited apologies. The apologies of both the De La Salle Brothers and Sisters of Nazareth in 2014 express remorse and regret and acknowledge the suffering of residents in their institutions, if not institutional responsibility.¹²¹ Apologies subsequent to the publication of the Hart report in 2017 continue this pattern, with further relevant religious orders apologising and a conditional acceptance that the standard of care offered by the orders may have been inadequate in some cases.¹²² In the absence of religiously funded reparations, such statements are

¹¹⁸ McAlinden (n 8) 147.

¹¹⁹ *ibid* 148.

¹²⁰ Itay Lotem, *The Memory of Colonialism in Britain and France: The Sins of Silence* (Routledge 2021) 280.

¹²¹ 'De La Salle Brothers Abuse Apology' *Belfast Telegraph* (Belfast, 14 January 2014) <www.belfasttelegraph.co.uk/news/northern-ireland/de-la-salle-brothers-abuse-apology-20915559.html>.

¹²² 'Head of Catholic Church in Ireland Apologises to Child Abuse Victims' *Belfast Telegraph* (Belfast, 20 January 2017) <www.belfasttelegraph.co.uk/news/northern-ireland/head-of-catholic-church-in-ireland-apologises-to-child-abuse-victims-35384886.html>.

likely calibrated with legal liability in mind. There is no reference to the theological or cultural contexts in which these institutions operated or abuse took place.

Across jurisdictions, the limited nature of church apologies has not prevented extensive litigation and financial expense to church institutions, discussed in prior chapters. Limited ability or willingness to accept responsibility for historical abuses as related to the purpose and mission of churches or religious orders are therefore more likely to reflect ongoing denial or lack of theological competence to address institutional wrongdoing and repentance. A key limitation for the Catholic Church offering meaningful and effective apologies is the theological commitment to the church's own moral and spiritual perfection – those individuals who may commit moral wrongs may constitute the church, but the institution and idea itself remain beyond reproach.¹²³ David Novak suggests that changing this posture would be a fundamental shift for the Catholic Church: 'For if the Church at this level were to apologise, that would presuppose a criterion of truth and right higher than the revelation upon which the Church bases its authority, the revelation that the Church claims as her own.'¹²⁴ Danielle Celemajer argues that the Catholic Church could draw on 'its own historical forms of repentance to address this profoundly damaging aspect of its past'.¹²⁵ She notes: 'Church practices of repentance have been so thoroughly privatised, with the collective and corporate dimensions virtually erased from our understanding of what Catholic repentance could look like.'¹²⁶ She concludes that a meaningful church apology would situate the sources of wrongs in 'the practices, understandings and identities of the clergy and the Church on earth'. In particular, a meaningful apology would acknowledge and condemn 'the ways in which the Church has failed to take seriously the charges against it, the entrenched and unequal power relations that have been institutionalised through practice and doctrine',¹²⁷ contributing to the wrongdoing of individual priests. Though Christian churches may have the theological resources to address more meaningfully their past, there is little evidence in existing practice that they are committed to doing so.

¹²³ Marrus (n 104) 267.

¹²⁴ David Novak, 'Jews and Catholics: Beyond Apologies' (1999) 89 *First Things* 20.

¹²⁵ Danielle Celemajer, 'From Mea Culpa to Nostra Culpa: A Reparative Apology from the Catholic Church?' in Mihaela Mihai and Mathias Thaler (eds), *On the Uses and Abuses of Political Apologies* (Palgrave Macmillan UK 2014) 56.

¹²⁶ *ibid* 70.

¹²⁷ *ibid* 72.

9.4 CONCLUSION

However powerful or well calibrated to their potential audiences and political context public apologies may be, they alone are unlikely to meet victim-survivor justice needs.¹²⁸ Mark Gibney and Eric Roxstrom conclude that the West wants ‘credit for recognizing and acknowledging a wrong against others, but it also wants the world to remain exactly as it had been before the apology was issued’.¹²⁹ Judged by this criterion, and extending the analysis to Christian churches, the apologies for historical abuses in this chapter remain limited or flawed.

Apologies tell us in the most explicit terms possible how the state perceives its role in national myth making. In the absence of meaningful investigation, accountability, or redress, apologies in the United States risk remaining empty rhetoric. Expansion of apologies in Canada and Australia masks the need to apologise more existentially for the broader impact of colonisation and genocide as ongoing historical-structural injustices.¹³⁰ By combining the Stolen Generation apology with that for the Forgotten Australians, the risk is that a focus on children is a prerequisite for an apology. The Gillard apology regarding forced adoption extends the suitable audience to adults but does not change the overall pattern.

The Irish and Northern Irish apologies reflect a carefully calibrated political discourse but one that must be understood in the context of obstructionist practices to inquiry, accountability, and redress in the Republic of Ireland, and similar limitations regarding these elements in Northern Ireland. Apologies in the United Kingdom in the context of slavery are limited by the absence of other transitional justice elements and by the limited textual engagement with either responsibility or with the structural continuities of slavery and postcolonial contexts. As a result, the narrative constructed by apologies for historical abuse is better in some jurisdictions than others but remains largely limited by its failure to acknowledge historical abuses, not as separate and past, but as continuous with and reproduced in the present.

¹²⁸ MacLachlan (n 21) 142.

¹²⁹ Mark Gibney and Erik Roxstrom, ‘The Status of State Apologies’ (2001) 23 *Human Rights Quarterly* 911, 936.

¹³⁰ Tony Barta, ‘Sorry, and Not Sorry, in Australia: How the Apology to the Stolen Generations Buried a History of Genocide’ (2008) 10 *Journal of Genocide Research* 201.