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## Cindy Holder, Whose Wrong Is It Anyway? Reflecting on the Public-ness of Public Apologies [2017 C4eJ 8] (Symposium)





# The Ethics of Apology: Interdisciplinary & International Perspectives

WHOSE WRONG IS IT ANYWAY? REFLECTING ON THE PUBLIC-NESS OF PUBLIC APOLOGIES  
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## Introduction

Two crucial elements for an official apology to be felicitous (i.e., to succeed as the type of speech act it is) are that the person offering the apology be appropriately placed to speak to and for the subject matter of the apology; and that this person be clearly and unambiguously speaking *qua* public official.[1] In short, the person apologizing must be positioned to speak *for* the relevant public and must *in fact* be speaking for that public. But who constitutes the public on whose behalf such an official speaks and in whose name the apology is offered? In this paper I argue that in most cases, the “public” that the official offering an apology represents and on whose behalf the apology is offered is not the general public or any subset of it (such as dominant groups within the general public or elements of the general public on whose behalf wrongs were undertaken). In most cases the public for whom the official offering an apology speaks is the *public sector*: those who direct, control and populate the apparatus of the state or some segment of that apparatus.

For whom a public official offering an apology speaks depends on what activities, decisions and attitudes are named in the apology; and what relationship obtains *and is perceived to obtain* between the immediate perpetrators of what is named in the apology and the population at large (or the population for whose sake the immediate perpetrators purport to have acted). Below I

argue that in most cases there is not a plausible model according to which public sector actors can be treated as vehicles for actions, decisions, projects and values of the general public: a public sector actor is not an avatar of the general public. This makes for a gap between public officials and the general public that must be explicitly bridged with respect to actions, decisions and attitudes named in a public apology in order for members of the general public to perceive themselves as part of either the wrongs for which apology is offered or the apology itself. *Recognizing this gap does not imply that members of the general public are not or cannot be responsible for wrongs perpetrated by public sector actors.* However, it does imply that the source of the responsibility will not usually be found in public officials having acted at the behest of or for the sake of the general public.

One implication of this analysis is that it is not unreasonable for members of the general public to fail to see themselves reflected in or implicated by public sector articulations of remorse and commitment to repair. This does not mean that members of the public are not implicated in what was done; and it does not mean that they do not have responsibilities to acknowledge and repair the wrong. But the fact that the public sector and the general public are distinct does suggest that the process of acknowledgement and repair for the general public may have to be separate from and additional to the process followed by the public sector. In this respect it is important to note that discouragement of reflection and deflection away from social, cultural and political structures are not inevitable consequences of the distance that members of the general public perceive between public sector actors and themselves. On the contrary, recognizing the distinction between public sector actors and the general public may be a necessary element to asking how the general public's actions, values and decisions enable and encourage public sector wrongs.

### **Apologies By and For the Public**

Official apologies are public in a number of different ways. The content of official apologies is open to public view and generally accessible. Official apologies are offered in the public domain using ceremonials and tropes that are generally recognized and which have public significance. Thus although official apologies are typically offered to a specific group of people, the mode, setting and content of the address assume and are directed toward a general audience, often conceived of as the population at large. The person offering an official apology does so in their official capacity, *qua* public official, and the success of the official apology as a speech act of its type often turns on it being unambiguous that the person speaking does so on behalf of and as a representative of the public as a whole and not their "office" specifically.[2]

But who is the public that the official represents and whose remorse and commitment to repair he or she articulates? Although public officials often employ a rhetoric that positions them as

speaking for or on behalf of the general public, in fact it is highly ambiguous in most cases who, exactly, a public official speaks on behalf of in an official apology. Part of this ambiguity stems from questions regarding whose action is being apologized for. Another, equally significant source of ambiguity are questions regarding the relationship between the public sector – the apparatus of the state and those who give it direction – and the general public.

