

Rights and Duties of Apology: Reprise

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1. Introduction

One of the key themes in my book *Apologies and Moral Repair*¹ is that justice has much to say about apologies. Individuals and institutions sometimes have rights and duties regarding apology. Some readers might be troubled with bringing juridical concepts to a set of varied social practices that engage moral emotions. Critics might wonder whether this approach risks proving too much. Perhaps, they would say, we would then have rights and duties regarding politeness, romance, and expressions of gratitude. I am untroubled by these possibilities, but I have a hunch that appeals to justice would not tell us everything about such domains.

I confess to no concern with rights and duties, though, when feeling and expressing gratitude for this symposium. I am grateful to the editors and contributors. I am honored to have such talented people giving their time and careful attention to some of the themes in my work. Thank you.² In the space available, I cannot do justice to the many arguments the contributors raise. I hope my comments continue the conversation they have each generously furthered.

2. Wringe on Collective Agents

In his contribution, Bill Wringe explores how we best analyze and understand collective responsibility and group apologies. Wringe seems sympathetic with my view that corporations can and sometimes ought to apologize, though he queries how and whether apologies can

¹ Andrew I. Cohen, *Apologies and Moral Repair: Rights, Duties, and Corrective Justice* (New York: Routledge, 2020).

² Might they have duties to tell me (and perhaps to feel), “You’re welcome”? Let’s bracket that question for now.

be attributed to group agents. I follow George Rainbolt³ in defending a sort of “noneliminative individualist” account, in which corporations only and always act through their members. On this view, even though statements about corporate rights, for instance, can be analyzed as “large and complex sets of individual rights,” there can still be corporate rights and some statements about such rights can be true.⁴ There need not be any independently existing superagent (or “ghostly” agent) who exists above and beyond its members to bear any rights and duties. I now see that some of my remarks in the book suggested greater distance between my view and that of Carl Wellman. The key difference between Wellman and me is that he denies that corporations can bear such rights on their own. I hold they can.⁵

If there are any rights and duties regarding collective apologies, it seems there must be some agent(s) who can bear them. For any apology to be meaningful, it should express some appropriate moral transformation. How, then, might a corporation express (let alone *feel*) contrition?

Wringe considers some potential models for corporate emotions. Among them is one I find congenial. It is a model in which the “emotions felt by members of a corporation can count as emotions of the corporation as a whole” (p. 170).⁶ He cautions that non-eliminative individualist accounts face a challenge. Because corporations are variably organized, “there may be no way of analyzing statements about corporations’ emotions into a set of statements about individuals’ emotional states” (p. 171). I admit that giving such an account of corporate emotions might be challenging and take many forms. I also think that the ways we regularly attribute emotions to corporations are consistent with some such account.

In June of 2024, Boeing CEO David Calhoun addressed a U.S. Congressional subcommittee that was investigating the company for its safety record. Calhoun stood up at the hearing, turned around, and faced the family members of those who had perished in recent Boeing

³ George W. Rainbolt, *The Concept of Rights* (Dordrecht: Springer, 2006).

⁴ Rainbolt, *The Concept of Rights*, p. 201. Though Rainbolt does not speak directly of group *duties*, the account could apply equally to such cases.

⁵ Carl Wellman, *Real Rights* (Oxford: Oxford University Press, 1995), p. 165. For further discussion, see Rainbolt, *The Concept of Rights*, chap. 7.

⁶ All citations to the symposium essays will be via parenthetical in-text page references.

crashes. He said he wanted to “apologize on behalf of all of our of Boeing associates” for the families’ “gut-wrenching” losses. He continued, “I apologize for the grief we have caused We are totally committed in their memory to work and focus on safety for as long as we’re employed by Boeing.”⁷ Calhoun was empowered by the norms of the Boeing corporation to speak on its behalf.

Calhoun’s statement as CEO was Boeing apologizing. I pass no judgment here on whether that apology was successful, let alone maximally so, in the circumstances. Calhoun’s apparent remorse was part of, if not constitutive of, *Boeing’s remorse*. A full analysis of what it is (or might be) for Boeing to feel remorse would refer to the natural agents who constitute Boeing. It would be a complex set of statements about their feelings and how Boeing affiliates’ various corporate roles inflect the ways they feel. As shorthand, we sometimes look at corporate spokespersons and refer to their behaviors, expressions, and authorized actions as those of the corporation.

