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# **Contrition and Community: A Gewirthian Interpretation of State Apologies**

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## **Abstract**

### **Contrition and Community: A Gewirthian Interpretation of State Apologies**

This paper provides a philosophical understanding of state apologies by applying Gewirth's deontological theory. Through application of the principle of generic consistency, I contend that a state apology can be understood as a moral obligation concurrent with human rights. Subsequently, I attempt to solidify the Gewirthian understanding of state apology by integrating current understandings of the practice into the Gewirthian model of the community of rights. Here, I also suggest that the psychosocial biography of the community of rights strengthens the Gewirthian interpretation of state apology. Finally, I examine the merits of the U.S. apology for the Tuskegee Syphilis Study from this Gewirthian perspective. Ultimately, I conclude that the Gewirthian application is successful in its ability to clarify the reasons for which state apologies are given, as well as the goals they should accomplish.

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## Introduction

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*"So it is that the call for an apology always demands and promises more than it seems to."*  
~ Nicholas Tavuchis<sup>1</sup>

*"Apology seems theory free."* ~ Michael Freeman<sup>2</sup>

In some important sense, the growing phenomena of states apologizing for past and present wrongdoing, or for their failure to prevent the wrongdoing of others, seems to strike to the very heart of public ethics. It is within these public acts of contrition that official moral values are discussed, and that serious breaches in the moral fabric of social life are addressed. In essence, the phenomenon offers a glimpse into how states ought to behave. To be sure, legitimate concerns about sincerity and motivation abound, and apologies delivered tens or hundreds of years after an original harm muddle our temporally proximate understandings of individual responsibility and causality. Regardless, public expressions of acknowledgement, recognition and remorse continue to receive attention, and continue to be understood as potentially significant means of promoting reconciliation and equality between individuals, groups, and nations.

Consider the following introductory example. Beginning in 1932, the U.S. Public Health Service conducted a clinical trial in Macon County, Alabama, "to determine the natural course of untreated, latent syphilis in black males" (Brandt 21). When the trial reached its scandalous conclusion in 1972, it was estimated that over 100 men might have

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<sup>1</sup> Tavuchis 8

<sup>2</sup> Freeman 50

died from the effects of advanced syphilis. The study was premised on overtly racist and derogatory beliefs regarding black men, and clearly contradicted the contemporary standard of care for syphilis at various points during the study (Brandt 27). As Allan Brandt summarizes in his essay "Racism and Research: The Case of the Tuskegee Syphilis Study":

The doctors who devised and directed the Tuskegee Study accepted the mainstream assumptions regarding blacks and venereal disease. The premise that blacks, promiscuous and lustful, would not seek or continue treatment, shaped the study. A test of untreated syphilis seemed "natural" because the USPHS [U.S. Public Health Service] presumed the men would never be treated; the Tuskegee Study made that a self-fulfilling prophecy. (23)

The study was a self-fulfilling prophecy because the subjects in this case weren't even aware that they were subjects. The USPHS led the participants to believe they were being treated for "bad blood" (Brandt 24) when in reality they were given completely superficial treatment to disguise the fact that they were being tested and monitored for syphilis. Subsequent to the study's conclusion some 40 astounding years after it began, it was well understood that the magnitude of the trial's breach in clinical protocol was surpassed only by the violations of human rights that occurred, and that would be remembered. On May 16th, 1997, U.S. President Bill Clinton apologized to the eight remaining survivors of the trial on behalf of the United States.

This historical example can serve as a basic starting point in understanding the state apology as a moral action. In this case, an obvious harm was perpetrated by a governmental

organization over an extended period of time, resulting in tremendous suffering, hardship, and loss of life. But why apologize? In and of itself, an apology offers nothing corporeal to its recipients (unless reparations are involved), and certainly does not *erase* any harm or injury that has been caused in the past<sup>3</sup>. In the Tuskegee case cited above, the survivors of the trial had already been successful in securing a \$10 million settlement in 1973, but still congregated to ask for an apology some 23 years later (Weyeneth 32). As this case and many others indicate, a state apology clearly carries some kind of symbolic value. Although it is certainly true that an apology might have a material impact on future policies, procedures, or laws, the immediate act seems to offer only symbolic goods<sup>4</sup>. Thus, with questions of material reparation aside, what symbolic currency is or should be exchanged when states apologize?

