

# **The Role of National Apologies in Rectifying Historical Injustices**

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University of Edinburgh

Ance Kaleja

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Abstract: The past plays an instrumental role in the field of contemporary politics. This clearly shows that it is impossible to simply leave historical injustices behind, because they have become embedded in the collective identities as respectively, traumas or reasons for national pride. This paper attempts to analyse what role national apologies could potentially have in the attempts on behalf of states to rectify historical wrongdoings. It does this by contesting the main criticisms towards reparative justice in general. It analyses the aspects of intergenerational guilt and victimisation, arguing that descendants of perpetrators and victims share the responsibility to establish a dialogue that would initiate reconciliation. It argues that the consequentialist and deontological reasonings should be repudiated, instead focusing on the agent's character as the basis for moral judgement. It concludes that national apologies are crucial in signalling the beginning of a possibly fruitful process of reconciliation.

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## Introduction

*“The young and old generations must and can help each other to understand why it is vital to keep alive the memories. It is not a case of coming to terms with the past. That is not possible. It cannot be subsequently modified or made undone. However, anyone who closes his eyes to the past is blind to the present. Whoever refuses to remember the inhumanity is prone to new risks of infection.”*

*Weizsaecker’s speech May 1985 –*

Disputes about writing a common history after conflicts which have occurred in the past often overshadow the relations of states for generations later. It is impossible to mention all contemporary political debates concerning past conflicts in the recent as well as the more distant past because of their extensive number. The ongoing conflict between Israel and Palestine, disagreements between the former members of Yugoslavia as well as the Soviet Union are only a few of those worth considering. They clearly show two things - that perceptions of the past undoubtedly matter in contemporary politics, and that conflicts do not necessarily finish by ending a war or signing a treaty concerning the object in question – be it land, property or policy disagreements (Bell, 2006: 29). There is more to a conflict than unjust misappropriation of land or property, and consequently - there is more to conflict resolution than settling the issues around it. Negotiating such an agreement can send a positive signal to the parties involved that they are willing to end the violence, but the emotional issues generated by the violence itself can cause a danger of resuming hostilities even after coming to an agreement about the object in question (Negash, 2006: 217). Thus in order for a conflict to be truly resolved what needs to follow is the lengthy process of reconciliation aimed at eradicating the emotional barriers between those involved and resuming trust between the victims and perpetrators.

On May 5, 1985, delivering a speech on Bundestag commemorating the 40<sup>th</sup> anniversary of Germany’s defeat in the Second World War, German President Weizsaecker emphasised that the generations have to contribute to learning lessons from the past, because “anyone who closes his eyes to the past is blind to the present.” (Weizsaecker, 1985) There is a past, which cannot be forgiven and must not be forgotten. Having left a legacy of pain, trauma and injustice,

understanding the past can contribute to children learning from their parents' mistakes. However, in order for this to be possible, it needs to be remembered and corrected in a way which allows for mutual emotional accommodation between the supposed victims and perpetrators. But what measures can most effectively bring about reconciliation and accommodate the process of restoring trust?

Recently national apologies have received a great deal of attention in a variety of academic disciplines such as law, sociology, psychology and philosophy. This attention has been triggered by the large number of apologies issued lately as well as the perception that they could in a way repair the past that cannot be undone thus contributing to settling the emotional issues brought about by historic injustice. However, it is exactly because apologies are commonplace, that the meaning of what it actually means to deliver or receive a national apology remains vague and ambiguous.

National apologies serve as official acknowledgments of collective responsibility for historical injustices delivered by states to other states or communities. An apology is usually delivered by individuals representing the state, but having a distinctly political character is perceived to be indicative of the opinion of the collective – usually, the nation. This paper will not consider the nation as a specific form of a collective, because apologies can also be delivered to victim communities that do not constitute a nation or do not even have an institutional representation, such as the indigenous peoples or religious or ethnic communities. Moreover, the discussion on general collective responsibility is also applicable to the one of national responsibility, but limiting the discussion to nations exclusively would close its potential applicability to the debate about the responsibility of any collective.

Justice generally demands that the perpetrators are punished, and that victims are restored to the position they were in before the injustice occurred. Often this is done either by restoring a stolen property, or, when this is impossible, victims should receive compensation equal to the value of what was unjustly taken from them, possibly accompanied by compensation for the harm resulting from the wrong (Thompson, 2005: 2). This is considered to be sufficient enough to alienate the moral trauma incurred by the victim and satisfy his feelings of vengeance.

In situations where the initial perpetrators and the victims cannot be clearly identified because they simply no longer exist, it is not clear who should be held accountable for past injustices, what measures should be taken to correct the wrongs committed in the past or indeed if anything should be done about the past at all. Such conflicts and will be the focus of the paper.

There are many examples of political leaders expressing regret, remorse or apologising to the victims or their descendants for past wrongdoings. The Vatican remains the leader in the number of apologies issued by a political body, having delivered more than 300 apologies for the crimes perpetrated by the Catholic Church throughout years; Queen Elisabeth II has apologised for the wrongs done to Maoris in New Zealand; Tony Blair apologised for the lack of help during the potato famine in Ireland in 1840s and everyone still remembers German chancellor Willy Brandt falling on his knees before the monument of Warsaw Ghetto uprising of 1943, during his visit to Poland in 1970 thus acknowledging responsibility for the Holocaust. However, the examples of failures to deliver an apology for historic injustices also constitute a considerable number. The most notorious debates concerning a lack of apology involve Turkey repudiating the Armenian genocide in 1915, the failure by the Russian Federation to account for the crimes committed by the Stalin regime, the refusal by Japan to acknowledge official responsibility for the atrocities committed in China during the Second World War and the Peoples Republic of China not apologising for any of its atrocities committed in Tibet or against its minorities (Daniels, 2003: 8-10).

There are generally three approaches towards national apologies as a means of repairing historical injustice. Some dismiss them as empty symbolic politics or as standard means of winning favour without paying a real price for one's mistakes. Instead they prefer discussing monetary restitution as a practical, not symbolic means of accepting responsibility. Others perceive symbolic gestures such as apologies as an important element in acknowledging responsibility, but insist that they ought to be followed by material commitments. This paper will adhere to the third view represented in the academic literature, which perceives an apology as the central and most important element in rectifying past injustices, without which the attempts to renew the relationship between the parties involved, remains the focus of retributive means,

based on punishment and easing the feelings of vengeance. Rectification and reconciliation should be aimed towards establishing positive relations in the future, rather than settling the debts with the past. Therefore the notion of punishment is not a successful starting point in these cases. On the other hand, Girma Negash is right to assert that national apologies in diplomacy generally tend to stem from national self interest, lacking a dialogue on behalf of both sides thus stripping apologies out of their moral meaning (2006: 110).

While it is impossible to find one concept which would be applicable in all cases, the basic moral principles of responsibility should apply to all transgenerational searches for justice alike. Negash notes that in order for apologies to be taken seriously, diplomats and policy makers require certain criteria or standards to follow so as to “enhance their efficiency and benefit from a better understanding of the concept” (2006: 154). Unless more work is devoted to this research, the concept of national apologies will remain as contested as it is and will only acquire more scepticism around it.

This paper will attempt to establish the normative moral framework of reparative justice and provide a better understanding of how and under what conditions apologies ought to be used in international relations.

In order to understand the potential power and use of apologies in the area of international relations, it is first necessary to justify transgenerational responsibilities. One of the basic reasons for the scepticism about national apologies and reparative action in general is the objection that they misidentify the victims and the perpetrators. According to this view any action aimed at resolving the past results in the living paying the price instead of the dead and the living receiving an apology on behalf of the dead. However, to dismiss all past wrongdoings as unimportant, simply because the perpetrators or the victims are no longer alive, would seem counterintuitive because of the role historic debates play in contemporary politics.

