SORRY SEEMS TO BE THE HARDEST WORD: APOLOGY AS A FORM OF SYMBOLIC REPARATION

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ABSTRACT
Almost none of the leaders of the apartheid government apologised during the TRC process. This article argues that it is not too late for these leaders to apologise, and that one should be open to the transcendent value of apologies. Although apology does not fit easily into our individualistic, adversarial legal culture, it does fit into the paradigm of restorative justice. As a form of symbolic reparation, apology can be part of a package of restorative measures. Symbolic reparations (such as apology) have been ordered by courts both in South Africa and internationally. Because of the essentially performative nature of apologies, even incomplete or insincere apologies have restorative value. Incomplete apologies can have value if the apologist exhibits shame or if the apology involves public humiliation. The foot washing gesture of Adriaan Vlok is an example of an incomplete apology with restorative results.

I INTRODUCTION
In JM Coetzee’s cheerless novel Disgrace, the protagonist Professor David Lurie initially refuses to apologise for having an affair with a student. When he is hauled before an academic tribunal, he admits to charges of sexual harassment. However, he resists the spectacle of ‘prurience and sentiment’ expected by the committee. He says: ‘I would prefer simply to be put against a wall and shot.’ When he finally apologises under pressure, members of the tribunal are not satisfied. They demand to know whether his apology comes from the heart.

Through the character of David Lurie, Coetzee reveals some of the spiritual and political dangers which may arise when religious concepts of remorse and apology are introduced into secular contexts. Should the state interfere in matters as personal and spiritual as remorse and regret? Should the state itself apologise for wrongdoing? I will argue that in the context of state criminality, the effect of apology can be as powerful as in personal or formal religious settings. State criminality in South Africa was most formally addressed through the processes of the Truth and Reconciliation Commission (TRC). How did apology fit into the work of the TRC? The Act establishing the TRC did not require applicants for amnesty to show remorse for having an affair with a student. When he is hauled before an academic tribunal, he admits to charges of sexual harassment. However, he resists the spectacle of ‘prurience and sentiment’ expected by the committee. He says: ‘I would prefer simply to be put against a wall and shot.’ When he finally apologises under pressure, members of the tribunal are not satisfied. They demand to know whether his apology comes from the heart.

Through the character of David Lurie, Coetzee reveals some of the spiritual and political dangers which may arise when religious concepts of remorse and apology are introduced into secular contexts. Should the state interfere in matters as personal and spiritual as remorse and regret? Should the state itself apologise for wrongdoing? I will argue that in the context of state criminality, the effect of apology can be as powerful as in personal or formal religious settings.

State criminality in South Africa was most formally addressed through the processes of the Truth and Reconciliation Commission (TRC). How did apology fit into the work of the TRC? The Act establishing the TRC did not require applicants for amnesty to show remorse, merely to tell the truth about their
actions. Many who applied for amnesty did so for strategic self-interested reasons, reasons far removed from the rhetoric of healing and reconciliation. The fact that very few members of the senior leadership of the apartheid state applied for amnesty could be interpreted as a refusal to apologise.

One of the key cogs in the machinery of the apartheid state, the Minister of Law and Order, Adriaan Vlok, was the only former cabinet minister who applied for amnesty for some but not all of his involvement in criminal acts. However, he did not apologise during the TRC process. Then, in August 2006, Vlok made the dramatic gesture of washing the feet of his erstwhile opponent, the Reverend Frank Chikane, in a private ceremony. The feet washing gesture re-ignited the debate on whether white South Africans have done enough to apologise for the past. It also raised debate on the gesture of apology itself.

The gesture of apology (a gesture described by Tavuchis as both ‘mundane’ and ‘mysteriously potent’) raises many questions relevant to the ongoing transitional project of coming to terms with the past. Two of the questions which will be considered here are: What is the symbolic and philosophical meaning of apology? What is the relationship between apology and forgiveness?

I will start by looking at the origins and meaning of the word ‘apology’. I will then explain the role of apology within the paradigm of restorative justice, a paradigm within which the TRC process has often been situated. I will then argue that apology can be a powerful form of symbolic reparation but is not a substitute for financial or material reparations.

One of the most troublesome aspects of apology is the perception that an apology has value only if it is made sincerely. Other problems with apology arise where there is an absence of complete commitment to change and an incomplete acknowledgement of wrongdoing. An ideal apology would be a sincere apology which makes full disclosure of wrongdoing. My main argument will be that even apologies which fall short of an ideal apology can be effective. I will argue that because of the essentially performative nature of apologies, even incomplete or insincere apologies have restorative value. Incomplete apologies can have value if the apologist exhibits shame or if the apology involves public humiliation. The timing and perception of spontaneity of an apology can also contribute to its success. I will examine two examples of apologies demonstrating incomplete acknowledgement of wrongs: that of Vlok and of former President FW de Klerk. I will assess why such ‘incomplete apologies’ can nevertheless be effective.

Vlok’s apology was made not in a representative but in a private capacity. I will examine the apology made by Adriaan Vlok and compare his gesture to official apologies made by FW de Klerk and by German Chancellor Willy Brandt.

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5 The amnesty provisions in the Promotion of National Unity and Reconciliation Act 34 of 1995 are silent on the question of remorse.
6 Vlok applied for amnesty for his ordering of the bombings of the headquarters of the South African Council of Churches at Khotso House (Amnesty Decision AC/99/0349) and the trade union COSATU’s headquarters (AC/99/0242).
8 M Minow Between Vengeance and Forgiveness (1998) 112.
II AN ETYMOLOGY OF APOLOGY

The word apology can be traced to its Greek route *apologos* which means ‘a story’ from which *apologia* (ἀπολογία), an oral or written defence, was derived.9 The Greek *apoloyia* (apo: away, loyia: speaking) is defined as a defence or speech in defence. Apology can therefore also refer to a systematic defence of a position. Plato’s apology of Socrates is a classic example of the use of apology in the sense of a ‘defence’.10

Although initially apology carried the meaning of ‘a pleading’ or ‘a defence of a person or vindication of an institution’, less formally it carried the meaning of ‘justification, explanation or excuse of an incident or course of action’.11 By the sixteenth century ‘apology’ entailed an explanation to a person affected by one’s action that no offence was intended, coupled with an expression of regret, or a frank acknowledgement of the offence. The verb form ‘apologise’ came into use in 1597. According to the Oxford Dictionary it meant:

To speak in, or serve as, justification, explanation, or palliation of a fault, failure or anything that may cause dissatisfaction; or to offer defensive arguments; to make excuses.

Also in modern usage: To acknowledge and express regret for a fault without defence, by way of reparation to the feelings of a person affected.