Importantly, it seems, state apologies offer insight into the importance of *moral community*. It should be noted at this point that moral community here refers to a macro view of human relations, rather than a narrower view of specific types of groups. Philosophical understandings of state apologies in this vein tend to focus on the various ways in which (and degrees to which) an apology can "restore human dignity" (Negash 156), and perhaps contribute to a type of "moral community where international public opinion holds global leaders responsible" (Negash 99). In this context, frequently cited

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<sup>3</sup> This has been called the paradox of apology (Tavuchis 5). As Tavuchis notes, the act has certain "paradoxical and talismanic qualities" (5) that allow it to address past wrongs without actually changing the fact that they occurred.

<sup>4</sup> For more on how apologies might influence human rights law, see Gibney and Roxstrom's "The Status of State Apologies", 116-126. For another discussion of state apologies and law, see Bilder's "The Role of Apology in International Law".

examples of situations requiring apologetic redress include the Holocaust, the Rwandan Genocide, the aforementioned Tuskegee syphilis trial, and other crimes against humanity. Evident in all of these examples are morally abhorrent actions perpetrated in organized fashion by governing institutions. In all cases, governments or governing bodies failed to protect essential human rights, leading to traumatic outcomes and profound suffering. A disquieting irregularity in the moral community thus appeared as a result of these actions. In some obvious sense that this paper will attempt to clarify, things are simply *not right* after these actions occur. Very clearly, these types of crimes demand that the parameters of the moral community be discussed, and that important moral principles be *officially* restored. The state apology, even when offered after an extensive period of time, I will contend, is an important part of this reconciliation process.

Discussing the concept of moral community as it relates to public acts of contrition or remorse will therefore be a major concern in the context of this study. And so, what is the moral community? What are the essential features of the moral community? How does the moral community sustain itself? And most importantly, what can the concept of moral community possibly have to say about an act as ambiguous as an apology? Given that these questions of moral community and collective apology deal in the currency of human rights, it seems appropriate to adopt a human rights framework in attempting to provide answers. Given the nature of the inquiry, Alan Gewirth's deontological framework would therefore be an appropriate guide, as his discussions center around the necessary relationships between universally equal human rights and the moral community.

Gewirth, the deontological writer responsible for works such as *Reason and Morality*

(*RM*) and *The Community of Rights (COR)*, creates a philosophical and analytical foundation upon which the notion of *moral community* can be stood. Beginning with the "*Principle of Generic Consistency*" (PGC), which also represents the "principle of human rights" (*COR* 19), Gewirth traces the notion of duty from the categorical logic of dialectical necessity to the social and economic rights that ought to be featured and protected in any community that endeavors to be moral. Thus, when one begins with a series of contingent premises related to human action, as Gewirth does, one ends with the generic rights to "freedom and well being" (*COR* 18) that each agent lays claim to, and which one must act in accordance with in order to avoid logical self-contradiction. In this manner, for Gewirth, the PGC infiltrates virtually every domain of action, from the individual to the institutional. Moreover, subscription to the PGC is not presented as optional. Rather, with genuine morality being at stake, commitment is "required or mandatory" (*RM* 67). Thus, in brief, a deontological framework that can apply to the broader questions of moral community is established. Moreover, Gewirth's analysis of generic rights as the foundation of the moral community also yields insights into the notion of "human dignity" (*COR* 66), which is also relevant to the topic of state apologies. It should be noted, however, that my goal is not to study the merits or deficiencies of Gewirth's argument<sup>5</sup>. Rather, assuming that Gewirth's argument is salient to this topic, this paper will attempt to determine how far it can extend in its view of rights and duties, and discover whether such an extension is coherent.

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<sup>5</sup> For a more detailed analysis of Gewirth's argument see: Beyleveld, Deryck. *The Dialectical Necessity of Morality: An Analysis and Defense of Alan Gewirth's Argument to the Principle of Generic Consistency*. Chicago: University of Chicago Press, 1992.