There might be defeaters of Boeing’s remorse, including Calhoun’s secret delight with the deaths of the passengers, a majority of shareholders being indifferent to safety, Boeing factory workers taking bets on how many passengers will die on their aircraft within ten years of production, and so forth. It is consistent with corporate moral emotions that complete philosophical analyses of them would be complex, that the emotions might be realizable in many ways, and that true statements about them might be defeasible in many ways. I have a hunch Wringer would agree.

I am uncertain about one of Wringer’s lines of thought. He writes, “it is not obvious that all forms of collective wrongdoing are perpetrated by collective agents” and he points to cases where there seem to be “no collective agent on which to pin the failure” (p. 171). Considering the infamous but importantly partly fictionalized murder of Kitty Genovese,⁸ it might seem that beyond the thirty-eight bystanders who (supposedly) did nothing to stop the crime, there is no group agent to provide moral repair. A (hypothetically surviving) Genovese or her family “might still and with no loss of rationality, retain the right to resent the omission to which each contributed” (p. 172). Wringer then imagines the impaired agency of a “non-agential

⁷ “Boeing CEO Apologizes to Crash Victims’ Families,” CBC/Radio Canada, June 19, 2024, accessed online at: <https://youtu.be/dXUmM-dBPgs>.

⁸ See, e.g., Nicholas Lemann, “A Call for Help,” *The New Yorker*, March 2, 2024, accessed online at: <https://www.newyorker.com/magazine/2014/03/10/a-call-for-help>.

group” as giving further reason for the group to apologize, perhaps by first incorporating to make it possible for that group to do so.

Wringe seems to fasten on a version of what Christopher Heath Wellman once called a sort of “remainder,”⁹ which is what is left after we consider (or “analyze”) everything that the individuals involved did or did not do. We can attribute this “remainder” to the group as such. Where there is no incorporated group, then the “members” might have reason to make one. However, in cases where the groups are not (yet) incorporated, it seems that nothing *remains*. I then puzzle over what or who else there is to *resent* in such cases.

Suppose Wringe wants to surprise a friend who is celebrating a birthday. Wringe’s friend loves the music of Beethoven. Wringe hires four talented musicians who are unknown to each other to show up at his home one day for a private performance of Beethoven’s Große Fuge B, which is for a string quartet.

Unfortunately, each musician is a no-show. Wringe later shares his outrage with each of them. They each then separately apologize. Is there some additional omission by some nonexistent quartet that Wringe might also resent? Perhaps we can speak of some quartet that never came to be but could have and should have. Wringe considers what sort of apology might be offered “on behalf of a non-agential collective of which its members form a part” (p. 173). In this case, there is no such collective except in the weakly counterfactual but additive sense. There is no additional agentless wrong for which we must find an agent.

Wringe might have in mind cases where the failure by disconnected individuals to incorporate is or causes avoidable harm. Climate change might be an example. Because the earth’s climate features a largely unregulated commons, disconnected individuals, corporations, and states have little incentive to curtail their greenhouse gas emissions. Meanwhile, the lives, communities, and territories of residents of the Marshall Islands (and many other places) are in jeopardy. Is there some non-agential group that the Marshallese can resent, over and above all the individuals and institutions that contribute to the (by hypothesis avoidable and wrongly injurious) climate change? The relevant polluting parties have yet to coordinate on some institution or group agent that could address the collective

⁹ Christopher Heath Wellman, “Responsibility: Personal, Collective, Corporate,” in *A Companion to Contemporary Political Philosophy*, ed. Robert E. Goodin, Philip Pettit, and Thomas Pogge, 2nd ed. (Malden, MA: Wiley-Blackwell, 2012), pp. 737–38.

action problem that threatens the Marshallese. Perhaps a Marshallese with more moral imagination and emotional energy than I have might resent that not-yet-existing group agent and its omissions. In the meantime, beyond regretting or resenting actual persons' or institutions' omissions to create some such group and beyond resenting the harms such omissions occasion, some people's losses might be deep misfortunes for which there is no one or nothing *else* to blame.¹⁰ Creative and entrepreneurial individuals and institutions might explore mutually beneficial ways to internalize climate costs and reduce such avoidable losses.