Therefore Chapter 1 will distinguish if the descendants of the initial victims ought to receive any form of rectification at all, concluding that the victimisation, initiated by injustice done in the past is still ongoing as it inflicts a trauma on their identity. Chapter 2 will further examine if reparative justice misunderstands innocent descendants as guilty for injustices their forebears committed, arguing that transgenerational responsibility has been mistakenly

associated with guilt. Acknowledging responsibility is radically different than acknowledging guilt, and would significantly benefit the collective associated with the perpetrators. Chapter 3 will further establish the normative moral framework around thinking about reparative justice. While repudiating the consequentialist and deontological reasoning due to their material and obligatory nature, it will argue that virtue ethicists present a more valuable starting point for emotional accommodation between future generations – the character of the moral agent. The moral value of reparation lies in symbolic gestures and their promise towards the future. Finally, Chapter 4 will examine the potential power of national apologies to express this symbolism, arguing that, if used according to their moral standards and practically implicating not only the recognition of the past, but also affirmative action, national apologies are a crucial element for any efforts of repairing the past and have the power to signal genuine intentions thus giving way for further reconciliation.

Having presented the theoretical and historical framework of the question and exposed its main problematic, this paper will first analyse whether the descendants of the initial victims are owed any reparative action at all. Hence if their request for reparative action would not be grounded in justified argumentation, the debate about national apologies after the victims no longer exist would be unnecessary.

### **1. Misidentifying Victims?**

The main argument against the descendants being perceived as victims themselves is indicated by Janna Thompson as the “Exclusion principle”, which underlines that the demand of reparative, as well as retributive justice be that individuals are linked with the injustice in question in order to be entitled to anything (2001: 116). If this was not the case, any action concerning the rectification of the past would simply be transferral of the injustice towards innocent third parties – the descendants of the perpetrators unjustly “paying” the cost.

This is why there are generally two ways of satisfying the claims of the victims’ descendants’ to restitution in the academic literature linking them to the wrongdoing. One view is based on inheritance and claims that peoples’ special status as descendants of initial victims entitles them to possessions unjustly taken from their ancestors, which they would have inherited had the injustice not happened. Such an approach is clearly based on justifying claims of a

material nature and according to it, the descendants of victims of rape, torture, discrimination or maltreatment could claim nothing (Thompson, 2002: 108).

According to the other view, namely the justification of an ongoing harm, the victims are expected to prove that the injustice has violated their rights (usually – rights to inherit possessions by their ancestors) and made them worse off than they would be, had the injustice never happened (Thompson, 2002: 104). This approach does not get us very far, because the claims of the descendants of the victims would have to be weighed off against the claims of the descendants of the perpetrators, who currently own the property or object in question. Failing that, one could not prove that injustice would not be *transferred* by taking the property (or object) from their current owners, who might have come to possess it by rightful means.

The problem with both accounts is that they are focused on establishing the material claims of descendants. But moral and financial claims differ significantly, because it is possible that an injustice no longer has a physical effect on present generations, but still causes unjustified harm (Miller, 2007:156). When it comes to discussing material claims, Waldron suggests that historic injustice is superseded by time because of the number of possible individual choices that could have affected the outcome of property ownership (1992). He argues that people build their lives around what they have, not what they could have had, had it not been misappropriated from their ancestors. Thus claims for possessions evaporate with time, making it impossible to distinguish what would justly belong to whom.

To claim that all land should be returned to Native Americans seems wrong towards the people inhabiting it now, but to distinguish how much money should be compensated for the unjust misappropriation of their land is almost impossible. Adapting solely a materialistic approach undermines the extent of the historic injustice and objectives of any attempt of rectification.

Historical injustices do not only consist of material wrongdoings. These are wrongdoings which have theoretically ended, but their consequences continue to impact those alive today and the (memory of the) injury continues to demand attention years after the injustice (Barkan, 2000). To establish that material reparation no longer persists does not imply that no other form of restitution ought to be established.

Not all crimes are capable of impacting future generations. Wrongdoings targeting an individual can to a certain extent influence some people in the future, such as his friends or family, but this is not a wrongdoing of a collective scale which could potentially require correction of a collective scale. However crimes that are aimed at all members of a certain group as a unit sharing a particular characteristic cannot be simply forgotten (Löwenheim, 2009: 540). Such crimes disregard the individuality of the victims by targeting them because they belong to a certain group or share certain characteristics, such as ethnicity, race or nationality. They share this “endangered” characteristic with others in the past, present as well as future. Unless corrected, this injustice will affect the actions and decisions of people, who might not be even alive at the time of the conflict.

It would also make no sense for a collective acknowledgment of responsibility to be made after a crime committed by one individual in the past. This is firstly because an individual alone does not have the capacity to perpetrate injustice so grave that it could resonate in the future with strength sufficient enough to impact a collective; and secondly, since national apologies are perceived as a *collective* acknowledgement of responsibility, the actions of one individual do not necessarily portray the ideology of the overall collective, thus the previously mentioned link of liability is missing. The concept of a *lone genocidaire* is theoretically possible, but practically one individual cannot perpetrate crimes of such an extent by himself. It is feasible to assume that in case his actions would not fulfil the second criterion - enjoy the support of others, he would be eventually stalled and punished accordingly, before having climaxed in what could be considered genocide (ICTY 1999).

Cases when individual crimes are caused by a system or involve the intention or agreement of a considerable amount of people, are different. Such are collective actions, actively or passively implicating a large number of people in its perpetration or bringing the action about. This combined with the injustice against characteristics and identities discussed above has the capacity to have future implications by inflicting an unjust trauma to the descendants of the victims. This trauma is then absorbed by and integrated in the collective memory thus playing an instrumental role in shaping the collective identity for generations to come (Bell, 2006: 5).

An important characteristic of trauma is its retroactivity – the fact that it is not experienced before or during, only after a terrible event. It builds into people’s consciousness

and makes them frightened of similar experiences in the future (Edkins, 2006: 107). Trauma is therefore a peculiar phenomenon because it has to do with the past, but often a past so distant that it cannot be located within the span of the memory of an individual. This expands the scope of injustice as it is generally perceived, because it implies that people sharing the same characteristic to which the injustice was done, are unjustly implicated in the wrongdoing of the past. Thus they fear and distrust the perpetrator group due to a characteristic of their identity which is perceived to still be under threat, even if there is no visible evidence of it. It can be transmitted through society over generations through collective memory and historical narratives, influencing their memory of the past, perceptions of the present and hopes for the future. Hence, when the perpetrators commit a crime that disregards people's identity, the targets of the crime are no longer individuals, but collectives united by this characteristic, whether they have an institutionalised representation or not.

Because of the type of crime, distrust is what the victim group legitimately feels towards the perpetrator. With their identity being associated with a grave injustice, they may feel humiliated and want to revenge the wrongdoing. Donald Shiver points out that cherishing hope for revenge is how sufferers of atrocity cope with their memories (1995: 67). If in individual cases punishment serves as means to ease the feelings of victims' vengeance incurred by a wrongdoing, what can relieve these feelings when the perpetrator is dead and there is no one to justly target vengeance to?

A rather popular view resists the necessity to settle the historic account in general. It insists that since the past cannot be changed, both sides should simply forget the injustice and move on towards the future. It claims that what is in the past should remain in the past and groups should rise above the injustice which stand in the way of positive future relations. The injustices were not committed by present day individuals, thus it would be more useful for the descendants of the victims to triumph over the injustice and not let it stand in the way of current relations (Corlett, 2001).

While it might be best for everyone to forget past wrongdoings and move on, such an approach is not only impossible, but also unjust. Firstly, Tzvetan Todorov rightly notes that one cannot be made to forget, simply because forgetting is not an act of will – something people can

decide to do one day (2003). Thus there is no choice between the actions of remembering and forgetting. Rather the choice persists between and the discussion should be based around different ways of remembering.