Thus, into this framework I would like to place the morally ambiguous phenomena of state apologies. Before continuing, however, a working definition of a state apology should be offered in order for confusion to be avoided. My study will endorse the definition offered by Aaron Lazare in his influential text titled *On Apology*. According to Lazare, an apology:

...refers to an encounter between two parties in which one party, the offender, acknowledges responsibility for an offense or grievance and expresses regret or remorse to a second party, the aggrieved. Each party may be a person or a larger group such as a family, a business, an ethnic group, a race, or a nation. The apology may be private or public, written or verbal, and even, at times, nonverbal. (23)

A state apology will refer to this type of encounter as it might occur publicly between individuals and collectives, or collectives and collectives at the level of government<sup>6</sup>. By extension, this study will also relate to other forms of public apology as well, such as those offered by religious organizations, corporations, and other social actors. However, the study will focus on the state as the primary respondent to rights violations in the moral community.

Moreover, it should be noted at least in passing that state apologies have been approached from a variety of disciplines. In his informative text *Apologia Politica: States and Their Apologies by Proxy*, Girma Negash suggests that, historically, the study of public

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<sup>6</sup> A more formal definition is provided by Negash, who writes that a “Political apology is apology that directly involves nation-states or that in which states have taken interest to apologize on behalf of many or are on the receiving end on behalf of victims of grievous transgressions” (2).

apologies has been informed by the etymological history of the topic, socio-religious understandings of repentance, psychoanalytical traditions, and more recently, the philosophical movements associated with the rise of universal human rights as embodied in the Universal Declaration Model (Negash 5). Within these frameworks one can then specify concerns related to linguistics, discourse ethics, politics and diplomacy, international relations, the arts (including fiction, drama, visual art, film, architecture, monuments, etc.), law, or history. This study, more than anything, will be philosophical, and will attempt to understand the action as a potential component of large-scale deontological ethics as presented by Alan Gewirth.

Applying Gewirth's framework to this topic will include many considerations. First and foremost, the type of moral action that the state apology represents must be established in relation to moral rights. A question that will therefore be addressed in this preliminary stage is whether acts of contrition and reconciliation fall within the scope of duties, both positive and negative, as they are elucidated by the PGC. One might suggest, for example, that an apology represents a supererogatory form of action, and cannot be *owed* in any meaningful sense. Some topics that will need to be clarified in order to justify the location of state apologies within the realm of duties will thus include Gewirth's views on "generic consistency" (*RM* 187), moral supererogation, moral disparities (*RM* 189), "reactive duties" (*RM* 328), and positive rights. Subsequently, the contents of generic rights will be analyzed, along with the Gewirthian notion of "mutuality" (73). In brief, my suggestion will be that Gewirth's framework provides an opportune space for discussing state apologies as duties featured in the community of rights.

The second chapter will relate these considerations to current understandings of state apologies. In this chapter, general features of the state apology will be explored in an attempt to define a relationship between apologies on behalf of the state, and aforementioned features of the community of rights. In particular, the suggestion made by Nicholas Tavuchis in his text *Mae Culpa: A Sociology of Apology and Reconciliation* that an apology “is concerned with the fundamental sociological question of grounds for membership in a designated moral community” (6) will be explored and advanced. In so doing, challenges relating to remorse, collective responsibility, “transgenerational polity” (Thompson, “Apology, Justice and Respect” 39) and state-centric approaches will also be considered, with the goal of justifying the location of the state apology within the community of rights envisioned by Gewirth.

Thus, my attempt will be to add another type of social right to Gewirth's catalogue, which already includes economic, social and political rights to productive agency, private property, employment, economic democracy, and political democracy. Expanding on Gewirth's suggestion that the community of rights should reflect an "institutionalization of love as a deep concern for the freedom and well-being of all the members of society" (*COR* 83), my goal in chapter four will be to suggest that an important moral psychology runs underneath Gewirth's understanding of human rights. By appealing to Gewirth's notion of the “decent society” (*COR* 348), I will here attempt to show that, in addition to the economic and political biographies, a distinctly psychosocial biography also underlies the community of rights. Moreover, I will argue that this moral psychology can serve as an important means of understanding and justifying the placing of the state apology in the

vernacular of rights. Subsequent to this section, chapter five will then present the case of the Tuskegee Syphilis study. In this chapter, I will apply the Gewirthian interpretation of state apology to the case described briefly above.