Tavuchis defines apology as an ‘acknowledgement and painful embracement of our deeds, coupled with a declaration of regret.’ He emphasises that what distinguishes apology from justifications or other verbal utterances is the acknowledgement of wrongdoing and the expressed *absence of a defence* for such wrongdoing.13

Vlok apologised by washing the feet of his former enemy. What is the symbolic meaning of this act? The washing of feet is a religious ritual observed by several Christian denominations. Foot washing seems to have two primary meanings: that of purification, and that of showing hospitality. Because feet touch and are soiled by the dust of the earth, the foot is also a symbol of humility.14 Foot washing has commonly served as part of rites of purification.

Foot washing as an act of hospitality was a widespread practice throughout the ancient world. The Christian ritual of foot washing was derived from this practice, and especially from Jesus washing his disciples’ feet.15 The ritual does not focus on cleansing but on humility, and on the Christian ideals of willing service and penitence. This meaning also infuses secular rituals of foot washing.

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11 Tavuchis (note 7 above) 16.
12 Ibid 19.
13 Ibid 17.
14 This is a reason why worshipers all over the ancient world removed their shoes before entering sanctuaries and temples, as Muslims, Hindus, and Jains do today before entering places of worship. See also G A Frank Knight’s article ‘Feet-Washing’ in J Hastings (ed) *Encyclopaedia of Religion and Ethics* vol. 5 (1912).
15 *John* 13:5
III APOLGy AND RESTORATIVe JUSTICE

Apology does not fit easily into our individualistic, adversarial legal culture. Apology does, however, fit neatly into the paradigm of restorative justice, a paradigm that is becoming increasingly important as an alternative or complement to retributive justice. The TRC has often been described as a model of restorative justice. I will therefore embed my discussion of apology within this framework.

Restorative justice has been defined as ‘a process whereby all the parties with a stake in a particular offence come together to resolve collectively how to deal with the aftermath of the offence and its implications for the future’. Apology can clearly be one such action. Restorative justice accords primary attention to healing the victim and secondary attention to punishment. The focus is on healing the relationship between victims and offenders and between offenders and the community. Restorative justice takes a moral view on crime. Restorative justice addresses victim and offender as moral subjects and not legal subjects and aims for the social reintegration of victim and offender.

According to Walgrave, restorative justice defines crime as a moral act for which the offender as a moral subject is responsible. Walgrave writes: ‘What is hoped for is a moral agreement between the people concerned in the restorative process: reparation, an apology, moral reflection, expression of regret, or reconciliation.’ Restorative justice is understood as restoring harms and hurt reflecting a commitment to values such as individual empowerment, responsibility, peace, respect and compassion. Emotional reparation as understood by Scheff involves social rituals of respect, courtesy, apology, and forgiveness — gestures that can operate independently of verbal discourse and which depend on the emotional dynamics of the parties involved. Strang writes that in restorative justice literature generally, apology is a goal to be sought.

But not everyone is enthusiastic about using restorative justice as alternative to the conventional application of criminal law. Stuart Wilson has described restorative justice as a political myth to which ‘some TRC commissioners mistakenly appealed while grasping for a moral justification for amnesty.’ He views the

19 Emile Durkheim has understood crime as an infringement of the unity of the collective conscience of the moral community. Durkheim De la division du travail social (1893).
20 Walgrave (note 16 above) 29.
22 George Pavlich ‘Towards an Ethic of Restorative Justice’ in Walgrave (note 16 above) 1.
24 H Strang (note 21 above) 56.
use of restorative justice arguments by the TRC not as an attempt to promote an alternative form of justice but as a ‘tense and agonising compromise’ necessary to maximise the moral gains of transition from apartheid to non-racial democracy.  

As indications of the TRC’s commitment to restorative justice principles, Wilson refers to the Commission’s function of ‘ritual healing’ and strong Christian overtones. Tutu repeatedly expressed the view that by being forgiven and reconciled with their victims, those responsible for human rights violations were themselves to be healed and absolved from wrongdoing. Wilson writes that the language of restorative justice and societal reconciliation was mere window dressing for a process meant to help consolidate the political gains of transition for the incoming government.

Wilson’s reservations seem to apply particularly to restorative justice as an alternative to punishing certain kinds of offenders, namely those who committed particularly serious crimes as part of a system of state criminality. Whereas I agree that restorative justice should not be used as an excuse for ignoring or violating the principles of international law (particularly the duty to prosecute serious international crimes), I believe that the principles underlying restorative justice are not incompatible with punishment.

Restorative justice is usually understood as constituting a complete alternative to punishment. However, many restorative justice scholars no longer advocate restorative justice as an alternative to the traditional criminal process, but argue that the former should exist alongside the latter.


32 Advocates of this position include J Braithwaite & H Strang (eds) Restorative Justice Philosophy to Practice (2000). They argue that punishment is not irreconcilable with restorative values, provided both victim and offender agree about the sanction and have arrived at the agreement through an uncoerced, restorative process. See also Strang (note 24 above) 204. Anthony Duff argues for a third model called ‘restoration through retribution’. See A Duff ‘Restorative Punishment and Restoration’ in A von Hirsch, J v Roberts, A Bottoms and M Schiff (eds) Restorative Justice and Criminal Justice Competing or Reconcilable Paradigms? (2003).


34 On 17 August 2007 Vlok received a suspended sentence of 10 years by the Pretoria High Court for his participation in the plot to kill Chikane. See S v Johannes Velde van der Merwe and Others, Plea and sentencing agreement in terms of section 105A of Act 51 of 1977 (as amended) (TPD), 15 August 2007.
The theory of restorative justice fits particularly well in the South African context. A recent South African case, *S v Joyce Naluleke*, involving murder, has thrown some light on the role of apology and transitional justice in sentencing in criminal cases. In this case, Bertelsmann J sentenced the accused to eight years, suspended on condition that she apologised to the victim's family. Bertelsmann not only took an innovative approach to sentencing in this case, but also used the opportunity to discuss the relevance of restorative justice in the South African criminal justice system. Bertelsmann’s approach gives expression to the philosophy of *ubuntu*, in which the offender and the offended embrace each other’s humanity. Apologetic discourse and *ubuntu* both aim at the restoration of the moral balance between the parties.

The judgement in *Naluleke* is also reminiscent of the practice of *gacaca* courts in Rwanda. The *gacaca* system has been positively received partly because of the limitations of international criminal tribunals, which have focused on punishment and have not involved the victim or the community to a significant extent. Apology has received little attention in the sentencing jurisprudence of the international criminal tribunals for the former Yugoslavia.