The suggestion for everyone to *move on* also misinterprets the idea of what unites people living in a society. It presumes generations to be successive, resting on the idea that every new generation replaces the previous one. Daniel Butt points out that in most cases the recognition of past wrongs is based on this view, allowing for new generations to have no accountability for the actions of their ancestors. This interprets any claims that have to do with the past as establishing material claims for generations, which have nothing to do with the past injustices (2006: 3). However, Butt also concludes that such view is inconsistent, because in theory as well as in practice any society is overlapping with the previous generation rather than succeeding it. Every future generation includes individuals from the previous one and thus cannot be understood as replacing them. Rather this establishes a society that stretches throughout time. Such collectives in a way give individual actions immortality and purpose, and extend beyond the life-span of an individual. Therefore a community is a continuous society that influences the individuals' perceptions of themselves as well as of those of the past and future (Tamir-Yale, 1995: 430). This gives one a chance to understand his actions as eternal, valuable and worthwhile, allowing for the establishment of collective memory expanded in time. This memory is thus able to be passed on to others through narratives, outlining and shaping the identity of the collective.

Collectives are comprised of individuals. Individuals have the capacity to remember, make policies and pass memories forward. However, if they are to live together with common ethical and political values, they require a sense of past as well as a common hope for social justice and a better future (Litwack, 2008: 135). Thus, as individuals, we attain and expand our identity through identifying with larger groups such as family, friends, political or religious affiliations, etc. A part of our identity is comprised of belonging to these various collectives; a part of our past is comprised of the past of these collectives and our future is largely defined by the general objectives and interests of the future of these collectives. Alasdair MacIntyre argues that individuals approach their circumstances as bearers of particular social identities. So one is born with a past and to deny this would be to distort one's present relationships and undermine his identity (MacIntyre, 1981).

If a collective has suffered atrocities in the past, this action and the glorification of those who died on its behalf might be the one of the few possible characteristics uniting the collective identity. This is especially applicable in periods after civil wars and newly established independence, when the need for a legitimization of power and a defining of belonging is necessary, but the recent history of violence only offers this as a standard of unification. All beginnings entail an element of recollection (Connerton, 1989: 6). With time this traumatic memory can become a part of the culture and can be taught and passed on from one generation to another (Fierke, 2006). Therefore, instead of being a communities' past, it becomes a continuing story of today, leading to shaping the general ideology of the public and shaping the ideas of the contemporary political thought.

This, in turn, allows an individual to associate himself with people he has never met and actions he has never experienced. It allows him to imaginatively live through the experience of others, prospering when the collective prospers and suffering, when it is in perich (Tamir-Yale, 1995: 433). Imagination plays a big role in the construction of a collective identity. Since a collective identity transcends through time, it is possible for a member of this community to also be traumatised by something that happened to other members of his collective in the past. Abdel-Nour refers to voluntary fantasy as the bond between one's association with the past as well as the future (2003: 713). Through fantasy and imagination memories are able to travel through time, allowing one to identify with the experiences of others. This is true for positive association as well as for traumatic experiences, which get absorbed in the collective memory. These traumatic experiences cannot be forgotten because of the role they play in the shaping of collective identity (Tamir-Yale, 1995: 439).

Thus with their identity being associated with a grave wrongdoing, it is the present day community which still suffers from the injustice. Thus the true misunderstanding does not lie in misidentifying the victim, who deserves rectification. Instead what is misidentified is the injustice, which is not an act of the past, but rather constitutes a continuous wrongdoing. It is made continuous by having left emotional issues unresolved, forcing the victim collective to incur a trauma and possibly transfer it to become one of the distinguishing characteristics of their identity. Priscilla Hayner compares unresolved conflicts from the past with wounds that have not been closed properly. Even if they seem to have healed, they will always cause danger of

infection (2006: x). In order for these wounds to heal, they need to be opened, cleaned, and closed properly. This analogy can be compared to the threefold process of resolving emotional issues – (1) remembrance opens the wounds; (2) regret and promise towards the future disinfects it; and (3) only time and constant affirmation of the good will can heal the wound completely.

Thus what is crucial for the conflict to be resolved emotionally and the relationship between the actors renewed is the phase of reconciliation that follows after the legal aspects have been solved. This phase is aimed at the restoration of relations between the parties involved. Reconciliation is therefore a process of mutual moral accommodation and societal healing which involves making the views of the parties on the past compatible with each other. And it is a lengthy process because it requires people who were once bent on hating each other, to enter in a new relationship of positive accommodation (Shiver, 1995: 74). Metaphorically it can be compared to the process of writing a *common* history – acknowledging the wrongdoings, collectively remembering and negotiating of the truth in order to be able to move on from an unjust past and cure the society as well as the relations between the actors. Only a dialogue can contribute to an objective history both sides can be content with. Victims and perpetrators presenting different interpretations of history can result in not only perpetrators undermining the extent of the injustice or denouncing it, but also victims over exaggerating the scope of the wrongdoing, or the scope of the negative influence of the trauma on the collective identity for that matter. Thus, a dialogue is crucial for reconciliation

Therefore the objective of reconciliation is clearly forward oriented and attempts to establish or build relationships free from distrust, lies and fear. However, because of the nature of historical injustice, the method to achieve it is backward-looking, because trust cannot be renewed without acknowledging and negotiating the truth about what happened in the past.

Having established that the descendants of the initial victims suffer from a trauma, implicated in their collective identity, due to historical wrongdoings committed against a characteristic shared by their ancestors as well as themselves, it is clear that the injustice is a continuous one, even if it is due to an event of the past. It implicates present day individuals in the historical wrongdoing due to emotional issues having left unsolved, causing them to not trust the perpetrators, thus standing in way for positive relations. The aim of corrective action should

thus be forward looking, aimed at establishing a dialogue between the parties to be able to facilitate reconciliation. However, having the victim party identified, it also needs to be clarified, who should take responsibility for the historical injustice and take part in this dialogue together with the victims.

## **2. Misidentifying Perpetrators?**

With the initial perpetrators no longer alive, it is not clear why their descendants, who did not commit the injustice themselves, ought to be held accountable for the past. The central objection to reparative action on behalf of the descendants of the perpetrators is that it presupposes guilt as collective and intergenerational. Any liberal thought that associates responsibility to individuals only, is likely to resist the idea of collective or intergenerational accountability, adhering to the principle that the crimes of the fathers are not the crimes of the sons. On the other side of the continuum is the existentialist argument, which involves a strong belief in the binding forces of a society, as examined previously and perceives a membership in a group that causes great harm, as implicating all members of the group, even those who did not bring it about (May, 1992: 146). This attaches guilt solely by the virtue of belonging to a collective. The problem with identifying who is *guilty* is that guilt is inherently related to punishment and in order for punishment to be applicable, a connection of liability must exist between the agent and the crime. Thus it is necessary to first examine the presence of guilt in reparative justice.

It is true that due to the injustice, individuals in the traumatised collective might cherish feelings of revenge regardless of whether the perpetrators are alive or not. But tackling intergenerational justice from an objective of vengeance and punishment has to do with retributive instead of reparative justice.

Retributive justice considers punishment, inflicted as a result of vengeance as the morally appropriate response to a crime. Punishing the perpetrators can be beneficial because it can serve as an incentive for the victim to satisfy his feelings of revenge, but this is only appropriate in domestic and individual cases, when the victim receives some contentment knowing that the guilty have been punished (Minow, 1998). When those *guilty* of perpetrating the initial injustice

are dead, there is still a feeling of a wrongdoing to be rightened, any attempt to understand rectification of the past as punishment would again transfer the injustice to substitute parties that are not directly guilty of the crime (Nussbaum, 1993: 89). However, no individual can be guilty for what one did not commit. There are other ways of being involved in a wrongdoing aside from being guilty. One can be morally accountable without being guilty. Blameworthiness, knowledge of the crime or marginal participation through abstention from any preventative action, even shame, remorse or regret can call about moral responsibility, while not having to do with guilt. Solely equating it with blame or guilt, makes us perceive moral accountability as not much different from legal liability (May, 1992: 34).