Ultimately, the suggestion will be that one can make adequate moral sense out of the ethically mysterious act represented by the state apology. By applying Gewirth's framework, one should be able to see that an apology can most certainly be categorized as something that one can have a right to. In other words, in the context of Gewirth's emphasis on state duties, an apology is something that can be *owed* under certain circumstances in the same sense that other moral actions, such keeping promises, can be owed. More importantly, through the PGC, my argument will lend justification to the view that this sort of moral imperative exists not only at the interpersonal level, but at the institutional level as well. Thus, the paper will provide firm philosophical support to the perception that apologies can "strike to the heart of our deontological commitments and call on us to honor our basic duties" (Smith 10). The notion of moral community, it will be argued, is the avenue through which this intuition can be understood.

## Chapter 1: The Principle of Generic Consistency and Reactive Duties

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In his texts *Reason and Morality (RM)* and *The Community of Rights (COR)*, Gewirth suggests that human rights and their correlative obligations can be understood in a strictly dialectical fashion. For Gewirth, an agent can essentially be described as someone who is capable of engaging in action that can be characterized by voluntariness and purposiveness (*COR* 132). According to Gewirth's dialectically necessary methodology<sup>7</sup>, every agent must ultimately accept, through a series of contingent premises, that they must act in accordance with the equal generic rights of other human beings, in addition to their own (*COR* 19); an obligation that Gewirth terms the "*Principle of Generic Consistency*" (PCG), and which represents the moral "principle of human rights" (*COR* 19). While Gewirth mostly utilizes the PGC to trace an "economic biography" (*COR* 20), my argument here will attempt to apply this framework to the public act of apologizing. Specifically, this chapter will suggest that the state apology can be located in the broad category of duties that Gewirth illustrates in his works, and does not constitute a morally supererogatory action. Subsequently, an examination of generic rights to freedom and well-being, which are the procedural and substantive conditions of action, will suggest a further link between the community of rights, and the state apology.

Prior to discussing the state apology, Gewirth's distinction between generically

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<sup>7</sup> The dialectically necessary method, according to Gewirth, is one that "begins not from statements made by the writer or speaker himself but rather from statements presented as being made or accepted by a purposive agent" (*COR* 16). In this sense, this methodology achieves a moral and logical "categoricalness", in that it is presented as "relative to what every agent must logically accept for herself" (*COR* 16).

consistent obligations and moral supererogation needs to be clarified. According to the PGC, every agent has an obligation to "act in accord" (*COR* 19) with the generic rights of other agents, with generic rights being rights to "freedom and well being" (*COR* 18) as requisites for both any action, and any generally successful action. In this sense, as Gewirth emphasizes, the obligations generated by the PGC represent a minimum moral standard that is "quite strict", and which cannot be characterized "merely as preferable or fitting, as generous, supererogatory, or matters of grace" (*RM* 67). Rather, given that the PGC is developed through a dialectically (logically) necessary methodology, the rights and duties contained in this framework become ethically "required or mandatory" (*RM* 67) in order for the agent to avoid self-contradiction. One can therefore see that Gewirth's thesis is built upon a rather rigid interpretation of agency, and that one has moral obligations in so far as one is required to respect the generic rights that are claimed, necessarily, by every person. It is in this sense that Gewirth describes the PGC as the "principle of human rights" (*COR* 19). Because the PGC dictates logically derived moral obligations, a system of necessary human rights and duties is established.

In contrast with this view of obligations are Gewirth's views on moral supererogation. In *Reason and Morality*, Gewirth suggests that there are certain forms of action that may be commendable in the moral sense, but that can't be said to be obligations proper in the dialectically necessary sense. Citing the examples of "sympathy and kindness", Gewirth argues that, although these qualities are indeed "admirable both in themselves and as facilitating morally right action", they aren't "essential qualities" (*RM* 184) needed to respect the generic rights of other agents. In this sense, moral action that might be

exemplified by the *extremely good samaritan* is considered supererogatory, and falls outside the rubric of logically derivable rights and duties. Drawing the analogy of the saint, Gewirth suggests that heroic action such as sacrificing one's life for another's is not obligated:

The recipients do indeed have rights to life and liberty, but only in the sense that other persons ought to refrain from interfering with their life and liberty, or ought to assist them to preserve these if this can be done at no comparable cost to themselves, but not in the sense that another person ought to sacrifice his own life and liberty for the sake of others. (*RM* 189)

Despite their moral quality, supererogatory actions cannot therefore be *owed* to another agent. It would here be appropriate to raise the following critical question: does the state apology fall under the concept of supererogation, or moral obligation as described by the PGC?