So: official apologies are apologies by a collective. But this does not mean that they are apologies from or on behalf of the population at large, or from or on behalf of all of those who bear responsibility for the wrong. In most cases the responsibilities that members of the general public bear for wrongs perpetrated by public sector actors does not stem from a relationship of direct representation in which public sector actors are vehicles or avatars of the larger collective's actions. Indeed, I will argue that although an agent-principal relationship is often assumed or invoked, in most instances public sector actors cannot plausibly be said to stand in that kind of relationship to members of the general public. Public sector actors are agents of a territory's governing power; and even in a liberal democracy it is a mistake to equate this with being an agent of the general public. Insofar as members of the general public bear responsibility for the wrongs named in an apology (and just to be clear: members of the general public often bear considerable responsibility for those wrongs) they are responsible as participants in a plural subject constituted of both the collective that is the general public and the collective that governs the population of a territory, the public sector. It is in virtue of that larger subject's actions, decisions and values that members of the general public bear responsibility for the wrongs named in a public apology.[3]

On the plural subject model members of the general public are related to and implicated in the activities, statements and values of the public sector. But it is inaccurate to describe members of the general public as acting *through* the public sector, and public sector actors cannot obviously or straightforwardly be treated as speaking for the general public in any particular instance. *The public sector and the general public are not a single collective that makes decisions and acts via public officials.* Rather the two are distinct collectives that in some contexts and in some regards comprise a larger collective. When they do comprise that larger collective, constituents of both groups (of the general public and of the public sector) will act and derive reasons from the logic of the overarching plural subject in which they participate and it is this larger context within which the general public and the public sector sometimes act together, that implicates members of the public in and renders members of the general public responsible for public sector activity. However, in many contexts and in many regards the public sector and the general public do not operate as constituents of a larger collective. Sorting out their responsibilities for the states of affairs brought about by one another's actions thus requires attention to the structure and details of their

relationship(s) and to whether and to what extent the actions, decisions and values named in an apology reflect participation in a larger, encompassing collective.

The fact that the public sector and the general public are distinct collectives intrinsically distances members of the general public from public officials' activities and speech. How this distancing plays out in perceptions of how members of the general public are implicated in wrongs for which public apology is offered, in how the roles of various public sector actors and of members of the general public appear in public discourse, and in how members of the general public perform and frame their responsibilities for repair is impacted by how public sector activity is characterized in relation to the interests, values and projects of the general public. When public sector actors are characterized as agents executing a trust on behalf of members of the general public, the distance in their relationship often functions to shield the general public from moral implication in public sector wrongs and may have the perverse effect of casting those for whose sake public officials purport to have acted or even the public officials themselves as tragic figures, unwittingly entangled by distorted or perverse conceptions of public duty.

### **Speaking in, and for, the Public**

Ambiguity regarding who a public official apologizes for can be illustrated by Canada's official apology for residential schools. When Stephen Harper apologized for Canada's residential schools, he did so not as the person he was, or as any individual person, but as a representative or avatar of the group responsible for the wrong. In his statement, he described the apology as offered "on behalf of the Government of Canada and all Canadians", and as Canada's Prime Minister, he was in a position to speak on behalf of both those collectives. [4] However although Mr. Harper had standing with respect to both "the Government of Canada" and "Canadians" that enabled him to speak on their behalf, as *collectives* and as collective *actors* in particular, "the Government of Canada" and "Canadians" are distinct. So although the apology was presented as coming from both the government and from Canadians generally, there is a genuine question as to whether the apology was in fact offered by both. In particular did the collective "Canadians" take the Prime Minister to be apologizing on their behalf as well as on behalf of the government?

At the heart of this is the question of who was apologizing on June 11, 2008. For example, Stephen Harper could be understood as having spoken for Canada's public actors in the apology: people in the public sector and those who control or give direction to their activities. He could be understood as having spoken for Canadian citizens: individuals who are recognized and treated as a constituency who must be served by the Canadian state. He could be understood to have spoken for the Canadian public: people within Canada who constitute and contribute to "public opinion" in

the Habermasian sense. He could be understood to have spoken for each of these groups simultaneously. He could be understood to have spoken for some a composite group encompassing all of these.