3. Holder and How Apologies Need Not Be Reparative

In her remarks, Cindy Holder explores in depth how the varied practices of apologies catalyze key improvements in relationships. Those relationships often include community observers who can ratify shifts in social and moral meanings from transgressions and their aftermaths. Holder argues that while apology can effect profound moral transformations, we need not hold that apologies are in themselves reparative.

Abandoning the view that apologies are inherently reparative, Holder argues, would sit better with cases of successful political apologies that “did not mitigate or lessen injustice in the relevant relationships” (p. 178). Apologies might then still be valuable. They can foster more honest engagement with history and promote fruitful dialogue (p. 178).

Apologies are not necessarily reparative if we restrict the potential platforms of repair to interpersonal relationships. Those might be permanently fractured. Sometimes, apologies might worsen interpersonal relationships. Victims of sexual violence might want no relationship with their assailants. Any effort to create or “repair” a relationship might, for survivors, worsen their lives and further damage the defective relationship their assailants created.

I discuss how apologies can be inherently reparative to *modes of relating*. Those modes of relating include dispositions and, as Linda Radzik notes, “meanings, reasons, and attitudes.”¹¹ I do not maintain

¹⁰ There are important differences in analyzing the relevant (in-)actions. Climate change might involve various acts, each of which marginally contributes to losses. The string quartet, on the other hand, is derailed by any one performer's no-show.

¹¹ Linda Radzik, “Tort Processes and Relational Repair,” in *Philosophical Foundations of the Law of Torts*, ed. John Oberdiek (New York:

that the only way to improve modes of relating is by apology, nor do I believe that apologies always and invariably improve all modes of relating. I had argued, though, that insofar as an act is an apology, it improves some mode of relating and is thus a form of repair. Whether on balance it is overall reparative is another question, which I recognize was not a main theme in the book.

We can imagine, for instance, that sincere apologies involve at least some improvement in transgressors' moral outlooks. Those outlooks are modes of relating. Admittedly, some attempts at apology might fall flat or worse because of a clumsy or insensitive delivery. It might then be difficult to maintain that apologies are inherently reparative. If "reparative" is a success term, then I would need to sort out whether they are reparative *on balance* or somehow reparative "in themselves."

Suppose one were to maintain that nailing a shingle to a leaky roof is "inherently reparative." Any such account would face a challenge. Imagine that act goes horribly awry. The nail penetrates a pipe on the roof's underside and causes catastrophic flooding. If an unwelcome or inapt apology can do something analogous, it seems I must either dismiss such losses as inconsequential or explain how there is something reparative to the act despite the consequences.

I now recognize that it is difficult to sustain the view that apologies are inherently reparative, if by that we mean they necessarily effect repair. Holder helpfully shows that the extent to which they are reparative often depends on changing the epistemic standing of parties to the transgression with respect to accounts of what happened. The most plausible way to regard apologies as reparative is to see such repair as among apologies' functions, but Holder warns against even that much. I now agree this is problematic or at least undertheorized. I am grateful to Holder for helping me to see the difficulties my view faces.

Holder cautions that my account risks giving disproportionate power to transgressors. They are the ones who make repair necessary and they are the ones who "initiate the possibility of repair in their apology" (p. 182). Consider cases where someone creates the possibility of repair by *demanding* it. Consider how, in *Pride and Prejudice*,¹² Elizabeth demands an account from Darcy after discovering his interference in the relationship between Elizabeth's sister Jane and Jane's suitor, Mr. Bingley. Elizabeth's stern remarks are a

Oxford University Press, 2014), p. 235.

¹² Jane Austen, *Pride and Prejudice* (New York: Penguin, 2002).

form of demanding an apology. She thereby initiated the possibility of repair. Both she and Darcy experience growth from this encounter until (spoiler alert) eventually they discover their mutual love. Holder might clarify that transgressions are what make repair necessary (and thus possible) in the first place.