To answer this question, the actual concept of consistency that Gewirth identifies in the PGC must be explored. For Gewirth, the fine line between logical obligation and moral charity can only be determined through an appeal to "generic consistency" (*RM* 187). As Gewirth emphasizes in his construction of the PGC, every agent must accept, on pain of self-contradiction, that he or she has rights to freedom and the goods necessary for well-being and generally successful action. As a result, in order to be logically consistent, every agent must also come to the conclusion that *others* have the same generic rights, and that violation of those rights would be, for lack of a better word, wrong. In conclusion then,

every agent is left with certain rights and correlative responsibilities that are not "dispensable" (RM 186). Rather, these logical and moral duties are characterized by a "categorical obligatoriness [sic]" (RM 185) which renders them binding. To be generically consistent in one's actions, on this account, is to act in a way that respects the generic rights that one necessarily recognizes others as possessing. Alternatively, to be generically inconsistent, according to Gewirth, is to:

...uphold a disparity between the essential conditions of action that one necessarily claims for oneself and what one is willing to concede to others. It is to maintain for oneself the most general rights of action in a transaction with other persons, while denying these rights to the persons who are affected by one's action and who are relevantly similar to oneself...To violate the *PGC* is thus to do what is morally as well as logically wrong. (RM 187)

This notion of consistency therefore becomes the crux of Gewirth's thesis, in that the force of obligations is derived from this rational principle. To understand the moral status of any action, therefore, one must ask whether it is generically consistent or not.

Central to this clause of generic consistency is the suggestion that one is accountable for the "disparity" (RM 187) that one creates, or presumably sustains, through one's actions. In reality, it could be said that Gewirth's entire discussion of the moral community aims towards this essential notion of disparities or inequalities between generic rights<sup>8</sup>, and how

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<sup>8</sup> Indeed, the "*deprivation focus*" (COR 110) of the community of rights supports this claim. As Gewirth emphasizes, this focus applies not only to the economic biography of agents, but also to those "whose livelihoods are threatened by unemployment, illness, and other adversities, including feelings of

they should be dealt with. An act of supererogation, on this account, sets up a unique kind of disparity: one that is generically consistent, but not obligatory. Citing the example of heroic action again, Gewirth suggests that heroic sacrifice:

...would involve that the agent set up a disparity or inequality between himself and his recipients; but what the *PGC* requires as a matter of strict duty is that the agent not set up such a disparity in favor of himself...[the hero's] self-sacrifice is an act of grace on his part, but not of strict duty, unlike what is required by the *PGC* and its derived rules and judgments. Hence the agent is not here being generically inconsistent. (*RM* 189)

As Gewirth eloquently confirms, a supererogatory action has the rare effect of setting up a generically consistent disparity in favor of the recipient of the act, while not being required by the *PGC*. This is why, in theory, a supererogatory act cannot be *owed* to another agent.

From this perspective, a state apology categorically cannot be considered an act of supererogation. As Gewirth argues, a supererogatory act sets up a disparity in favor of the recipient, and is not obligatory. A state apology clearly does not fit this conceptual profile. Consider this very simple explanation of the state apology, provided by Robert Weyeneth, author of "The Power of Apology and the Process of Historical Reconciliation": "An apology provides moral restitution, offering recipients something of nonmaterial value as a

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hopelessness" (*COR* 110). The "*deprivation focus*" (*COR* 110) can be explained by the "*criterion of degrees of needfulness for action*" (*COR* 45) in that those rights that are more essential for action are given primacy in cases of conflict. Based on this mediating principle, it makes sense for the *PGC* to consistently focus on "those deprived persons whose interests are protected inadequately or not at all" (*COR* 110). In this sense, the notion of disparities or inequalities between generic rights is a key focus of the community of rights.

way to make good for injury, loss, or damage" (31). Presuming it uncontroversial to agree that a state apology is an attempt to inaugurate, in Weyeneth's words, "historical reconciliation" (35), then one would have to conclude that a state apology only exists insofar as a previous wrong to which an attempt at reconciliation can be *owed* exists. In this sense, the state apology has, as a prerequisite to its authentic existence, a relationship to some preceding act of harm or wrongdoing. Subsequently, an apology cannot be a mere offering without rationale, or act of *uncalled for* benevolence. As has already been discussed, a supererogatory action characteristically sets up a disparity in favor of the recipient. Given the necessarily conciliatory nature of a state apology, it must be concluded that apologizing in this way does not create a disparity in favor of the recipient. In effect, the state apology actually has an opposite intention and effect. Instead of creating a generically consistent disparity in favor of the recipient, the state apology attempts to negate the effects of a previously existing disparity that was, and likely continues to be, generically inconsistent. In this sense, the state apology does not belong in the category of moral supererogation as Gewirth defines it.