Many characterizations of the functions that official apologies serve in moral and social repair presuppose that such apologies are offered on behalf of a larger or more general population.[5] However in many cases the policies, rationale and activities for which apology is required were developed and carried out by a public sector or elements of it that the population more generally do not view as extensions of themselves or as vehicles of shared action or priorities. When this is the case, an apology may be comprehensive and sincere, offered by an official who is appropriately placed to apologize for the wrongs in question, and reflect collective self-examination and a commitment to repair yet not reflect or spur self-reflection within the population at large and not contribute to the transformation of social, cultural and political attitudes and structures. To say that apologies are infelicitous or unsuccessful in such cases seems too quick. And in some ways the specificity and unambiguous acceptance of responsibility that is required for an apology to be felicitous stands in tension with the kind of attention to societal values and structures that is necessary to spur self-reflection in the population as a whole and to motivate cultural and political transformation.

In the Canadian case the apology primarily referred to policies, decisions, actions and attitudes undertaken and exhibited by Canada's public actors, and not to decisions, actions and attitudes of Canadian citizens or the Canadian public. This is not to say that these were not also policies, decisions, actions and attitudes of Canadian citizens or the Canadian public are not responsible for the wrongs named in the apology. There is a very good case to be made that Canadians generally are participants in the Government of Canada's actions towards indigenous peoples and are responsible for those actions. The facts of the Government's policies are and were publicly available. Canadians generally have benefitted from those policies and continue to do so. Canadians generally contribute to and maintain a cultural environment that tolerates and circulates false and dehumanizing narratives about indigenous communities and indigenous persons, and narratives regarding European settlement that normalize violence and bad faith in indigenous-settler relations. Canadians generally accept and promote political and economic geographies that erase indigenous presence and priorities. Canadians generally accept, circulate and deploy historical and sociological narratives that divide indigenous peoples into "good natives" and "bad natives" and treat indigenous communities, lives and bodies as raw material for settlers' projects, and as having value only for and through their contribution to or realization of settler interests and achievements. There are a number of models of collective responsibility that support

attributing actions to a plurality of agents, and a number of arguments against models of agency that assume or require that action must be constituted of elements that can be “owned” by only one actor.[6] On most of these models, Canadians generally perpetrated and are responsible for the residential schools.

So: there are credible models of collective agency according to which Canadians generally are participants in the government’s residential schools policy, and there are features of the identity and intentionality of Canadians generally that can plausibly put them in a relationship to the residential schools policy that would make it appropriate for them to apologize for residential schools. However whether Canadians generally owe an apology for residential schools is a distinct question from whether the Prime Minister’s apology for residential schools was an apology from Canadians generally in addition to being from the government. The Prime Minister could have apologized simultaneously for the government and for Canadians generally: he was appropriately positioned to do so and Canadians generally owe an apology. But this is not, in fact, what happened.

One condition that would almost certainly have to be met for Stephen Harper to have been offering an apology from Canadians generally as well as from the Government of Canada would be that the Prime Minister’s apology be seen by Canadians generally as naming a wrong that *they* perpetrated and for which apology was owed on *that* basis. The evidence suggests that this was not in fact true: that most in the population of Canadians generally did not see the apology as naming wrongs in which *they* are or were participants, but as naming wrongs perpetrated by the Government of Canada and the organizations and individuals who set up and ran the schools.[7] Canadians did not view the wrongs named in the apology as something for which Canadians generally (as opposed to the Canadian government) owe an apology.

Thinking about this through the lens of standing does not adequately capture the problem. The Prime Minister was widely accepted by those to whom the apology was tendered as having the standing necessary to apologize. Most constituents of the collective “Canadians generally” approved of the Prime Minister’s having apologized and may well have seen him to be doing so at their behest and because of their belief and acceptance that an apology was owed. However, that Canadians generally approved of the apology and took it to be offered at their direction and in reflection of a shared belief that an apology was owed does not imply that Canadians generally took themselves *to be apologizing or to have anything to apologize for*. Members of the Canadian general public did not see the residential schools policy as something *Canadians* developed and executed: it was developed and executed by Canada’s public actors. Public officials were not and are not viewed by Canadians as mere conduits or vehicles by which members of the general public act. This perceived distinction between themselves and public officials is not specific to Canadians.