Part of my book offers an account of political apologies. I note that modern sovereign nation-states are special because of their claim to final and comprehensive authority. That makes states different from all other group agents. Holder agrees that states have distinct empirical characteristics, but she warns against two faulty inferences. The state is distinct as a group agent, but that does not imply that the groups states represent are distinctive when analyzing apologies. Moreover, the distinctions between states and other group agents do not imply that the relationship between states and their constituents matters for an analysis of apologies. Holder is correct. An analysis of group apologies would be one that unpacks what the apologies are, perhaps in terms of various moral relations among individuals and institutions. For such purposes, states are just another type of group agent. However, I would argue that the distinct claims to authority that states assert are important. They matter for substantive accounts of when, how, and whether states may apologize. Such claims to authority surely matter for accounts of any state action.

4. LeBar and Apologetic Performance

In his essay, Mark LeBar is broadly sympathetic with my account of apologies. He considers the importance of cultivating normative ties. Among them are the obligations and rights distinct to normatively significant interpersonal relationships. Drawing on David Owens, LeBar discusses how we are beings with “interests in controlling the reasons or norms by which we live” with others in mutually accountable social worlds (p. 192). Special relationships enhance our lives because they are platforms for creating or acquiring rights and obligations not otherwise possible to strangers. Apologies among intimates can repair our relationships by acknowledging and respecting the normative interests that shape our lives. Apologies are key tools for “recognizing *that distinctive way* in which we can damage those around us, the distinctive damage of wronging in the light of our normative interests” (p. 195). Apologies reaffirm mutual respect by giving others recognition as reason-responsive beings.

LeBar considers a puzzle about the seeming significance of apologetic *performance*. He challenges my view that apologies must be

interactive. He wonders why it would be insufficient for a transgressor to wear a sandwich board in public that reads, “Respect me less and Victim More” (p. 196). As he notes, apology seems uniquely suited for restoring the mutual recognition that transgressions disrupt. The transaction matters. It disarms the threat. It shows respect. As LeBar writes, apology provides the “respectful recognition” we seek as reason-responsive beings: “It matters to us that we be recognized as creatures worthy of recognition, in virtue of our capacities for recognition, *by* those we see as worthy of recognition in virtue of that selfsame capacity” (p. 197). I concur. I pause here to wonder on behalf of imagined critics whether LeBar and I nevertheless give too much credence to the demand for apologetic *performances*.

There are several problems with the sandwich board as a form of moral repair. If that is all that a transgressor does, it is at least importantly incomplete. It inadequately attests to the past and so fails to acknowledge the transgressed party’s moral standing. Consider another example I mention only briefly in the book.¹³ Imagine a transgressor confessing guilt to a village sage or writing candidly and with contrition in a journal about the transgression. These actions can be moral improvements; the transgressor is coming to terms with what they did. What more does an apology as performance provide? In the book, I argue that apologies are crucial for offering and presenting *an account*: “In offering an account, one provides the wronged parties the opportunity to decide whether the account is acceptable.”¹⁴ That opportunity seems important, though on reflection it might seem unclear why.

Imagine that a wrongdoer expresses great remorse, guilt, and shame for the transgression in their journal. For whatever reason, be it cowardice or lack of opportunity, the wrongdoer has not reached out to the transgressed to offer an apology. Suppose now the transgressed innocently discovers the journal and reads the contrite entries. Imagine, too, that the entries go above and beyond whatever the transgressed would have hoped (and perhaps demanded) to hear in an apology. Now imagine that the transgressor later learns that the transgressed read the journal entries. Imagine, too, that the transgressed later learns that the transgressor knows they know.

The journal entries disarm the threat and reaffirm the transgressed person’s status as someone worthy of respect and unworthy of the earlier mistreatment. It might seem they are all done. What else is

¹³ Cohen, *Apologies and Moral Repair*, pp. 109–10.

¹⁴ Cohen, *Apologies and Moral Repair*, p. 110.

needed? Why would the delivery, the performance—the *dance*—be so important?