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35 CC 83/04. The facts of the case were as follows: The accused was convicted of murder in the High Court (Northern Circuit of the TPD) sitting in Lephalele. The victim was a young person who broke into the accused’s house in a small village in Limpopo province. The accused caused the death of the deceased by actively participating, together with her husband, in a sustained assault upon the deceased after he had been apprehended in her home. He broke into her home with the apparent intent to commit theft. The accused lived in a small tight-knit community. The deceased was part of her extended family. Bertelsmann pointed out that the sentencing of the accused presented problems as, on the one hand, she was guilty of a very serious offence but, on the other hand, she had four minor dependent children and was unemployed. She was a first time offender and there was no suggestion that there was any danger of the crime being repeated. During evidence in mitigation the defence investigated the question of whether, prior to the trial, the accused had complied with the traditional custom of her community of apologising for the taking of the deceased’s life by sending members of her family to the family of the deceased. When asked whether she had complied with the custom, the accused answered in the negative. In cross examination, the defence asked the victim’s mother whether she would be prepared to receive a senior representative from the accused’s family to restore the broken relationship between the two families. The victim’s mother agreed. This response opened the door for the court to involve the community in the sentencing and rehabilitation process. The accused was sentenced to eight years’ imprisonment, suspended for a period of three years on condition that the accused apologised according to custom to the mother of the deceased and her family.


37 See Mokgoro J’s definition of *ubuntu* in *S v Makwanyane* 1995 (3) SA 391 (CC) at 308: *Ubuntu* (a Zulu word) is a lifestyle unifying world view (or philosophy) of African societies, based on respect and understanding between individuals, and derived from the expression: *Umuntu ngumuntu ngabantu* (a person is a person because of other people).

38 These sentiments have been articulated by Desmond Tutu in his ‘Foreword’ to RD Enright & J North (eds) *Exploring Forgiveness* (1998) xiii.

IV Apology and Reparations

It was stated above that apology does not have to form a complete alternative to punishment. Apology also does not have to form a complete alternative to material reparations. As a form of symbolic reparation, apology can be part of a package of restorative measures. In this section I will show that apology fits into legal responses to human rights violations. Symbolic reparations (such as apology) have been accepted and ordered by courts both in South Africa and internationally.

42 ICTR-96-3-T, Judgment and Sentence, 6 December 1999, para 473.
43 See AE Tiernessen ‘After Arusha: Gacaca Justice in Post-Genocide Rwanda’ (2004) 58 African Studies Quarterly <http://web.africa.ufl.edu/asq/v8/v811a4.htm>. In pre-colonial times gacaca (meaning grass courts) were used by village communities in Rwanda as a way to deal with disputes regarding property and inheritance matters. After the 1995 genocide it emerged as an alternative way of dealing with the punishment of genocide because of the enormous number of perpetrators and victims during the genocide. Those who confessed and pleaded guilty in front of the gacaca courts before a set date had their sentences reduced and often commuted to forced labour in the community. The aim of the arbitration was to involve not only the perpetrators of the wrong and the victim but also their respective families. The gacaca process also aimed at raising awareness of crimes, rehabilitation of the victim, reparation rendered by the delinquent, reintegration and reconciliation. Comprehensive persecution of crimes committed during the genocide could never take place through the structures of the formal justice system. Under the gacaca system people would gather on a patch of grass to resolve conflicts between two families, employing the heads of each household as judges (inyangamugayo). The jury would usually consist of wise old men (vieux sages) who represented the traditional sense of justice. The gacaca courts focus on confession and apology and are intended to ease the way to national reconciliation. See also W Schabas ‘Genocide Trials and Gacaca Courts’ (2005) 3 Journal of International Criminal Justice 891. See also C P Scherrer ‘Justice in Transition and Conflict Prevention in Rwanda after the Genocide’ ECOR Assessment and Draft Project Proposal (1997) 4.
44 See the statement by Madame Domitille Mukantaganzwa, Executive Secretary to the National Service for Gacaca Courts, 30 March 2005 <http://www.orinfor.gov.rw/DOC5/Justice21.htm>. The South African Constitutional Court addressed the question of whether apology could be an appropriate constitutional remedy in Dikoko v Mokhatla CCT 62/05 (2006) (‘Dikoko’), a defamation case. Mokgoro J, writing for the majority, referred to the case of Mineworkers Investment Co (Pty) Ltd v Modibane 2002 (6) SA 512 (W). In this case Willis J considered whether a defendant in a defamation case could be ordered to apologise. He considered the Roman-Dutch remedy of amende honorable which included deprecatio or apology. Willis J stated that even though this remedy has fallen into disuse it is still part of our law and that an analogous remedy should be available (at 525 D-H). In Dikoko, the Court had to decide whether an apology should be ordered in addition to an award of sentimental damages. Even though the court stopped short of ordering an apology in this case, the court paid considerable attention to the appropriateness of apology as a remedy. In his separate concurring judgement Justice Sachs supported a remedial shift from an almost exclusive pre-occupation with monetary awards towards a flexible approach that includes and encourages apology (para 105). According to Sachs, to develop the common law in this way would be consistent with ‘our new constitutional ethos, facilitate interpersonal repair and the restoration of social harmony’ (ibid).
Although the present South African government considers the payment of material reparations (in the form of conservative cash payments to approximately 20,000 victims) as substantially taking care of the question of financial reparations, the process of offering symbolic reparation has only just started. Symbolic reparations include the building of monuments and memorials, the changing of names as well as similar official gestures aimed at restoring pride and dignity. The making of apology can similarly be considered a form of symbolic reparation.

International human rights law provides for the payment of reparations as a result of gross human rights violations. The Inter-American Court of Human Rights has been at the forefront of developments concerning reparation in the form of moral restoration to victims of gross human rights abuses. In the view of the Inter American Court of Human Rights moral damages may result from ‘the psychological impact’ suffered by the victim or survivors due to the violations, or, as in the case of Aloeboetoe, the assault on the dignity and self-worth of victims, family and tribal members. Moral damages were ordered as part of the package of reparative measures. This was a case involving the murder of civilians by the military, where the government of Suriname was ordered inter alia to pay a sum of money to each survivor (consisting of family and dependants), and to make a public apology. Apology will usually be ordered as a supplementary measure and not stand on its own. The Constitutional Court, in the Azapo case, gave examples of different kinds of symbolic reparations including bursaries and scholarships for the youth, occupational training and rehabilitation, tombstones and memorials. Apology can be included in this package of measures. In the South African context, where the harm is still fresh and widespread, the payment of reparations will still be an appropriate and important complement to apology.