And it is not a mere perception. Even when officials' actions are unambiguously and straightforwardly undertaken at public behest and for the public's sake, it's a mistake to treat public officials as representatives in the sense of being charged with, reflecting or standing for the priorities, values and projects of the general public. At most, public officials can be understood to operate as agents to the general public's principal. Most of the time, however, it is doubtful whether many members of the general public have that type of relationship to public sector activity.

## Public Officials and the General Public

In fact it is useful in this context to step back and reflect on the relationship between the public sector (and its officials) and the general population within a typical liberal state.[8] There is a story that gets told about liberal states in which government is a vehicle for and reflection of the projects, values, and interests of the people the state encompasses.[9] It's a compelling story that is supposed to explain, at least in part, why it is legitimate for public officials to wield power with respect to the general population and (in some tellings) why public officials' directives and decisions are normative for those to whom they're issued. But this story is, at best, aspirational. It is undoubtedly true that individuals and groups within its territory can use a liberal state's government as a vehicle for their projects, values and interests. And it is also undoubtedly true that individuals and groups within a liberal state may see their own projects, values and interests reflected in the government's values, decisions and activities. It may even be true that in accepting and conforming to the government's activities and directives a liberal state's general population participates in the values, projects and interests that the government endorses and promotes. However, none of this establishes the governments of liberal states as mere conduits for actions and decisions of their populations. That members of the general population of a state accede to the activities of the structures that govern them or are able to use the structures of their government to serve their purposes does not make them authors of that government's actions or make the government's priorities or reasoning a reflection of or conduit for the reasoning of the population at large.

Some have argued that liberal states have distinctive institutional features that ensure or at least promote governance that is at least responsive to the priorities of the general population and serves it well, and that these features give liberal states a special claim to adherence from those over which they exercise jurisdiction.[10] That decisions and actions serve the general population does not in itself establish that public sector activity expresses or reflects the projects, values and interests of the population as a whole, or that the population as a whole endorses the decisions or actions that have been undertaken. Being responsive to a population's priorities and values and/or

making decisions that serve those priorities and values well is not the same as channelling those priorities and values.

A more plausible story about the relationship between government and population characterizes the government as an agent to the general population's principle. Within this description, the government (and the officials that it empowers) is charged by the general population to make decisions and/or act on the population's behalf and in the population's place: the general public authorizes actors in the public sector to operate as their agents in all matters of public concern (i.e., all matters with respect to which the government is empowered to act and/or make decisions.) [11] This "agent-principal" model recognizes a *prima facie* distance between what is done in and by the public sector and the priorities, attitudes and interests of the general public. The distance facilitates and encourages focus on reasoning and logic specific to the public sector and how such reasoning may go wrong, with questions for members of the general public arising secondarily, in regard to the role that the general public's direction, incentivization or oversight of those acting on its behalf may have facilitated or incited wrongdoing. [12]

The distancing that is enabled by casting public sector actors as agents of the general public is perhaps most clearly illustrated in apologies for extra-territorial rendition and torture.[13] Early iterations of Canada's acknowledgement of the wrongness of the residential schools also illustrate how treating public sector actors as agents encourages a narrative of bad apples and abuse of public trust and discourages examination of whether and to what extent perpetrating wrongs was part of the job public officials were trusted to do.[14]

Apologies for torture and early iterations of the residential schools apology also illustrate two perverse possibilities that the agent-principal model opens up: shielding the principal from moral and characterological contamination; and elevating the agent into a tragic or even heroic figure. Consider the literature on the ethics of torture. Within that literature, the moral burden of a decision to torture or to bomb civilians falls on individual policy-makers, with much of the debate focusing whether to take social ownership of such decisions by creating a permission structure. [15] Debate about torture often focuses on whether there is a "moral remainder", and to what extent that remainder attaches to the individual decision-maker.[16] Within these debates, public officials are fiduciaries of the general public: they act for its sake and to protect its interests, as a trustee does for the principal of a trust; they do not act at its behest and on its orders as an aide for a boss.