The same applies to the discussion of intergenerational responsibility. It would be much more appropriate (but still questionable) to draw a line of argument, in which the past generations would be held accountable for the actions of the present as in a way having created the moral background that brought these actions about. However, to assert that the future generations are *guilty or blameworthy* for wrongs committed in the past simply by the virtue of belonging to the collective, is against any liberal principle of justice. In order for an individual to be *guilty* for an action in the past, he must be in some way linked to the wrongdoing and when it comes to the descendants of the perpetrators, there is no morally appropriate way of asserting this.

The most common means of linking the descendants of perpetrators with past wrongdoings in order to justify reparations has been to detect if they are still benefitting from the injustice. This is usually done from a materialistic point of view, arguing, for example, that the descendants of the slave holders still benefit from the privileges and financial advantages granted to them by slave trade and should thus do something to repair this unjust inequality (Miller, 2007: 151). Usually such discussions result in a recommendation for material compensation, which seems to have become quite a universal approach to resolve issues from the past and the moral economy of restitution, as Barkan calls it, is “growing as a legal remedy in capitalist ideologies” (2000: 317, 318).

The problem is that attempts to repair historical injustices, which result in material restitution or compensation, tend to be understood by both groups as punishment. According to this, the descendants of the perpetrators owe compensation or restitution not because of a moral requirement of repairing the injustice of disrespecting people because of a particular

characteristic of their identities, but rather because they are *guilty* of possessing something that has been unjustly appropriated. Such a justification is first of all inherently conditional, with the result that the amount of money claimed often depends on the financial situation of the perpetrator group. Secondly, because it is perceived as punishment, the perpetrators tend to assume forgiveness from the victim group and suppose that with having received their punishment, the injustice stands corrected (Branscombe, Doosje, 2004: 106, 107). In addition to the conditionality mentioned above, monetary claims, as previously argued, can be superseded by time, thus becoming more difficult to establish that the descendants of the perpetrators are *guilty* of benefitting from the effects of the injustice. According to such approach, if the claim of benefit could not be established, no additional reparatory action would be required and the claims of the victims would suppose to have been superseded by time.

This understanding, that reparative justice is inherently associated with compensation or other financial means has created a discourse in thinking about reparative justice. This discourse lies in the assumption that material means exclusively can repair historical wrongs and is even expressed in the contemporary meaning of reparative justice itself.

The word “*reparation*” originates from the Latin term *reparare*, meaning “restore, make ready again, put right”. This is what reparative justice initially attempts to do with past injustice – it attempts to *put right* the wrongs which have been committed. However, it is defined by the Oxford Dictionary as “the action of making amends for a wrong one has done, *by providing payment or other assistance* to those who have been wronged”. This explicitly implies the material understanding of the term, creating the discourse in the contemporary perception of repairing the past. The aim for reparative justice is to give individuals freedom from a past which is traumatic, unjust, and haunts them, not to give back everything that has been unjustly misappropriated. Material means can be, but they not necessarily are, a requirement of reparative justice.

Retribution and guilt does not translate well through generations so to consider any reparative action as punishment inflicted to future generations as a result of vengeance is simply transferring the injustice, making future generations unjustly pay the price for the past. This is because punishment and vengeance are backward-looking, whereas the objective of reparative

justice and reconciliation is aimed towards the future of re-establishing relations not tainted by past misconducts.

Guilt in its habitual sense cannot be intergenerational. Thus reparative action is not an expression of collective guilt, but acknowledgement of moral accountability. However, we still need to establish some sort of link of responsibility in order to justly claim that future generations are morally accountable for a historic wrongdoing.

Collective responsibility seems much easier of a concept to comply with than collective guilt. It imposes responsibility solely from the virtue of belonging to a collective, which requires a significant degree of holism attached to the collective, but does not seem impossible as such (Litwack, 2008: 134,135). In a democratic society this is a well known notion because there is a shared moral accountability for the collective decisions taken by the representatives of the group. By having the possibility to freely express disagreement and oppose to collective decisions, a collective as such also becomes liable of what is done in its name in the political realm. By allowing participation as well as opposition, individuals are understood to become a part of the decision making, thus also sharing a part of the responsibility.

If responsibility can be collective, it further needs to be established if collective responsibility can also be intergenerational, and can burden present generations with obligations of justice. It is much more difficult to hold an entire collective accountable for the actions committed on behalf of the previous governments, brought about not by them, but their ancestors (Miller, 2007: 146).

States are undoubtedly intergenerational actors, since they extend beyond the life span of an individual. They are also intergenerational actors because they make treaties that bind the future generations. Thompson argues that the fact that we collectively make decisions, which bind our descendants in the future also obliges to keep agreements made by our predecessors (2002: 4-37). Similarly, the fact that our predecessors have failed to comply with what Thompson calls mutual respect between nations through committing an injustice to other nations, it also gives an obligation to future generations to make reparations to the victims or their descendants (2002). Such an account sets grounds for obligation due to citizenship.

The intergenerational character of the state is the basic condition which makes any international interaction possible in the first place. It also involves trust between the state actors

while making treaties to believe the other party will feel obliged to keep the promise, and trust in the future generations to do the same. A state is thus an easily distinguishable bearer of inheritance because the actor stays the same while the individuals constituting the collective change. However, looking at the claims of inheritance is inappropriate in the case of reparative justice, the objective of which is forward rather than backward looking.

David Miller points out that taking state as the source of historical obligations of justice is not entirely appropriate also because much of historical injustice is perpetrated by individuals, not states (2007: 141). Instead of a backward-looking account of distinguishing claims of obligations to fulfil treaties made by our predecessors, he suggests that the present day collective should decide themselves whether they want to honour the treaties made by their ancestors or not (2007: 144). Thus any inherited treaty of historical obligation is no longer a simple inheritance of moral responsibility for the past, but rather re-acknowledgment or condemnation of treaties made by previous generations. Such an account places the source of collective responsibility not in the past, but in the present, thus expressing the moral standpoint of the current collective.

Reparative justice is refuted by some as inconsistent because it projects contemporary values and perceptions of justice on different eras and wrongdoings, while they were not governed by these standards (Cunningham, 1999: 288). However this disregards the fact that it is exactly what a forward looking account of reconciliation demands of us. We cannot correct the past *on behalf of* our ancestors. They were the ones who committed historic injustices in the first place. All we can do is try to correct the implications of the injustice they committed, while drawing a line between the injustice and the present and exposing the change in the public opinion by affirming that the collective as it is in the present condemns such type of action as unjust (Miller, 2007: 158). Being bind with our communities throughout past, present and future, we are not expected to honour all agreements they have made, and the obligations of which stretch into the future. We are required to affirm or disapprove of these commitments thus also portraying a thinking of our own. This is not only true for the discussion of repairing historical wrongdoings, but it is what makes collective action legitimate in the first place. Revolutions serve as one of the expressions of this collective re-interpretation of past norms. They do not appear out of nowhere, they are brought about by a collective reinterpreting the existing norms and portraying their disagreement with them.

Thus a collective is also an intergenerational body, but this does not demand that it stays the same throughout time giving preference to the same moral standards. Through such tools individuals can also bring about truth telling and invite debates about reparative justice, legitimising them from a bottom-up approach, as was done in Belgium regarding the country's role in the Rwandan genocide. Democratic institutions and collective political responsibility allowed for a public debate to take place, which led to a parliamentary investigative commission and eventually resulted in an endorsement to apologise to Rwanda (Negash, 2006: 140). Passing judgement on past practices is the constitutive act of a new valuable order (Connerton, 1989: 7).

Having the image of grave injustice inherently associated with the external perception of their group, collectives need to re-define themselves. Knowing a collective as one that breaks treaties, for example, other collectives will be hesitant to come into any relationship of signing treaties with this collective, knowing they support the practice of breaking them. Thus there exists an obligation to prove that they take commitments seriously. This is however only possible after a collective has come to realise the perception and often this is years after the injustice has happened.