According to Minow, apology as a form of symbolic reparation offers a path through the political, moral and legal morass. It can be argued that all reparations express, either implicitly or explicitly, an apology for wrongdoing or for failing to do more to resist atrocities. Many believe that if an apology is not accompanied by tangible reparations, it can be superficial, even meaningless. James Young writes that apology is now universally fashionable and that this is the case especially in the US ‘where it has long been a standard means of winning favour without paying any real price for one’s mistakes’.

45 The President’s Fund paid approximately R30,000 to approximately 20,000 victims. Both the amounts and the definition and of ‘victim’ have been criticised. See ‘Finalising TRC Reparations Payout’ 3 July 2003 <http://www.southafrica.info/what_happening/news/trc-reparations.htm>.
46 Velásquez Rodríguez v Honduras Inter-Am Ct H.R (Ser. C) no 4 (29 July 1988) para 50.
48 Azapo and Others v President of the Republic of South Africa and Others 1996 (8) BCLR 1015 (CC) para 45.
50 Minow (note 8 above) 112.
51 Ibid.
52 JE Young Texture of Memory (1993) 30.
By drawing attention to an injustice, an official apology could also raise the expectation of reparation.\textsuperscript{53}

If one takes the view that there can be no true public apology without reparation, one acknowledges the ambiguity inherent in the concept of apology. This ambiguity lies in the entanglement of theology and jurisprudence. As explained above, in classical Greek ‘apology’ meant merely ‘a defence’. In modern discourse, however, an apology has come to mean something outside of the legalistic term ‘defence’. The term is now infused with religious symbolism. Whereas the ‘mere apology’ or ‘pure apology’ (unaccompanied by reparations) presupposes something immeasurable or symbolic, an apology in the form of concrete reparations demands something measurable. Perhaps apology can be understood as the space or tension between the measurable and immeasurable. It can be argued that an apology cannot take place without the intertwining of the symbolic and the practical (or legal).

V The Social and Performative Nature of Apology

Apologies are quintessentially social.\textsuperscript{54} An apology requires individuals who are immersed in a pre-determined system of legal, theological, political, personal, and hermeneutical relations.\textsuperscript{55} For an apology to have the desired result (that of forgiveness), both parties have to depart from a similar normative starting point. Tavuchis writes that it is a sociological truism that every social order depends on a measure of commitment to norms dealing with standards of behaviour.\textsuperscript{56} Apology becomes relevant when these rules or norms are disrupted or disturbed. According to Tavuchis such disruption ‘generates disparities, asymmetries, contrasts, oppositions, ambiguities and compensatory reactions that lay bare, if only fleetingly, organizing principles.’\textsuperscript{57} We are thus members of a moral community and we seek apology if we have acted in a way that renders our membership of the moral community suspect. Apologies are firstly ‘potentially sensitive indicators of members’ unspoken moral orientations’ and secondly, they register tensions and displacements in personal and public belief systems.\textsuperscript{58}

\textsuperscript{53} A good illustration would be the way the United States government has reacted to pressure to apologise for slavery. On a tour of Africa in 1998, former US President Clinton did not issue an official apology for slavery. One explanation for his failure to apologise was that he was concerned about the legal implications of a formal apology. If Clinton had issued such a statement as head of the US government, it could have increased legal and moral pressure for reparations for the descendants of slaves: \textit{US News & World Report} 6 April 1998, 7. See also R L Brooks \textit{When Sorry Isn’t Enough} (1999) 352. It was speculated that one reason for this was that he wanted to avoid being unnecessarily divisive at home.

\textsuperscript{54} Ibid 14.

\textsuperscript{55} Dimitris Vardoulakis writes that confession requires individuals who are involved in such pre-determined relations. See Vardoulakis ‘Confession and Time: The Subject in Papadiamantes’ \textit{The Merchants of the Nations}’ (unpublished paper) (on file with the author).

\textsuperscript{56} Tavuchis (note 7 above) 12.

\textsuperscript{57} Ibid.

\textsuperscript{58} Ibid 13.
To understand the social nature of apology, it should be appreciated that apology is a performative utterance.\(^{59}\) The regret and sorrow of the offender is transformed into a public act. The offender allows a public hearing of his or her internalised shame and humiliation. Since official apologies are often addressed to a great number of people and receive considerable media attention, they are particularly performative. According to Austin, a performative utterance is not merely about saying something but about doing something.\(^{60}\) Tavuchis describes apology as ‘first and foremost a speech act’.\(^{61}\) He argues that the compelling qualities of apology derive from oral utterances in the immediate presence of another. He stresses the sensory pre-eminence of an oral apology in the form of speech. Indeed, the ‘efficacy and transformational qualities’ of an apology, according to Tavuchis, can be understood in relation to apology only as a speech act.\(^{62}\) He explains by citing Walter J Ong: ‘Oral utterance thus encourages a sense of continuity with life, a sense of participation, because it itself is participatory.’\(^{63}\) I am of the view that apologies which consist of physical acts (such as foot washing and the Brandt Kniefall) share many of the same performative and sensory qualities as those of a speech act.

Since apologies are outwardly directed performative acts, I will argue that even insincere apologies have restorative value.

**VI  Does Sincerity Matter?**

As was clear after the Vlok apology, the sincerity of apologies is often questioned. Apologies made in the context of political life can be said to be tainted because of the political motivations that underlie them. The problem with official apology is that it can mean that an apology is offered from the office, not the person. Sorrow is then offered in a formal, official sense.\(^{64}\) One of the crucial problems with official apologies is that they can be perceived as too strategic to be genuine.

How would one describe a genuine apology? Tavuchis describes a genuine apology as:

> the symbolic foci of secular remedial rituals that serve to recall and reaffirm allegiance to codes of behaviour and belief whose integrity has been tested and challenged by transgression, whether knowingly or unwittingly.\(^ {65}\)

Tavuchis’s use of the word ‘unwittingly’ illustrates the difficulty of establishing sincerity. It might not even be possible for the apologist himself to know the extent of his sincerity. How should the victim or society know, then, whether the apology was sincere?

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59 Taft (note 39 above) 1139.  
60 JL Austin *How to Do Things with Words* (1975) 94.  
61 Tavuchis (note 7 above) 22.  
62 Ibid 27.  
64 Ibid 115.  
Concerns about insincerity might be why the TRC did not require apology but only full disclosure. Although Tavuchis argues that the instrumental apology cannot be sincere and that sincerity is necessary for a true apology, I will argue that even apologies of doubtful sincerity are not cheap and valueless. This is partly because of the performative nature of apology and partly because of the reality that apologies may be positively and successfully received (and therefore be restorative) in spite of their sometimes doubtful sincerity.