In both discussions of torture and early iterations of the residential schools apology, the agent-principal relationship shields the principal (the general public) from moral contamination by

presenting the decisions of the agent as *prima facie* (i.e. in the absence of an explicit permission or direction) the agent's alone, potentially as shocking and abhorrent (albeit not harmful) to those on whose behalf it was undertaken as it is to those who suffered the wrong. The agent-principal relationship also serves as a perverse mitigation or even redemption of what the agent has done, recasting a decision or action that is on the face of it heinous and morally abhorrent into the moral remainder of a misguided attempt at faithful discharge of a duty. In this, the agent-principal model create a moral landscape in which victims and those on whose behalf they have been victimized stand together, united in their outrage at the suffering and wrongs that have been committed. The agent stands alone and separate, answerable to both victims and those on whose behalf the victimization was perpetrated. The focus becomes whether what was done should be understood as a betrayal of their charge, or a tragic mistake in understanding the nature or limits of what the agent was supposed to do.

On closer examination, however, there is reason to doubt whether the agent-principal model, which is often presupposed in theoretical treatments, captures how most members of the general public understand their relationship to public sector actors. For although this model is common in theoretical approaches it is doubtful that most members of the general public experience or perceive their relationship to the public sector in agent-principal terms. Specifically, it is doubtful that members of the public view public sector actors as executors of tasks and activities that members of the public have delegated so as to ensure that the interests and goals at stake are effectively advanced and preserved. Instead, members of the general public see public sector actors as agents of *the governing power that is operative within their territory*.

Public sector actors are administrators of the apparatus of the state. As such, the tasks and activities delegated to public sector actors come from those who control the state's apparatus and give it direction. Individual members of the public adhere to the directives that issue from the state's apparatus and support its operations for a variety of reasons, many of which are purely strategic. Many normative theorists argue that members of the general public may be rightly criticized for failing to support a state's operations and adhere to its directives when they have the opportunity to contribute to the actions, projects and values of those who control the state's apparatus and/or there are measures in place to ensure that these actions, projects and values cohere with members' own projects and values.[17] But even if it is accepted that these conditions are met so that most members of the public within a state such as Canada – and it is not at all obvious that they are – having an obligation to support and adhere because public sector activity meets minimal conditions of liberal political legitimacy does not in any way establish either the experience or the existence of an agent-principal relationship between public sector actors and the

general public.[18] Members of the public may well identify with the actions, projects and values that public sector actors have been directed to pursue. However, this identification need not be robust: it may be as thin as a sense of fellow travelling; and there is no *prima facie* reason to assume that members of the general public identify with public sector projects and values at all. Having a duty to adhere to a government's directives and support its operations is not the same as having authorized the government to do what it does and it does not imply that the government is acting as an agent of those who have an obligation to adhere.[19] There is an important difference in the relationship posited between public sector actors and the general public in an adherence-and support model *versus* an agent-principal model.

To appreciate the difference in the sense of ownership and implication in wrongs and apologies for them, consider a hypothetical scenario in which the owners of the Washington D.C. NFL team (finally) decide to change the team name and logo and issue a formal apology for their previous logo and for resisting earlier calls for change.[20] In this scenario there would be no sense that the owners of the team were apologizing on behalf of anyone but themselves and (perhaps) participants in the organizational structure through which the team is managed and marketed. Moreover, insofar as participants in the organizational structure were represented in the apology it would be only *qua* participants in the organizational structure, and not in their personal capacity as supporters of the team outside of their employment. There would be no sense that owners were apologizing on behalf of the team's fans as well as themselves, and fans would rightly see the apology as coming from the Washington D.C. NFL team's ownership and organization, and as an apology for the ownership's and organization's decisions and actions and not from the fans or for decisions and actions of the fans.