This establishes that the collective responsibility in the case of reparative justice is not intergenerational at all – the past ought to be repaired for the sake of one's own collective. Having come to the point of acknowledging that the external perception of the collective differs from what it actually believes, this collective can be understood to be unjustly harmed as well, because of their image being associated with something which does not correspond to the truth. What can prove this change is the acknowledgment of the fact that the history of the collective of the community has consisted of violations of respect, and while identifying with the community as it was when the injustice happened, the current generation is distancing from the injustice by showcasing that they do not support such practices any longer (Miller, 2007: 159). Such acknowledgment, in turn, benefits the victim community by portraying that a phase of reconciliation can be possible while also benefiting the perpetrator community by gradually changing the external perception of the collective to one, which corresponds to the reality. Corlett argues that a society that has not addressed its past injustices, yet continues to operate on a normal day to day level, is in fact *unjust* (Corlett, 2001). A nation, says David Miller, becomes

what it is through the decisions that it takes, giving it the potential to portray change and improvement in the collective perception of morality as well as the past (1995: 24). Thus the perpetrators ought to contribute to reparative action not only as an obligation towards the victim collective, but also as an obligation towards its contemporary setting as it is. This also serves as an affirmation of development in moral behaviour of the perpetrator group, because by acknowledging responsibility for their own collective's unjust past, they are portraying themselves as an intergenerational actor, which can thus be taken seriously as well as condemning the crime itself, meaning that they acknowledge such actions to be unjust.

### **3. The Moral Framework of Reparative Justice**

Chapter 1 established that an act of wrongdoing, particularly one of historical injustice, is not relegated to the past, but instead continues into the present. The injustice may have consisted in a material violation, but because of the nature of the trauma transformed into present, the appropriate response to historical wrongdoings has to be focused around therapeutic lines, and need to provide psychological healing for the victims (Weiner, 2005: 6). The reason for this trauma is emotional issues left unresolved after the practical end of conflict, thus any attempt to rectify the past should be aimed at reconciling these societies. Chapter 2 portrayed that acknowledging responsibility for historical wrongdoings does not imply that the collective is acknowledging guilt. Intergenerational responsibility has nothing to do with guilt, because guilt cannot be transferred or inherited for that matter. To the contrary – reparative action would be beneficial to the perpetrator community itself, because the existing situation in part victimises them as well. The historic injustice has resulted in the external perception of the collective being inherently associated with an injustice. In case this would not correspond to the reality, reparative action ought to follow because it can satisfy the mutual needs not only for the victims but also the perpetrators (Negash, 2006: 9).

This chapter will analyse the moral framework of reparative action, arguing that the consequentialist and deontological approaches do not fully accommodate the forward-looking objectives of reparative action. Instead the view of virtue ethics should be adopted and reparative action should be understood as portraying the moral character of the agent.

### **3.1. The deficiency of Consequentialism**

One possibility is to support the consequentialist view which suggests that consequences should form the basis for moral judgement. According to this view, the morally right action would be one, which produces the best consequences for all. The problem with adapting such an approach in the cases of reparative justice is that moral consequences are not precisely predictable, take time to emerge and there is no way of measuring if a society has healed (Negash, 2006: 144).

Material wellbeing, however, can be perceived as an immediate result, thus theorists tend to adopt monetary restitution as a starting point for any possible action to repair past wrongs. This in turn can lead to absurd argumentation which completely disregards any moral claims or objectives, arguing, for example, that paying reparations to all would decrease overall social utility, thus should not be done (Corlett, 2001). Such claims disregard the moral status of the victims, the objective for the descendants of the perpetrators as well as the purpose of reparative action in general.

Solely associating the wrongdoing with questions of restitution (giving back the object in question) and compensation (for the loss or damage done) is misunderstanding the nature of the crime (McDermott, 2001: 414). The wrongdoing originated from the perpetrator's deliberate refusal to recognize the rights of another group, which resulted in extensive psychological harm, even if the initial wrongdoing was of a material kind. Boxill argues that injustice occurs, when someone makes it impossible for others to pursue a legitimate goal, even if they never attempted to achieve the goal in the first place (1972: 116). Thus, all wrongs incur the perpetrator with a moral, not a material debt and give the attempt to rectify past injustice a moral rather than material character.

Historical wrongs, which have disrespected victims because of certain characteristics of their identities, result in an unjust action and create distrust between the victim and the perpetrator communities. Because this characteristic is still possessed by the survivors as well as their descendants, the threat against their identities is still existent. Due to the emotional issues still unresolved, what is necessary is the restoration of the victims' dignity. The deed cannot be undone, but the victims can be made believe that the same injustice will not be perpetrated once

more against them, their children or other members of their community. This requires correction of the injustice by establishing new, forward-looking relations of respect between the actors.

The core issue of the wrongdoing was the perpetrator failing to treat the victim as a right-holder. While both - money and being treated as a right-holder are valuable, they are each valuable in a different way. Because the aim of reparative action should be forward looking and aimed at establishing relations of respect, unilaterally transferring money to the victim does nothing to acknowledge him as a right holder. While compensating the victims or their descendants for the harm they suffered or for the trauma they incurred on their identities can restore the inequalities between the actors, it can also simply be understood as an admission of the perpetrator that he has benefitted from this injustice and nothing more. Part of what is involved in rectifying injustice is an acknowledgment on the part of the transgressor that what he is doing is required of him because of his prior error (Boxill, 1972: 118). Without the acknowledgement of his error, the injurer implies that the injured has been treated in a manner that benefits him hence it cannot feel that the injured party is equal. In such cases, even if the wronged party is compensated for the damage it suffered, justice does not yet obtain between himself and his victim.

### **3.2. The Deontological approach**

Opposing to the consequentialist view is the deontological vision, which disregards consequences as an element of judgement, deriving right or wrong from the character of the action alone. Deontologists would argue that reparative action is a good in itself, thus collectives ought to always repair past wrongdoings.

While such an approach does sound more appealing, it disregards the fact that historical injustices may come to only be realised years after they have been committed. Thus to argue that a reparative action should be adopted because it is good by itself would disregard the fact that it is possible for communities to not be aware of the existence of an injustice. Abdel-Nour argues that it is inconsistent for someone to take pride in the victorious moments of collective's history while not acknowledging the bad state of affairs these victories have brought (Abdel-Nour, 2003: 702). This highlights that an event, which has served as a source for collective pride is possible to have come about due to an injustice, which does not come to be realised until generations after.

Here examples are not difficult to find. Imperialism used to serve as a source of economic development and military dominance and was perceived as a cause of prosperity. Now, generations later, it is understood to have been made possible by unjust colonial and territorial practices, which are now condemned. The victory in the Second World War was a source of pride for the Americans, legitimizing them to conduct trials on Germany and Japan. The reason for the Japanese surrender and consequently the end of the war was the atomic bombs exploding in Hiroshima and Nagasaki. Every year on August 6, Japanese city Hiroshima commemorates the anniversary of the atomic bomb attack. In 2010, for the first time in 65 years, a representative of the United States attended the remembrance event. Even though an apology for the event on behalf of the United States has not occurred, this attendance on behalf of the American ambassador in Japan has been translated as the support on their behalf of a world without nuclear weapons. Thus, while Abdel-Nour only attaches this responsibility of acknowledging wrongs which are a source of collective pride, the same can be applied to wrongs which are not reasons for pride but nevertheless consist a part of the collective history.

Clearly, one cannot have a duty to repair something he does not know is in need for repairing. This is especially so if one believes this something is right. Limiting the discussion to only the objects of national pride, Abdel-Nour argues that the discovery of the injustice itself can motivate people to take responsibility and result in reparative action (2003: 711). The discovery makes an individual question his identity and translates in a failure of his to live up to the image of himself, or a failure of the collective to live up to what it has been associated with (2003: 712). This can invite reparative action due to its character of being the right thing to do.

While there is nothing wrong at all about doing the right thing, Michael Stocker questioned the completeness of the *idea to do the right thing* through the example of a friend Smith visiting you in a hospital recovering from a long illness. During his visit he is being friendly and supportive, cheering you up, which only makes you appreciate how good of a friend he is. While honestly praising and thanking him for his visit and friendship, he keeps insisting that he is only visiting you because of a duty. Instead of having been motivated by your friendship or the wish to support you, he keeps insisting that he is only there because he thought it was the right thing to do, because he felt obliged to do it or obliged to cheer you up (Stocker, 1976: 462).