Bibas and Bierschbach argue that the act of apology teaches. This explains why parents often instruct their children to apologise, albeit grudgingly. It is important that victims often find even half-hearted apologies satisfying. According to the authors, ‘[t]his explains why victims negotiate for confessions and apologies as part of settlements or plea bargains, even though the apology is an obvious quid pro quo.’ If one accepts this, then Vlok’s apology has value even if (as some suggested) he apologised with the intention of achieving strategic purposes, such as the negotiation of a plea bargain.

The argument that even an insincere apology can be useful is fortified if, like Jeffrie Murphy, one separates apology and remorse. Murphy considers an apology to be ‘a purely external performance’, what Austin called a ‘performative utterance’. Remorse, on the other hand, is an internal mental state. Of course, apologies would not ‘work’ if one did not at least represent that one was sincere. But one cannot ignore the value of apology because of the difficulty (or impossibility) of determining its sincerity.

Is it enough for an apology to represent sincerity? The answer to this question depends on what the victim wants from the apology. A properly-constructed apology can satisfy the victim’s need for a public acceptance and admission of responsibility even if it is not sincere. Such apology can also help to restore the victim’s sense of pride. Murphy argues that some retributive satisfaction can be gained especially from insincere public apology. Forcing someone to apologise can be humiliating (and therefore a form of retribution) to a person, particularly if that person is not sincerely sorry. The practice of forcing an apology is, however, very controversial. Some restorative theorists argue that retribution is incompatible with restorative justice, and hence with apology. Moreover, forcing apology can subvert and cheapen apology and encourage insincere, self-interested apologies.

66 See Tavuchis (note 7 above) 8, 13.
68 Ibid.
70 Ibid 143. See also JM Coetzee’s views regarding ‘Sentiment placed in the service of interest’ in Diary of a Bad Year (2007) 109.
71 Murphy (note 3 above) 20.
72 Austin (note 60 above).
73 Murphy (note 3 above) 21.
74 See, however, Duff in Walgrave (note 16 above) 82. Duff attempts to reconcile restorative justice and retributive theory.
75 See Taft (note 39 above) 1156–1157.
Many argue that apologies should be free expressions of conscience and that from a moral perspective, the forced or instrumental apology (also called the bargained-for apology) cannot be considered authentic or sincere. According to Tavuchis, the reason for this is that ‘apology cannot come about and do its work under conditions where the primary function of speech is defensive or purely instrumental and where legalities take precedence over moral imperatives’. Many, for example, have questioned the sincerity of Winnie Mandela’s apology, made only after Archbishop Tutu begged and pleaded with her.

The fact that apologies involve a **display** of emotion and sorrow (the spectacle of ‘prurience and sentiment’ referred to in *Disgrace*) has interesting implications for the way apologies are received. Because of their public and performative nature apologies have the potential to disintegrate into displays of ‘egocentric histrionics’. Lapham makes the revealing observation: ‘Self-blame constitutes an exquisite and expensive form of self-praise.’ JM Coetzee has similarly commented on the ability of confession to collapse into vanity: ‘Self scrutiny is an instrument not of the truth but of a mere will to be comfortable, to be well thought of and so on.’ This powerful reason for doubting the sincerity of apology led to the argument that confession is impossible. It may be argued that there is no true repentance which is free from hypocrisy.

The confessor is always talking about himself. He or she displays knowledge and emotion the authenticity and veracity of which fall within his exclusive knowledge. This knowledge cannot be tested or questioned, since no one has access to the inner corridors of the apologist’s soul. This could mean that he or she is lying or insincere. It has been argued that traumatic experiences are incapable of being transmitted, since they cannot be reduced to language or narrative. Cathy Caruth has argued that the unspeakability of trauma reflects ‘a crisis of truth’. Whereas one would expect that it is the victim who cannot transmit feelings of trauma, it is possible that the wrongdoer also experiences recalling his or her wrongful actions as traumatic. This argument can also

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76 Ibid 1149.
77 Tavuchis (note 7 above) 62.
78 On 5 December 1997 Archbishop Tutu said: ‘I speak to you as someone who loves you very, very deeply. There are people who want to embrace you. There are many who want to do so.’ He concluded: ‘I beg you, I beg you, I beg you, please, I have not made any particular finding about what happened. You are a great person and you do not know your greatness will be enhanced if you said sorry, things went horribly wrong.’ Mrs Madikizela-Mandela consulted with her attorney during Archbishop Tutu’s appeal, hesitated, and replied: ‘I will take this opportunity to say to the family of Dr Asvat how deeply sorry I am.’ She also apologised to the mother of slain activist Stompie Seipei. See <http://www.dispatch.co.za/1997/12/05>.
79 Tavuchis (note 7 above) 130.
81 JM Coetzee *Confession and Double Thoughts* (1985) 292.
82 Vardoulakis (note 55 above) 6.
83 The Greek author Papadiamantes writes ‘Whoever narrates his life and speaks at length about his suffering and sins, always lies, because of necessity he talks about his own self.’ Vardoulakis (note 17 above) 5.
be applied to apology. However, if the apologist admits the imperfect nature of the apology, including the impossibility of a ‘completely selfless apology’ and the impossibility of rendering a completely objective account of the past (untainted by the unreliable nature of memory), the apology can be taken more seriously.

Sincerity remains important, since the perception of sincerity will usually affect the likelihood of acceptance by the victim. It has been said that the hallmark of apology is full acceptance of responsibility. Apologies which indicate full acceptance of responsibility will therefore also be more positively received than apologies which do not make adequate disclosure or admission of wrongdoing. Apologies which involve public humiliation and shame can add to the perception of sincerity and can succeed even in the absence of full disclosure. A brief examination of three prominent examples of public apologies will illuminate this point. The examples of the apologies made by Vlok, De Klerk and Willy Brandt will also illustrate that the qualities which make apologies can also be unpredictable and mysterious.

**VII Instances of Apology**

Public apologies have increasingly been made since the middle of the 20th century. Some have referred to this trend as ‘apology mania’ or ‘contrition chic’. What is a public apology? Public apologies include apologies made by heads of state and by governments. Melissa Nobles writes that the distinction between apologies made by governments and apologies made by heads of states is especially important. Apologies by heads of state refer to verbal utterances made by the Executive. These utterances bear official weight, by virtue of the speaker. However, they do not carry the weight of government apologies which are (usually) the result of deliberative processes and are often accompanied by financial compensation. Whereas government apologies can be the product of consultations and official government commissions, apologies by heads of state can be more impulsive and spontaneous. Although Vlok’s apology was made in a personal capacity, it can be viewed as a public apology because it was aimed at restoring not only a private but a public wrong, and it was made to address wrongs committed when he was still bearing public office. The apology made by FW de Klerk in 1993 was made in his capacity as head of state. When he re-apologised in 1997, he did so as an individual and, having relinquished his power, could not act in a representative official capacity.