Sometimes, the transgressed wants the in-person dance. The apology is a way for the transgressor to humble themselves to the transgressed and recognize the transgressed person's power to accept the transgressor's efforts to set things right. The interaction seems important for reaffirming the equal moral status of the parties. It is not enough for the transgressor to *feel* contrite and it is not enough for the transgressed to *know* that the transgressor feels that way. The performance is how they reaffirm and enact their mutual respect. I believe that the series of events in the found-journal case is one version of the dance. It does not have the usual form of an apology, but it does much of what standard apologies do. Afterward, the parties might go on with their lives, confident that things are all better. In some relationships and circumstances that might suffice for satisfying the demand for redress.

This is not to exclude the possibility that some transgressed persons might betray a certain peevishness in their demands for redress. Their demands for redress might be misplaced, misguided, excessive, or dehumanizing. The possibility of peevish victims does not undermine how apologies—in whatever form they might take—must be some interaction that comes in response to a demand. As LeBar notes, “mutual recognition takes two” (p. 198). I would qualify that point in light of Holder's remarks: mutual recognition takes *at least* two. Apologetic offers, though—in whatever forms they take—are uniquely suited to restoring mutual respect. They do not merely state such respect, but also express and instantiate it.

5. Butt and Duties to the Dead

Daniel Butt focuses on cases of apologies for historic injustice. He sets out three models for how contemporary reparative rights and duties connect to transgressions among earlier generations: the Same Identity, Transmission, and Expansion Accounts. Contemporary agents might owe duties of repair under an expansion account not for having committed an injustice in the past, but because of some “contingent relation to the persisting effects of said injustice” (p. 201). Butt explores how best to account for rights and duties of apology under those models. I find his account illuminating and congenial. Interestingly, he lingers on one example I provide. He and I might differ as to what persons may sometimes owe or claim for injustices rooted in the past.

We might “inherit” a sort of duty of apology, if we (or contemporary institutions) are somehow implicated in continuing injustices that our ancestors began. This would then be not so much an “expansion” account as a “same identity” account, for we would be the transgressors. We would owe repair because of what we wrongly did or did not do to someone. A challenge arises when considering what if anything we morally must do not when we are implicated in any continuing injustices, but simply because of our ancestors’ wrongs. Are rights and duties of apology *transferable*?

Drawing on some of his work elsewhere,¹⁵ Butt holds that we can owe duties to the dead. Among those duties might be duties of apology. Those duties might be to perform apologies not to the dead (who are, after all, dead). Instead, our duties of apology for what our ancestors did might be owed to the dead and delivered to their descendants or proxies.

Suppose now that two men previously unknown to each other, neither of whom occupies some historically disadvantaged social position, meet and learn that their ancestors were parties to what had been a forgotten crime. This is the case of the Lavin and Pfof example I discuss.¹⁶ Neither of those men had rehearsed (or actively ignored) the enduring impacts of that crime from long ago because there are none—at least, none of any note. There is no persisting legacy of that injustice. Butt wonders whether such legacies matter. If we can owe duties to the dead (or, at least, the antemortem persons who are now dead), then I need an argument for why the passage of time and enduring legacies matter for the existence of duties of redress. Butt and I agree that any duties of redress for past injustices that somehow bind contemporaries might be less *weighty* than corrective duties regarding contemporary injustices.¹⁷ That they can be defeated by weightier contemporary injustices does not show that they do not exist.

I am grateful to Butt for warning about my discussion of the Lavin and Pfof example. Sometimes, my remarks veer uncomfortably close to distributive justice accounts that, I complain, elide the distinct significance of reparation.¹⁸ There might still be duties of apology

¹⁵ Daniel Butt, “What Structural Injustice Theory Leaves Out,” *Ethical Theory and Moral Practice* 24, no. 5 (2021): pp. 1161–75.

¹⁶ Cohen, *Apologies and Moral Repair*, pp. 168–69 and 175–76.

¹⁷ See, e.g., Butt, “What Structural Injustice Theory Leaves Out,” sec. 3.

¹⁸ Andrew I. Cohen, “Corrective vs. Distributive Justice: The Case of Apologies,” *Ethical Theory and Moral Practice* 19, no. 3 (2016): pp. 663–77.

owed to the dead or to the persons who were once alive but later died with unredressed claims to repair.