In this context, his visit loses all meaning to you. Stocker insists that in these circumstances, even if visiting you was the right thing for Smith to do, his action lacked something in the moral worth or value, thus undermining the consequences and benefits (Stocker, 1976: 462). The problem is the motivation. Acting out a duty is not the same as acting motivated by completely benevolent and altruistic reasoning (Rachels, 2007: 185). Smith's action thus proves not that he is a good and loyal friend or that he honestly cares about you, but rather that he is a person, who does what he thinks he ought to do.

This difference in motivation is especially important when it comes to historical wrongdoings. Chapter 2 argues that the objective for any reparative action for past wrongdoings should be forward looking, aimed at establishing or re-establishing relations of trust between the victims and perpetrators. A sole fulfilment of one's duties cannot achieve this. If one did what one ought to have done, there would be no injustice left to repair in the first place. Reparative actions do have a practical meaning, but they are also gestures, which hold their worth out of the virtue of not being duties. Actions such as giving someone flowers or opening a door for someone are not duties, but voluntary gestures. It might seem absurd to talk about such comparisons while discussing historical wrongdoings, but the point to be made here is that what gives these gestures worth is the assumption that the actor is doing it out of his free will. Giving someone flowers might be translated as an expression of affection and holding the door open for someone can be interpreted as a sign of politeness. Whereas if one always ought to give others flowers or ought to always hold the door open for someone else, these gestures would not imply any meaning at all – they would be ordinary actions that one does, because they are the right things to do. Subscribing to supporting such deontological reasoning would thus be subscribing to a world with a lot of rules but little morality.

From this perspective, both – the consequentialist and the deontological approaches are inapplicable. Stocker notes that what is lacking in these theories is “the person” – an ordinary human being, a moral, responsible actor who is capable of making choices as well as mistakes (Stocker, 1976: 59-60). Elazar Barkan points out that restitution by itself is not moral (Barkan, 2000: 322). A world made of duties and responsibilities would be lacking symbolism and assumption, which is vital to the discussion about traumas, remembrance and forgiveness.

What made Willy Brandt falling on his knees such a powerful gesture is the symbolism it involved. He was by no means bound by a duty to do it. It was an unexpected act, which made it more than a simple action – it became a gesture, a symbol of humbleness and humility. It was not done, because of the possible consequences it would produce, or because a knee-fall would be the right thing to do. In retrospect the act was successful in its consequences and it might have been the right thing to do, but it is not possible to distinguish either in advance, for it to possibly guide one to the morally correct action.

As Rachels points out, in thinking about any subject, it matters greatly what we adopt as the starting point (2007: 173). The problem is that consequences differ on a case to case basis, and the amount of time necessary for the emotional issues to be resolved cannot be normatively distinguished. Reparative action only initiates the process of reconciliation and forgiving. Nor can one argue that reparative action is a good in itself, because it is possible for collectives to overcome historical injustices by themselves, in which case any reparation will be counterproductive and only open up wounds which have already been closed. Adopting approaches focused around duties or consequences causes the danger of theorising about all historical injustice under the same criteria, which does not help us understand the moral worth of any reparative action.

### **3.3. The Alternative view of Virtue Ethics**

An alternative to consequentialist and deontological approaches is offered by virtue ethics. It suggests a return to Aristotle's approach of focusing not on the consequences or rules, but rather the character of the moral agent striving to be virtuous as the determinant of the morally right actions.

In Homer's opinion, a man becomes his actions, thus to judge a man is to judge his actions and *vice versa* (MacIntyre, 1981: 115). If one does what one believes he ought to do, the judgement of his actions is also inevitably a judgement of his moral character. To assess certain actions as portraying or failing to portray virtues is also the first step towards explaining why those actions rather than some others were performed (MacIntyre, 1981: 186).

In order to fully comprehend this theory, one must understand what virtues he needs to act in conformity with. Aristotle discussed virtues such as courage, self-control, generosity and truthfulness, but this list can be extended while still remaining incomplete (Rachels, 2007: 173-

191). Alasdair MacIntyre being one of the contemporary virtue theorists notes that “there is no single, central, core conception of the virtues which might make a claim for universal allegiance” (1981: 173). This is because virtues are positioned in time and place. What is virtuous today was not virtuous in Ancient Greece and what is virtuous in Tibet, might not be virtuous in Denmark. However, one needs to keep in mind that MacIntyre attempted to portray the inconsistencies of contemporary morality, which he thought to be nearly bankrupt, with the objective to gradually transform it. While virtue theory is greatly contested and may come across as inapplicable in the liberal capitalistic society, what is important for this discussion is the idea that one’s character (not a duty or the consequences) serves as a determinant of his actions, making it a central moral concern. Whether they understand it or not, says MacIntyre, people are using morality to choose their preferences. Adapting this as a starting point can be applicable regardless of the individual of society which is being examined.

An individual is not born virtuous; he acquires virtues in his lifetime. One can also not obtain or exercise the virtues only as an individual – what makes one acquire virtues is interaction with others; by being in a society which values certain practices and passes these values on to the individual sphere. Thus virtue theory seems to be able to also explain the values of not only private, but also public life (Rachels, 2007: 172).

When a collective acts, this action is partly based on how it perceives a good collective ought to act (MacIntyre, 1981: 206). This fosters certain types of social practices and educates its members on virtues – attempts to make them virtuous, analogous to a parent’s responsibility towards a child (1981: 182). Different collectives value different virtues and these are in a way expressed by their action as a collective. Collective, which subscribes to practices such as discrimination could not also value equality for all, and one, which values equality for all could not subscribe to practices of discrimination. Thus, not only on the individual, but also on the collective level, action is in a way an expression of beliefs and character and *vice versa*. MacIntyre argues that the history of societies, which are histories of virtues and vices, also allows us to understand the perceptions of individual agents. Thus the concept itself is partially an outcome of history (MacIntyre, 1981: 174-192). According to this, judging historical wrongdoings is also judging the character of the moral agent at the particular time of the

injustice. Consequently, drawing conclusions about the attitudes of this moral agent later in time has the potential to evaluate the change in its virtuousness.

While telling the truth can be a virtue, acknowledging an unjust past can also exhibit virtuousness because it requires of us that we subscribe to the practices of justice, honesty and courage. After having acknowledged historical wrongdoings on behalf of the collective which contributes to shaping our identity, it would be inconsistent of us to not do anything about it. Acknowledging that not only it was unjust but also that our identity is in a way based on a lie, is exposing our identity to vulnerability.

MacIntyre defines virtues as “*an acquired human quality the possession and exercise of which tends to enable us to achieve those goods which are internal to the practices and the lack of which effectively prevents us from achieving any such goods*” (1981: 178). By using the example of teaching a child to play chess, he distinguishes between internal and external goods of practices. He argues that the internal goods that allow the child to gain virtue over time are about the child wanting to play chess for the sake of playing and not any reward. Internal goods, such as plying for the sake of the good game, instead of a price or monetary reward to the winner (which are external goods) benefit the whole community that participate in the practice, like a good game of chess benefits both – the winner and the loser (MacIntyre, 1981: 190-191). Thus people can practice something for a long time without ever getting to the level of internal goods-virtues, simply because they have been practicing it for the wrong reasons.

He argues that virtue is and has to be its own end and its own motive, without underlying implications (1981: 217). One needs to strive to be virtuous, rather than strive to achieve a certain consequence by being virtuous. Accordingly, if one does the right thing because he ought to, this is not a reflection of his moral virtuousness.

The same is true for reparative action. The motive, which is lacking in the example of Smith’s visit in the hospital, is crucial when it comes to reparation. In the absence of sincerity, any action can contribute to justice, but lacks the power to improve the emotional distrust between the agents. Because of the trauma inflicted upon the victim party, what is needed for reconciliation is more than what justice requires in its domestic sense; more than simply returning the property of compensating for the wrong done.