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85 Tavuchis (note 7 above) 8–13.
89 Ibid 4.
(a) FW de Klerk’s apologies

A well-made apology need be made only once. FW de Klerk’s repeated apologies not only highlight the inadequacy of his initial apology, but repeated apologies have less impact. De Klerk initially apologised for apartheid on 29 April 1993. This initial apology was not well received. It was widely regarded as inadequate, since it did not disclose De Klerk’s personal participation in apartheid crimes. Subsequently, during his testimony to the Truth Commission in 1997, De Klerk described his initial apology as an ‘unqualified apology’. He defended it against those who attacked it as an attempt to defend or justify the policies of the past. His renewed apology started with the words:

Let me place once and for all a renewed apology on record. Apartheid was wrong. I apologise in my capacity as leader of the National Party to millions of South Africans who suffered the wrenching disruptions of forced removals in respect of their homes, businesses and land …

Rhetoric can do only so much. De Klerk has been criticised as being unduly hasty to normalise differences and history in a divided South Africa. Although the above apology neatly enumerates many crimes particular to apartheid, it says very little about his personal involvement in these crimes. He has repeatedly tried to explain apartheid as a well-intentioned experiment in Christian paternalism towards black people. De Klerk’s failure to deem apartheid a morally abhorrent system places a question mark over the sincerity of his apology. The above apology also seems too convenient and easily made. It did not involve public humiliation, and De Klerk paid no personal price for making the apology. As stated before, these shortcomings do not nullify his apology, but detract from its impact.

(b) The Vlok feet washing

One of the most dramatic instances of a recent and much-publicised public apology was that of Adriaan Vlok, Minister of Law and Order during the twi-

90 De Klerk made this apology during a press conference. He acknowledged that apartheid led to forced removals of people from their homes, restrictions on their freedom and jobs and attacks on their dignity. He explained that the policy of separate development was better than colonial policies: ‘It was not our intention to deprive people of their rights and to cause misery, but eventually apartheid led to just that. Insofar as that occurred, we deeply regret it.’

91 The full apology reads: ‘I apologise in my capacity as leader of the National Party to millions of South Africans who suffered the wrenching disruptions of forced removals in respect of their homes, businesses and land … Who over the years suffered the shame of being arrested for pass law offences. Who over the decades and indeed centuries suffered the indignities and humiliation of racial discrimination. Who for a long time were prevented from exercising their full democratic rights in the land of their birth. Who were unable to achieve their full potential because of job reservation. And who in any other way suffered as a result of discriminatory legislation and policies. This renewed apology is offered in the spirit of true repentance, in full knowledge of the tremendous harm that apartheid has done to millions of South Africans.’ See ‘Truth and Reconciliation Commission Hearing: Testimony of Former President F.W de Klerk’ 14 May 1997.

light of apartheid. In an act of contrition, Vlok washed the feet of Reverend Frank Chikane in a private meeting on 3 August 2006. Vlok arrived at the Union Buildings in Pretoria with a towel, a bar of soap and a Bible. He asked to see Chikane, who currently holds the post of Director General of the Presidency. Vlok apologised to Chikane, and quoted a verse from the Bible.

Chikane was but one of many wronged by Vlok. Why did he wash Chikane’s feet? Vlok was accused of attempting to kill Chikane in an incident in which his clothes were doused with poison while he was travelling in the United States in 1989. Vlok saw Chikane as the embodiment of all the people he had wronged.

Chikane said he accepted the apology, during which Vlok admitted to atrocities committed during the apartheid era. Vlok said he had hoped that Chikane would accept the ‘small gesture’ of washing his feet, in his bid to reconcile with God and his conscience. Although he was not comfortable with Vlok washing his feet, Chikane was grateful for the gesture.

In its response, the South African Council of Churches (SACC) said that it accepted the apology, but that it was no substitute for full disclosure (the requirement set by the Amnesty Committee of the TRC). The General Secretary of the SACC, Eddie Makue, urged Vlok and ‘others with knowledge of these crimes’ to show their repentance by apologising to victims.

Vlok’s apology met with a mixed response. The leader of the African Christian Democratic Party (ACDP), Moshoe, responded positively. However, some media commentators, such as John Qwelane, responded very negatively and cynically. Qwelane expressed doubt about the sincerity of Vlok’s ‘Damascus transformation’. Some speculated that Vlok’s timing was strategic: he apologised shortly before the National Prosecuting Authority (NPA) announced its intention of prosecuting those who did not apply for amnesty.

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93 Vlok was Minister of Law and Order between 1986 and 1991.
95 The verse was John 13:5: ‘I have sinned against the Lord and against you. Please forgive me.’
96 Subsequent to the Chikane feetwashing Vlok washed the feet of ten widows and mothers of the Mamelodi 10 — a group of anti-apartheid activists who had been lured to their deaths by police informants.
98 ‘Former Deputy says Vlok Apology a Watershed Moment’, 27 August 2007, Mail & Guardian Online.
99 Ibid.
100 Ibid.
101 Ibid.
On 15 August 2007 Vlok received a suspended sentence from the Transvaal High Court in terms of a plea bargaining arrangement with the state. What was the relationship between Vlok’s apology and the plea bargain? Were commentators such as Qwelane correct in speculating that Vlok apologised in order to receive a plea bargain? This does not seem to be the case. Vlok was never charged individually. The NPA charged him with four other accused (Van der Merwe, Smith, Otto and Van Staden) for the attempted murder of Frank Chikane. According to the plea bargaining agreement, Vlok and the other accused ‘assisted the state by pleading guilty in so far as it would otherwise have been difficult for the State to prove its case, since the State is not in possession of any evidence regarding the involvement of accused No 1 and No 2 [Van der Merwe and Vlok].’ Vlok’s co-operative actions in this case were consistent with his co-operative attitude towards the Truth and Reconciliation Commission. It therefore seems from the plea bargaining agreement that Vlok and Van der Merwe came forward voluntarily to assist the NPA in providing information about their participation. The plea bargaining agreement did list the ‘sincere remorse of accused No 2 [Vlok]’ as a mitigating circumstance. The Pretoria High Court mentioned the foot washing and stated: ‘This act of contrition must be seen against the background that it was performed voluntarily by accused No 2.’