This distance between the apology offered by the owners and the fans would obtain even if fans as a group had very strong opinions as to whether the ownership should apologize and even if fans as a group themselves owed apology and repair for activities connected with the team's name and logo. Fans as a group may have interests bound up with the team, they may identify with the team and be committed to its projects and values. But they are distinct from the group that operates the team and gives it direction and this has implications for how fans stand in relation to actions by the ownership – including acts of apology and repair.

As I noted above, that fans, as a group, are distinct from the team's ownership and organization does not entail that fans cannot be implicated in and responsible for actions, projects, and values that the ownership and organization pursue. But recognizing that the two groups are distinct, that the ownership and organization do not answer directly to the fans and that there is nothing in the relationship that ensures that fans as a group endorse, share or are committed to the ownership

and organization's values and priorities is an important element in motivating questions about fans' implication in the wrong and in framing questions in a way that spurs reflection. Thus, although distance is no less inherent in the "adherence-and-support" model than in the "agent-principal model", transparency about the distance may make it easier to move from officials' acknowledgement and commitment to repair of the specifics of a wrong to examination of whether and how groups and individuals outside of officialdom are also wrongdoers and have a duty of acknowledgement and repair.

## Conclusion

So: who is the "public" that government officials represent and for whom they speak in an official apology? In most instances, officials' apologies represent and speak for the public sector, and not the general public. This is not to say that public officials do not ever represent or speak for the general public. Rather, it is to say that for a public official to speak for the general public as well as the public sector there has to be a relationship between public sector actors and the general public that does not, in most instances, obtain. Specifically, for a public sector apology to be representative of the general public or to be offered on the general public's behalf in anything but the very shallow sense of expressing regret that wrongdoing occurred, the public sector would have to both operate and be perceived to operate as a vehicle or conduit for the projects and values of members of the general public. This is not, typically, the case. Official apologies are often undertaken at the behest of the general public and/or with the general public's approval; and when this is the case the official's apology reflect an attitude held by the general public. But that an apology reflects *an* attitude of the general public does not make the general public the (collective) subject who offers the apology, and in most cases the general public is not an apologizing subject in an official apology. The apologizing subject – the collective subject on whose behalf apology is tendered – is the public sector.

The fact that the actions or decisions for which apology is offered were undertaken by officials, as a matter of policy or as a means of discharging their public role, rhetorically separates members of the general public from those actions and decisions. This is the case even where actions and decisions are presented or accepted as having been undertaken on the public's behalf or for the public's sake. In instances where decisions and action do not figure or have not been accepted as having been undertaken or pursued on the public's behalf (for example, because they occurred secretly, or occurred in contravention of the terms of representation), the separation between what is apologized for and the general public's attitudes and values will be even greater.[21] In instances where the public sector is perceived as an autonomous force pursuing projects of its own and showing a purely strategic or pragmatic regard for the priorities and interests of members of

the general public, the relationship between what is apologized for and the attitudes and conduct of members of the general public may appear tenuous or coincidental.

This does not imply that official apologies cannot serve as a spur to personal self-reflection and to a commitment by members of the general public to transform societal attitudes and structures. But a key element of creating and maintaining space for apologies to serve as such a spur may be resisting rhetoric which positions public sector officials as having acted as agents of the general public. Instead, it is important to acknowledge the gap between the public sector and the general public. When the gap is acknowledged, it becomes possible to interrogate the relationship between public sector values, projects and the values, projects and decisions endorsed and circulated by members of the general public. This interrogation is a necessary element of motivating personal reflection and informing reflection on societal attitudes and structures. Such interrogation is much easier to initiate when the public sector and the general public are acknowledged as being distinct.

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[1] See for example Nick Smith, *I Was Wrong*. (Cambridge University Press, 2008), Matt James, “Wrestling with the past: apologies, quasi-apologies, and non-apologies in Canada” in Mark Gibney, ed. *The Age of Apology: Facing Up to the Past*. (University of Pennsylvania Press, 2008), pp. 137-153, Alice Maclachlan, “The State of “Sorry”: Official Apologies and their Absence”, *Journal of Human Rights* 9:3 (2010), 373-385.