What is this *more* required of us, can best be explained through virtue theory. According to it, the actions of an agent can be perceived as the expression of his character. Thus, if subscribing to unjust practices expresses his lack of virtuous character, it is also possible that some other action, for example, donating to charity, can portray the agent's good intentions and virtuous character.

The past cannot be undone and the future is uncertain and unpredictable (Arendt, 1974: 237). Because of past injustice, the victims can feel that their identity is endangered, causing constant fear to intervene in their decisions and actions. This injustice, says Arendt, hangs like Damocles' sword over every generation (ibid., 237). Thus what is needed is reparative action, which sheds a light of certainty and safety over the future.

This cannot be done by action based on consequentialist or deontologist reasoning, because it not necessarily reveals a forward oriented moral character. Backward looking accounts only attempt to set the past records straight. They do not necessarily hold any promise for the future. Instead a forward looking approach has to be adopted through which the victim becomes aware that the character of the perpetrator has experienced a change and has become one which condemns discriminatory practices. The value here lies in the difference portrayed in the perpetrators' perceptions. If an agent, who has constantly subscribed to practices such as taking care of the poor and elderly, one day volunteered for a job in a retirement home, it would cause no surprise, because it would, in a way, be expected of him. However if a hunter and a convinced meat-eater stopped hunting and turned vegetarian one day, the unexpected change of values reflected through his actions would serve as exposing a change in his character, thus gaining more value than in the case of the man volunteering for a job in a retirement home. Such actions reflect a result of a change in the agent's thinking, thus becoming *more* than simply an action. Supposedly motivated by sincere values the actions turns into gestures and acquire meaning, symbolism and value. But when it comes to historical injustices, what action can possibly demonstrate this change in the values of an agent's past and present perception to be able to acquire the value of a gesture?

If the original wrongdoing consisted of a material misappropriation of land or property, with the victims still alive, returning the property or compensating its value seems only logical. It can be argued that these measures can be appropriate even after the initial victims are no longer

in the picture and instead, justice is done to their descendants. The problem with this approach arises due to crimes, which have no material value to compensate. These originate from killing, misplacement, discrimination and such – crimes to which material restitution does not directly apply. The paper does not argue that material means should not be adopted in order to repair an injustice. It wishes to demonstrate that even when talking about compensable wrongs, simply adopting the monetary approach is not sufficient. Similar to the example of Smith's visit in the hospital monetary recompense can be the right thing to do, but lacks the motivation, which is vital in order to express one's moral character.

It is not only required that we acknowledge the wrongdoing, but also that we truly believe that it was the wrong thing to do. It is necessary that we acknowledge that our treatment of others can be required of us (Boxill, 1972). Thus where an unjust injury has occurred, the injurer reaffirms his belief in the other's equality by acknowledging that repair can be demanded of him. If the wrongdoing consisted of me disrespecting you in front of your friends, and as an attempt of repairing this, I would pay you five hundred pounds. You might be content with the payment, thinking that the amount of money clearly portrays that I regret what I have done, and you decide to forgive me. In this case, money has served as an incentive for you to forgive me, possibly because you think it is disproportionately much, and had I instead given you fifty pounds, you might have thought otherwise. The problem is not that five hundred pounds would be too much or fifty pounds would be too little for the disrespect shown to you. It is that money is the wrong kind of payment for disrespect, because it does not necessarily reveal a moral character. Monetary means do not necessarily affirm that they are provided because of a prior error (Boxill, 1972: 119). Nor transferring material goods necessarily treat the other party as a right-holder (McDermott, 2001: 419). Thus it is necessary to turn to possible means other than simply money to restore relations of moral value between the parties involved.

#### **4. The Moral Value of National Apologies**

As argued in Chapter 1, national apologies are official acknowledgments of responsibility for historical injustices delivered by states to other states or communities. It is a collective statement, which signals the willingness of the party accountable for the injustices to restore relations with the victims and facilitate conflict resolution by providing remedies for a deeply

inflicted trauma (Negash, 2006: 3). Collective apologies have been used abruptly and on various occasions thus perplexing meaning of the concept. Sometimes national apologies prove extremely successful, at other times they are perceived as empty words that open the door to further material restitution. Thus, it is not clear what it symbolises or what exactly it means when a collective provides an apology. Some point out that in the field of international relations apologies are often guided by self-interest, and result in the perpetrator taking responsibility for the past without paying a “real price” (Cunningham 1999: 288).

This chapter will argue that national apologies have the potential to serve as the most efficient means of symbolic reparation and hold the power of reconciling societies. An apology is a symbolic gesture, signalling towards the changes in the mode of thought of the perpetrator community. It can only be genuine as an expression of collective virtues, acknowledging responsibility for the historical wrongdoing, while drawing a line between the past injustice and present. It holds its value by expressing an end to a threat which victimises present generations and being forward oriented by promising that the community in question does not support such type of practices any more.

National apologies are understood to acknowledge responsibility on behalf of the collective, but no national apology can genuinely be an apology by all its members. Collectives have a distinct intergenerational existence, which is made possible by the idea of a collective agency – a collective represented by individuals who speak on behalf of all, sign treaties on behalf of all and wage wars on behalf of all. Moreover, there are such actions, which are only made possible by the existence of the possibility to act on behalf of others. An individual cannot wage a war by himself. However, in a position of authority where the responsibility enables him to make decisions on behalf of the collective, an individual can bring about war. As this individual has been ascribed the careful weighing of possible alternatives and has been granted the responsibility, he also bears the costs and the implications of these collective decisions, since responsibility cannot be attributed to the processes themselves (Edelman, 1985: 78).

The decisions made further implicate all members of the collective by the action of having delegated these individuals to represent the collective decisions. Under a democratic rule, people have a choice to either support or disapprove of the decisions brought about by collective

agencies. People are also allowed to legitimately act upon these decisions and they have a duty to prevent their representatives from committing injustices (Levy, 2000: 243). What is important is that the collective action executed, represents the mode of thought of the majority. Individuals, representing a collective, have the authority to exhibit the virtues of the collective through their actions. This is the case with both external action (such as war), as well as internal action (education policies, government reforms, etc.).

Thus, while an individual in an authoritative position can decide upon waging a war, he can also bring about truth telling, regret and initiate collective reconciliation with the past. But no collective effectively enough owns the actions of their representatives to be directly responsible for every collective action (Levy, 2000: 242). There will always be individuals who disagree with the internal or the external policies decided upon by their representatives. This is also true for the decision to issue a collective apology. Even apologies which are initiated by a bottom-up approach will still not fully represent the opinion of each individual constituting the collective.

The mechanism of the decision makers representing the opinion and the virtues of the collective also provides the possibility for individuals to initiate a process of reconciliation. The Australian attempt to acknowledge the wrongs done to the Aboriginal people is an example of this. What is particular with that case is that this attempt did not result in a collective apology, but Australian citizens signed “sorry books” apologising to them individually (Cunningham, 1999: 285). This action might have helped to reconcile the inhabitants of the state, however, when it comes to the international arena, it is not enough that every individual of the perpetrator community feels apologetic. What is necessary for the victims to know is that the perpetrator agency will refrain from admitting such type of actions in the future, by acknowledging them as wrongdoings. Thus, the act must be an institutional one (Thompson, 2005: 9). Apologies have to be understood as promises on behalf of the agency, not of individual members of the collective. The latter is not only impossible, but also not what is required to initiate a process of reconciliation between different collectives.

When analysing what he calls consummate apologies, Paul Davis concludes that a genuine apology has to consist of the following elements: (1) it has to entail a doxastic element,

which entails one's belief that he has transgressed; (2) affective element meaning that one knows exactly what was the morally inappropriate action and he knows now, what the morally right action would have been; and (3) it has to have a dispositional element, implying a promise that one would avoid doing such transgression in the future (Davis, 2002: 169-173). The doxastic and affective elements illustrate the character of reparative action discussed in Chapter 3 - that a consummate apology is an end, not a means of repairing historical wrongdoings. An apology can only be genuine if the transgressor has understood his mistake, and acknowledges his action to have been wrong. This alone, however, is not enough. Acknowledging a wrongdoing does not imply that one condemns such practices. What is necessary in addition to this is the third element, which positions the wrongdoing in time and expresses that one's moral character has changed from when the wrong was committed and it does not support that type of practices any more.