Although Vlok has failed to make adequate disclosure of his involvement in disappearances and murders during his time in office, it may be argued that the way in which he apologised adds to the sincerity of the act. The act of foot washing involves a degree of mortification. It is a vivid indicator of shame. Because of the intensely personal nature of an apology and the significance of the context in which apologies are made, it is difficult to argue that, in order to be effective, a standardised form of apology should be adopted. It is precisely because of its social and fluid nature that apology can mend broken relationships. In Vlok’s case Reverend Chikane immediately accepted the apology. The apology vis-à-vis Chikane can therefore be described as effective. To the extent that his apology was directed at all victims of apartheid, the reception is, of course, more complicated. The problem with apologies made to an infinite number of people is that it is difficult to establish the direct connection between perpetrator and victims which help to enact the social dimension of repair.

If the hallmark of apology is full acceptance of responsibility, the apologies offered by De Klerk and Vlok are clearly inadequate. Their apologies could have been more effective if accompanied by greater acknowledgement and...
disclosure of personal involvement in wrongdoing in concrete instances.109 To the extent that Vlok’s apology can be understood as an ‘apology in the form of a physical act’ one might, however, not require the same full acknowledgement as would be required of a purely oral apology. The fact that Vlok applied for amnesty, whereas De Klerk did not, also strengthens his claim to sincerity.

(c) The Brandt Kniefall

In the early 1950’s the German government set in motion an extensive programme of Holocaust reparations. These initial reparations were not accompanied by an official apology.110 By the time World War II slave labourers were compensated by Germany in the 1990’s the reparations were accompanied by an apology. It was written into the reparations agreement that both the Federal Republic of Germany and German companies accepted ‘moral and historical responsibility for the use of slave and forced laborers, for property damage suffered as a consequence of racial persecution and for other injustices of the National Socialist era and World War II’. Furthermore, every cheque to a slave labourer was accompanied by a note of apology from Johannes Rau, the President of Germany and Hitler’s legal successor. This statement was made in 1999 and exceeded what Adenauer has achieved by his initial apology.111 It included the following words:

This compensation comes too late for all of those who lost their lives back then, just as it is for all of those who have died in the intervening years. It is now therefore even more important that all survivors receive, as soon as possible, the humanitarian agreement agreed today. I know that for many it is not really money that matters. What they want is for their suffering to be recognized as suffering and for the injustice done to them to be named injustice. ... I pay tribute to all those who were subjected to slave and forced labour under German rule and, in the name of the German people, beg forgiveness. We will not forget their suffering.

The first post-World War II Chancellor of Germany, Konrad Adenauer, did not offer an official apology for the Holocaust. Adenauer declared that ‘unspeakable crimes were committed in the name of the German people, which create a duty of moral and material reparations’,112 but stopped short of an apology. He did, however, initiate an extensive programme of Wiedergutmachung (a word he coined meaning ‘to make good again’, and referring to reparations).113 One explanation for the failure to apologise formally is that in the years immedi-

109 Fear of legal consequences can, of course, be a serious obstacle to apology. See Mbaye (note 86 above) 37. Taft, however, is of the view that ‘protected apologies’ (those protected from legal processes) subvert a moral process. Taft (note 39 above) 1138.
110 See the discussion relating to the ‘Brandt Kniefall’ below.
111 According to Israel Singer, this note was more important than the money that accompanied it. This statement was made during a meeting of Holocaust survivors in New York in 2000.
113 In 2000 it was estimated that the German government has paid approximately $61.5 billion in reparations. Ibid 408.
ately following the war, the Germans tried to ‘put the past behind them’.\textsuperscript{114} They focused instead on repairing the German economy and rebuilding German cities. Indeed, the Germans saw themselves as victims of the war, a perception encouraged by Adenauer.\textsuperscript{115} Another reason could be the fact that apologies were simply not fashionable at the time, and were not popularly understood and accepted as an important and expected form of symbolic reparations.

Two decades later, the political atmosphere in Germany had changed. There was an increasing awareness (especially on the part of the German youth) of a need to confront the atrocities committed during the Holocaust. A seminal moment in the process of repairing Germany’s past was Chancellor Willy Brandt’s \textit{Warschauer Kniefall}.\textsuperscript{116} On 7 December 1970 Brandt, on a state visit to Warsaw, intended to improve German relations with Poland and the USSR, attended a commemoration of the Jewish victims of the Warsaw Ghetto Uprising of 1943.\textsuperscript{117} Overcome by the enormity of the moment, Brandt spontaneously dropped to his knees at the monument to victims of the Warsaw Ghetto Uprising in apology for Germany.\textsuperscript{118} He spoke no words. This was widely accepted in Poland as a profound act of apology and repentance.\textsuperscript{119} The image of this silent apology which was seen in the news by many Germans and Poles deeply affected both nations. Many Germans of the post-war generation subsequently said that seeing Brandt’s \textit{Kniefall} profoundly affected them and that witnessing this gesture marked the first time they felt pride in being German.\textsuperscript{120}

When Brandt later described this seminal moment, he wrote that he felt as if he ‘had to do something to express the particularity of the commemoration at the ghetto monument. On the abyss of German history and carrying the

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  \item For an ‘eyewitness account’ of the atmosphere in Germany in 1950, see Hannah Arendt ‘Besuch in Deutschland’ (1950) in M L Knott (ed) \textit{Hannah Arendt. Zur Zeit. Politische Essays} (1986). Arendt writes that ordinary Germans were ‘getting on with business’ and what they perceived as what the times required of them and almost consciously suppressed the evils of the recent past. Ibid 44. See also J Musiol \textit{Vergangenheitsbewältigung in der Bundesrepublik, Kontinuität und Wandel in den Späten 1970 er Jahren} (2006) 18.
  \item Ibid.
  \item Brandt later described his thoughts leading up to this event: ‘An unusual burden accompanied me on my way to Warsaw. Nowhere else had a people suffered as in Poland. The machine-like annihilation of Polish Jewry represented a heightening of bloodthirstiness that no one had held possible. On my way to Warsaw [I carried with me] the memory of the fight to the death of the Warsaw ghetto.’ B Marshall \textit{Willy Brandt} (1993).
  \item The uprising occurred during the military occupation of Poland, and the monument is to those killed by German troops who suppressed the uprising and who deported remaining ghetto residents to concentration camps.
  \item The gesture was widely, but not universally, accepted. In an opinion poll conducted by the Allensbacher Institute 48\% of Germans found the \textit{kniefall} exaggerated, whereas 41\% approved of the gesture. This was reported in \textit{Der Spiegel} of 14 December 1970. Some Germans thought the apology was less sincere because Brandt was not loyal to the ‘German cause’ during the war, since he spent this time working for the resistance in Norway. His apology was, however, uniformly praised by the Polish press, who uniformly praised the gesture as sincere. For more on the reaction to the gesture, see Marshall (note 117 above) 111.
\end{itemize}
burden of the millions who were murdered, I did what people do when words fail them.121

In exceptional circumstances, after extreme barbarity, words fail to capture the magnitude of the catastrophe. Brandt’s apology was much more powerful than any of the apologies made by FW de Klerk. Because of the spontaneous nature of Brandt’s gesture, it was perceived to be sincere. The historic timing of the event contributed to the success of this apology. Brandt’s apology, expressed as a physical gesture, may be compared to the physical gesture of foot washing. The Kniefall and the gesture of foot washing are symbolic acts, which speak for themselves.