[2] For example, one of the difficulties in determining whether Bill Clinton’s acknowledgements of wrongdoing by the United States government in Africa and Guatemala count as official apologies is ambiguity as to whether he was articulating an official policy stance that would be reflected in American foreign policy going forward or signaling how he, as holder of the office of President of the United States, would approach questions and issues when making foreign policy decisions. For an extended discussion of Clinton’s apologies and expressions of regret for prior U.S. policy see Mark Gibney, and Erick Roxstrom. “The Status of State Apologies”, *Human Rights Quarterly* 23 (2011), 911-939.

[3] For an explanation of what it is for individuals to participate in and act through plural subjects see Margaret Gilbert, *On Social Facts* (Princeton University Press, 1992), Cindy Holder, “Devolving Power to Sub-State Groups: Some Worries about the Worries”, *The Monist* 95:1 (January 2012), 87-103.

[4] Stephen Harper, “Apology to Former Students of Residential Schools”, House of Commons Debates 142:110, 39<sup>th</sup> Parliament, Second Session, June 11, 2008, p 6850 at 1520.

[5] See for example Nicholas Tavuchis, *Mea Culpa: A Sociology of Apology and Reconciliation* (Stanford University Press, 1991), Deborah Tollefson, “The Rationality of Collective Guilt” *Midwest Studies in Philosophy* XXX (2009), Danielle Celermajer, *The Sins of the National and the Ritual of Apologies* (Cambridge University Press, 2009).

[6] See for example Margaret Gilbert, *On Social Facts* (Princeton University Press, 1992), Iris Marion Young *Responsibility for Justice* (Oxford University Press, 2011), Raimo Tuomela, *Social Ontology: Collective Intentionality and Group Agents*. (Oxford University Press, 2013).

[7] On this see A.L. McCready, “Redressing Redress: The Neoliberal Appropriation of Redress in the anti-Native Backlash at Caledonia.” *ESC: English Studies in Canada*, 35:1 (March 2009), 161-190, Jennifer Henderson, “Residential Schools and Opinion-Making in the Era of Traumatized Subjects and Taxpayer-Citizens”, *Journal of Canadian Studies* 49:1 (Winter 2015), 5-46, Matt James, “Degrees of freedom in Canada’s culture of redress”, *Citizenship Studies* 19:1 (2015), 35-52.

[8] I’ve chosen to focus on liberal states. In contexts where official apologies are tendered for actions of a state that is not liberal (or was not when the wrongs the apology names were perpetrated), the problems with attributing apologies to the general population that I note will be magnified.

[9] See for example Philip Petit, *On the People’s Terms: A Republican Theory and Model of Democracy* (Cambridge University Press: 2012), Cass Sunstein, *Designing Democracy: What Constitutions Do* (Oxford University Press: 2001) and *Legal Reasoning and Political Conflict* (Oxford University Press: 1996), Ronald Dworkin, “Constitutionalism and Democracy”, *European Journal of Political Philosophy* 3:1 (1995), 2-11, Joseph Raz, *The Authority of Law: Essays on Law and Morality, Second edition* (Oxford University Press: 2009), and *The Morality of Freedom* (Clarendon Press: 1986).

[10] See for example Joshua Cohen, *Philosophy, Politics, Democracy* (Harvard University Press: 2009), Thomas Christiano, *The Constitution of Equality* (Oxford University Press: 2008), Elizabeth Anderson, “The Epistemology of Democracy”, *Episteme* 3:1-2 (2006), 8-22, David Estlund, *Democratic Authority: A Philosophical Framework* (Princeton University Press: 2008), Allen Buchanan, *Justice, Legitimacy and Self-determination: Moral Foundations of International Law* (Oxford University Press: 2004).

[11] For an overview of this model and its limitations in the context of debates about political legitimacy see Allen Buchanan, “Political Legitimacy and Democracy”, *Ethics* 112:4 (2002), 689-

719, especially pp. 691-698.