Suppose that archaeologists uncover definitive evidence that *Homo sapiens* committed genocide against the *Neanderthals*. Let us bracket interbreeding.¹⁹ Would we as *Homo sapiens* today owe to the *Neanderthals* (the dead ones or the antemortem persons [?] they once were) an apology of some sort for this hypothetical genocide? There is a risk that duties of repair multiply in such an overwhelming way as to be a reductio of the account.

Butt is untroubled by these possibilities, at least because he would situate such duties among the many possible sources of moral reasons that apply to us. As he notes, when we forbear apologizing, rights to redress might then go unfulfilled. Sometimes, as is the case in other moral domains, agents face multiple reparative duties that cannot all be satisfied. This is an application of a common view that choices involve trade-offs. Butt then disagrees with the view that neither apology nor memorial is needed for Casper Pfost's murder in 1889: "to be blunt, if I meet a similar fate, I would hope that neither my descendants nor those of my killers would be so blasé about how I should be remembered" (p. 211). This risks being somewhat unfair. Terrance Lavin did, after all, do plenty of research and then write his article about the murder.

Butt adds that the 1889 crime links to a continuing institution: the New York City Police Department (NYPD). It then seems there is plenty of room for redress. Especially when that institution is implicated in continuing injustices against socially disempowered subgroups, the police should apologize. Butt concludes: "Doing so is likely to serve the interests of a wide range of people, be they living, antemortem, or even, on some accounts, dead" (p. 211). Following his argument, these considerations are *not* why there are such duties of repair (be they to commemorate or apologize). These considerations are why such duties of repair could be sufficiently weighty as to offer strong reasons for action by contemporary persons and institutions.

Butt is surely correct that there can be some such duties of repair. What is unclear to me is whether and how these duties provide

¹⁹ We should not do that, if we want to lean into this actual example. There was plenty of interbreeding. Most of us have some *Neanderthal* DNA. See the helpful overview and citations of some of the recent literature at "What Does It Mean to Be Human?" Smithsonian Museum of Natural History, accessed online at: <https://humanorigins.si.edu/evidence/genetics/ancient-dna-and-neanderthals>.

reasons that apply *distinctly* to Terrance Lavin and/or Steven Pfof II. They are two living men descended from the parties to that murder from over 130 years ago.

In private correspondence, Lavin told me that he did not apologize for the murder. He said that when people ask him why he did not do so, “I say it’s because I think it’s impertinent to apologize for our ancestor’s actions.”²⁰ Butt points to continuing patterns of police exploitation, especially against minority subgroups. Writing about his great-great-grandfather, Patrick Lavin, the policeman who killed Casper Pfof, Terrance Lavin adds, “Patrick killed a fellow Irishman two years prior. Obviously, I am fully aware of social themes, racial histories, and widespread prejudice, but penetrating research into historical events in the daily paper unveil more nuance, and less thematic episodes than I had previously thought about that time.”²¹ By not apologizing, is Lavin ignoring some reparative duty that binds him? I doubt it. If there is some such duty, Lavin arguably discharged it with gusto by publishing his feature-length article in the *New York Times*. Here, I bracket a Kantian objection that Lavin did not discharge such a duty if (as I suspect) he did not write his article *in order to fulfill the duty*. My point is that his 2,500-word feature article likely provides more repair than would any tarnishing plaque on an historic marker in New York City’s Chelsea neighborhood. Butt might very well concur. There is no blood guilt.

Had Lavin not written the article, would he have had any special responsibility to *do something* reparative for that murder? Would he bear that responsibility any more than I do (as someone who grew up in the New York metro area) or, say, Daniel Butt? Butt might acquiesce here. Perhaps neither of us is well-positioned to ask (if not *demand*) the NYPD to do something about this old murder and its contemporary parallels. We might face other, more pressing moral reasons. Casper Pfof might still have unsatisfied claims to redress for his 1889 murder.

6. Closing Thought

I am grateful to all contributors to this symposium for continuing the conversation about the themes in my book. I have

²⁰ Terrance Lavin, personal correspondence, October 3, 2023, cited with permission.

²¹ Terrance Lavin, personal correspondence, October 3, 2023, cited with permission.

learned much by reflecting on their observations and discussion and I see that many issues remain unsettled, for which (wait for it . . . !) I must dutifully apologize.