VIII ACHIEVING FORGIVENESS

Although apology and forgiveness are philosophically distinct, apology can be understood fully only if viewed in the light of its ultimate goal: forgiveness. Apologies do not compel forgiveness. Survivors and victims have the power to grant or withhold forgiveness. A complete treatment of forgiveness is beyond the purview of this article. I will focus on some aspects of the relationship between apology and forgiveness.

For Jeffrie Murphy the motivation to forgive is the overcoming of resentment.122 Murphy demands contrition as a condition for forgiveness. The expression of contrition provides a legitimate moral reason for the offended party to forgive.123 In Murphy’s view, forgiveness without repentance would not be a moral act. Murphy’s perspective has been criticised as tying the offended to the offender.124 If the offender fails to act in a way that would legitimise forgiveness, then the offended party must hold on to an attitude of resentment.125 This leads to a dangerous dependency on the wrongdoer by the wronged.

Robust forgiveness is a multi-dimensional phenomenon.126 To forgive does not have to mean that one overlooks moral law, principle or justice. Instead, justice and morality could require forgiveness.127

In her book The Human Condition, Arendt writes that forgiveness is the only action which acts in an unexpected way and which not merely re-acts but acts anew.128 The act of forgiveness is therefore the only act which can free both the forgiver and the forgiven from the consequences of the wrongful act.129

121 Boehmer (note 4 above) 342.
123 Taft (note 39 above) 1144.
124 Ibid 1145.
125 Ibid.
126 DW Shriver ‘Forgiveness: A Bridge across Abysses of Revenge’ in Helmick (note 133 above) 156.
127 Ibid.
129 Ibid.
Forgiveness must be granted without altering our beliefs about the wrongness and culpability of the wrong. If we change our beliefs about the culpability of the wrong, we come to think that there is nothing to forgive.\textsuperscript{130} For there to be something to forgive, there must be unexcused, unjustified, unacceptable wrongdoing. This has led Derrida to state that only the unforgivable can be forgiven and that forgiveness is essentially paradoxical.\textsuperscript{131} Forgiveness also offers the wrongdoer a renewed attitude to his or her wrongdoing that is more positive than he or she deserves on the basis of his or her actions.\textsuperscript{132}

One should be careful not to over-abstract forgiveness. George Ellis writes that, ultimately, forgiveness is not an abstract concept.\textsuperscript{133} As is the case with its counterpart, ‘revenge’, forgiveness is a real force in social, political and family life and has enormous practical effects in the world.\textsuperscript{134} It has often been said that if it were not for the forgiveness of Nelson Mandela, South Africa would have experienced a bloodbath or civil war.

It has been said that without forgiveness, the twenty-first century could be as barbarous as the twentieth. Geoffrey Hartman has written that the entanglement of memory and revenge does not cease.\textsuperscript{135} I will argue that the entanglement of memory and apology does cease. Whereas victims are often urged to ‘forgiveness and forget’ (since forgiveness would be more complete if it is accompanied by forgetting), it may be argued that apology, since it is about condemning and regretting, is also about actively remembering. To encourage apology is to encourage remembering. But because of the entanglement between the measurable (or juristic) and immeasurable (religious(symbolic)) components of apology, it can be argued that apology is not an act which fixes a stable form of memory.

\section*{IX Conclusion}

Apologies hold tremendous transformative power. I have argued that this is the case even in the case of apologies which fall short of ideal apologies. Ideal apologies are made sincerely and involve complete acknowledgment of wrongdoing. The possibility that an apology might have been made insincerely does not extinguish its reparative and restorative effects. Because apologies are performative acts, even insincere apologies can have constructive effects. Although the apologies made by De Klerk and Vlok clearly fall short of ideal apologies, I have argued that Vlok’s apology was nevertheless successful. Whereas De Klerk’s apology seemed too easily (almost glibly) made, Vlok’s gesture was one which exposed him to public mockery and humiliation. The

\textsuperscript{130} L Allais ‘Forgiving without Forgetting: Forgiveness and the TRC’ (unpublished conference paper) (on file with author) 1.
\textsuperscript{131} J Derrida On Cosmopolitanism and Forgiveness (2001) 32.
\textsuperscript{132} Allais (note 130 above) 7.
\textsuperscript{133} GFR Ellis ‘Afterword: Exploring the Unique Role of Forgiveness’ in Forgiveness and Reconciliation (2001) 395.
\textsuperscript{134} Ibid.
fact that his apology exacted a personal price makes his gesture more credible. Whereas I have argued that greater disclosure of personal involvement would have added to his apology, the foot washing gesture was successful insofar as it was accepted by Chikane and insofar as it triggered constructive national debate.

Apologies have value as a form of symbolic reparations after mass atrocities such as apartheid and genocide. Apology fits into the paradigm of restorative justice, a paradigm which is already widely accepted within the field of transitional justice and is gaining ground in criminal law. Because apology aims at the restoration of social relationships, it also fits the ongoing transitional project of reconciliation. During and since the TRC, only fragments of the truth were and have been uncovered. If apology is received positively, instead of being the subject of mockery, others will be encouraged to come forward and disclose more about the past.\textsuperscript{136} Since the controversial step of granting amnesty to those who committed crimes against humanity has already been taken, it seems to follow (and may be required by our commitment to a particular transitional project) that even belated apologies should be accepted. As can be seen in the context of Germany and the United States, apology can remain an emotive issue for many decades after the wrongdoing has ceased. The fact that apologies made more than fifty years after the World War II were well received indicates that apology, in order to be effective, does not have to be made immediately after the wrongdoing. The conditions that make for successful apology are complex and cannot be standardised. The positive reception of an apology depends on unpredictable factors such as the public mood, public perception and historical timing. Apologies are as individual as the wrongs they seek to address.

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