Without the final element of responsibility positioned in the future, one could apologise for everything, on behalf of everyone, leading collective apologies in a "trap" of infinity (Cunningham, 1999: 288). An apology for historical wrongs necessarily initiates further action, thus making the agents more cautious before issuing apologies.

To understand the functions of apologies, it is useful to return to the previously mentioned analogy of unjust traumas with wounds that have not healed properly. If remembrance and truth telling opens the wounds then national apologies fulfil the second step of reparative justice – to disinfect the wound through condemning discriminatory practices and making a future promise of never repeating such atrocities again. It is only then, in the phase of healing when reconciliation can begin. National apologies are an effective tool to encourage reconciliation, but what is further necessary on behalf of the perpetrator community throughout the process of healing, is constant re-affirmation of the truthfulness of their intentions.

The final element expressing the change in perception is what gives national apologies worth and value. It is a promise, which, if breached, diminishes any attempt of rectification and potentially further damages the relations between the agents. It also allows us to understand or assume why some agents have failed to acknowledge their responsibility for certain historical wrongdoings. For example, if an apology were to be issued by the USA for the nuclear bombing of Hiroshima and Nagasaki, it would also imply a promise to disapprove of such methods of war

in the future. While the USA publically encourages a world free of nuclear weapons, it seems not yet ready to make such a promise. According to the reasoning analysed in this paper, an apology ought to follow, only when it can imply such promise. If an apology is made and the promise is broken, it can re-victimise the injured party irreversibly and damage the relations between the parties involved to an even bigger extent.

The dispositional element of the consummate apology implies that it is not a separate act, but holds the value in what accompanies it and what it does to restore relations (Negash, 2006: 146). This can be achieved by affirmative action, for example, a variety of symbolic gestures, such as remembrance days, commemoration ceremonies, public truth telling or even monetary recompense. As long as the victims perceive these as symbolic affirmations of the apologiser's good intentions instead of perceiving them as punishment, they will fulfil the objective of reaffirming the truthful commitments of the perpetrators while speeding up the lengthy process of reconciliation.

As they are symbolic gestures, they serve as a *symbolic* way of self-punishment through finding out an unjust truth and finding a place for unjust acts in the history of the collective (Negash, 2006: 7). For this symbolic self-punishment to be possible, the perpetrators need to already have acknowledged the action as a wrongdoing and know they deserve the implications of the injustice. Thus the opinion that collective apologies could initiate truth-telling seems rather false, since it can only come about after initial efforts of truth-telling have taken place. Löwenheim notes that as long as the victim group is perceived as an enemy, an apology is unlikely to follow (2009: 542). An official apology is what signals the groups' internal agreement to come to terms with the unjust past and adopt further action, if necessary. This is valuable even if it in part stems from its willingness to reconstruct their collective identity, as the group's external perception does not correspond to its internal beliefs (Löwenheim, 2009: 544).

The value behind sincere reparative action is that it implies more than simple regret for the wrongdoing. One can feel regret for things he feels no accountability for. Instead it is a forward-looking request for forgiveness, which therefore becomes a dialogue and cannot be solved by unilaterally deciding upon the necessary actions. Affirmative action needs to be negotiated upon by both sides. This is the only way how to contribute to the objective of "writing

a common history”. Coming to this compromise on history, Barkan notes, aims at recognition of others through validating others’ narrative histories (2000: 323). This results in not only the perpetrators’ history participating in the process of truth telling, but also allowing the victims to share their part of the story.

Barkan recognises that it might be the case that the acknowledgement of the injustice itself constitutes the core of restitution by transforming the trauma of action into a process of mourning (Barkan, 2000: 323). However, simply expressing a national apology will not immediately change everyone’s perception of the perpetrator community as a morally responsible actor, nor will it immediately diminish distrust between the victim and the perpetrator groups. Desmond Tutu, the Nobel Peace Prize winner and a well known opponent to apartheid in South Africa said: “If you steal my pen and say “I’m sorry” without giving back the pen, your apology means nothing”. Apologies not accompanied by any further action certainly seem as the easy way out for the perpetrators. Thus it is crucial that apologies also imply that they will be accompanied by gestures of affirmative action.

It is clear that apologies by themselves are not sufficient to eliminate the distrust and create relations of positive mutual accommodation between the parties. This seems to award apologies with too much value, when it is actually the following steps of affirmative action, which provide it’s worth. There is a strong opinion stating that where affirmative action is in place, no apology is necessary. It insists that remembrance days, commemoration ceremonies or monetary recompense alone could potentially show the victims that the perpetrators have learnt from their mistake. A perpetrator community could initiate and perform these processes, to practically demonstrate that the character of their collective has experienced a change.

The problem with adopting a policy of affirmative action without issuing an apology is that it leaves the victims questioning the intentions behind this affirmative action. As argued previously, only actions motivated by sincere values turn from acts to gestures. The value of any affirmative action lies in its symbolic nature, but without an apology one cannot be convinced about its symbolism. One sided truth-telling does not allow for the victims to reveal their side of

the story. This can result in disparities between the historical narratives of each side, thus not contributing to the objective of writing a common history.

This is where the moral value of national apologies lies. They possess an extremely personal and moral character and have the power to serve as genuine expressions of the change in the mode of collective public opinion. One acquires virtues by exercising practices for their internal goods and for oneself. A virtuous action is what another virtuous person would do in the same situation. The practice is not the individual acts that the agent can do to compensate the victim, but rather the reparation of the consequences of historical injustices. This ought to be exercised not because of the consequences or duties but because of the practice itself. Reparative action has to be its own end. It involves contributing to the improvement of the moral society and in order for this to be possible, any reparative action has to be perceived as a symbolic gesture. In turn, it requires that the victims do not question the intentions of the perpetrators. And this can only be achieved by a blunt, heroic and virtuous speech act, such as apologising. It should not only regret a historical wrong, but also affirm responsibility, sincerity and that further action ought to be negotiated by both parties.

## **5. Conclusion**

In its essence the debate about rectification of historical injustices revolves around the choice between giving a preference to symbolic or material means of reparation. Symbolism plays a big role in the people's perceptions - individuals symbolically attach themselves to the past and they symbolically commemorate those who have died for the sake of their collective. Therefore the trend of attaching worth to only practical and financial means of rectification can contribute to justice but will not be sufficient to eliminate the emotional barriers between the victims and the perpetrators. What is crucial for any conflict to truly be resolved is the phase of reconciliation, which morally accommodates the victims and the perpetrators, establishing new relations of trust, not tainted by past misconducts.

Chapter 3 argued that reparative action should only be motivated by the wish to repair the implications of injustices, instead of being means of achieving a potentially favourable result. Consequently, reparative action should be perceived from the theoretical framework of virtue ethics, understood as expressing the agent's moral character and this character of the agent should be adopted as the starting point for further discussion. Chapter 4 argues that what is necessary to enter in the phase of reconciliation is *more* than what justice requires on the first glance. It requires symbolic gestures, such as national apologies, combined with practical means of affirmative action. The prior serves as a symbolical acknowledgment of responsibility and virtue, while the latter is necessary as approving of these good intentions. While national apologies alone cannot repair the past, they are crucial in signalling the perpetrators' willingness to begin mutual moral accommodation with the victims.

Returning to the analogy of historical injustices with wounds which have not been cured properly causing a danger of infection - while truth-telling opens the wounds, national apologies as thoroughly moral gestures initiate the process of healing. Monetary means alone cannot achieve this. This is followed by last and most important component – time, which can only approve or disapprove of the sincerity of the apology and the true virtuousness of the agent's moral character. It is only then, when the lengthy process of mutual accommodation can take place even if it takes generations for this wound to heal properly.

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