[12] For a good discussion of how state actors use the distancing effect of an agent-principal relationship to avoid responsibility for actions of military contractors and special forces see Ruth Jamieson and Kieran McEvoy. “State Crime by Proxy and Judicial Othering”, *British Journal of Criminology* 45 (2005), 504-527.

[13] For good discussions of how the rhetoric of apologies for and condemnations of torture encourages distancing see Susan Marks, “Apologising for Torture”, *Nordic Journal of International Law* 73 (2004), 365-385, John T. Parry, “The Shape of Modern Torture: Extraordinary Rendition and Ghost Detainees”, *Melbourne Journal of International Law* 6 (2005), 516-533.

[14] On this see Jennifer Henderson and Pauline Wakeham, “Colonial Reckoning, National Reconciliation?: Aboriginal Peoples and the Culture of Redress in Canada,” *ESC: English Studies in Canada* 35:1 (March 2009), 1-26, Matthew Dorrell, “From Reconciliation to Reconciling: Reading What “We Now Recognize” in the Government of Canada’s 2008 Residential Schools Apology, *ESC: English Studies in Canada* 35:1, 27-45, Matt James, “Wrestling with the past: apologies, quasi-apologies, and non-apologies in Canada” in Mark Gibney, ed. *The Age of Apology: Facing Up to the Past* (University of Pennsylvania Press, 2008), pp. 137-153.

[15] For a good survey of arguments about the defensibility of torture see Darius Rejali, “American Torture Debates”, *Human Rights Review* 9 (2008), 393-400, and David Luban, “Liberalism, Torture and the Ticking Bomb”, *Virginia Law Review* 91:6 (Oct 2005), 1425-1461. For a good overview of the social permission question see Henry Shue, “Torture in Dreamland: Disposing of the Ticking Bomb”, *Case Western Reserve Journal of International Law* 37 (2005-2006), 231-240.

[16] See for example Tamar Meisels, “Torture and the Problem of Dirty Hands”, *Canadian Journal of Law & Jurisprudence* 21 (2008), 149-174, Howard J. Curzer, “Admirable Immorality, Dirty Hands, Ticking Bombs, and Torturing Innocents” *Southern Journal of Philosophy* 44:1 (2006), 31-56, Steven Lukes, “Liberal Democratic Torture”, *British Journal of Political Science* 36 (2005), 1-15, Michael Ignatieff, *The Lesser Evil: Political Ethics in an Age of Terror* (Princeton University Press, 2005), Jeremy Waldron, “Torture and Positive Law: Jurisprudence for the White House”, *Columbia Law Review*, 105: 6 (2005), 1681-1750, Alan M. Dershowitz, *Why Terrorism Works: Understanding the Threat, Responding to the Challenge* (Yale University Press: 2002).

[17] See for example Thomas Christiano, *The Constitution of Equality* (Oxford University Press: 2008), John Rawls, *Justice as Fairness: A Restatement*, E. Kelly ed. (Harvard University Press, 2001), Joshua Cohen, “Moral Pluralism and Political Consensus” in *The Idea of Democracy*, D. Copp, J.

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[18] For a discussion of limits on the degree and type of normativity that may be claimed for specific legal requirements on the basis of meeting criteria of liberal legitimacy see Cindy Holder, “Rethinking Political Justification” *Journal of Value Inquiry* 38 (2004), 511-529 and “Justification” in *Philosophy and Politics. Methods, Tools, Topics*, Antonella Besussi, ed. (Ashgate: 2012).

[19] On this see A. John Simmons, *Justification and legitimacy: essays on rights and obligations* (Cambridge University Press: 2001), Allen Buchanan, “Political Legitimacy and Democracy”, *Ethics* 112:4 (2002) 689-719.

[20] I am grateful to Patrick Rysiew for this example.

[21] For a discussion of how governments use this type of distancing to evade attributions of responsibility for human rights abuses see Ruth Jamieson and Kieran McEvoy. “State Crime by Proxy and Judicial Othering”, *British Journal of Criminology* 45 (2005), 504-527.

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