Given that it does not fit the mould of supererogation, I would instead suggest that state apologies be located in Gewirth's briefly discussed category of "reactive duties" (*RM* 328). According to Gewirth, the PGC has a certain constitutional force that can generate additional "strict duties" (*RM* 328) under the right circumstances. Examples of such added duties are what Gewirth calls reactive duties, which include actions or expressions such as "reparation and gratitude" (*RM* 328). According to Gewirth:

If Alden inflicts some specific harm on Benson, such as by insulting or

cheating him, then Alden owes it to Benson to make amends....These, then, are not 'original' duties, but arise from preceding actions that violate a duty or contribute to another's well-being. The ground for holding according to the *PGC* that reparation is a duty is in general the same as in the case of punishment: an antecedent occurrent equality of generic rights, which the *PGC* requires, has been disrupted, and reparation is required in order to restore equality. (*RM* 329)

Given Gewirth's already considered references to generically consistent and inconsistent disparities, it would seem that the state apology, which attempts to restore consistency to antecedent generically inconsistent disparities, would be a reactive duty. As a result, it would follow that state apologies, when premised on a prior violation of generic rights, would be morally obligatory. This is because reactive duties fall under the category of duties elicited by the *PGC*.

Before moving on to a discussion of the actual features and content of generic rights, and how they relate to the state apology as a reactive duty, an important objection that could be made against this argument should be considered. One might suggest that an obligation to apologize, or express remorse, represents a more general obligation to feel a certain way, or express emotions that one legitimately might not carry (particularly if an apology is done by proxy). This problem is well recognized as relevant to state apologies, and is obviously problematic. As Mark Gibney and Erik Roxstrom suggest in their article "The Status of State Apologies", hypocrisy is a real threat to the moral integrity of a state

apology (935). Similarly, in her article "The Apology Paradox", Janna Thompson struggles with the notion that apologies for events in the distant past can't be sincere because, frequently, those apologizing did not commit the antecedent wrong and might even owe their existence to it (471). In this sense, the state apology might be a duty that is incredibly difficult to discharge, in that agents who are obligated to apologize might be incapable of honestly expressing the appropriate feelings. Additionally, obligating agents to feel a certain way may also constitute an "overload of duties" (Gewirth *COR* 54) in relation to positive rights. However, I would here notion that Gewirth never suggests that one must fulfill one's reactive obligations successfully. Instead, Gewirth simply says that one must "try" (*RM* 329) to express the feelings that one *owes*. Moreover, as Gewirth notes, reactive duties aren't actually premised on obligations to feel a certain way. Rather, he writes that the "most direct justification for this duty [reactive] is that it serves to promote a social order in which the *PGC* will be more readily observed, so that it has instrumental justification" (*RM* 329). Subsequently, I would argue with Gewirth that acts such as state apologies are not obligations to feel remorse sincerely - although this would be ideal - but are instead obligations to express remorse "in words or deeds or both" (*RM* 329) and restore the climate of equality and mutuality required by the *PGC*. These considerations will be taken up further in chapters three and four, as understandings of the state apology and its relationship to moral community are more fully described.

Added to these considerations of the type of duty represented by the state apology are more substantive concerns. In other words, how does the state apology corroborate with the actual content of human rights? To address this question, we must go back to Gewirth's

initial considerations of rights, action, and well-being. Subsequent to this, we will have a better understanding of how the state apology fits into the moral community in terms of both reactive duties, and the substantive nature of human rights as understood in Gewirthian terms.

First and foremost, Gewirth focuses on the context of “human action” (*COR* 13), which he suggests no human being can escape, as the basis of human rights. As Gewirth describes in his article “The Normative Structure of Action” (*NSA*), “Action is not a mere physical occurrence in which the entities involved make no choices and guide themselves for the sake of no purposes” (243). Rather, Gewirth argues that action which is voluntary (free) and purposive (intentional) is performed for some purpose, whether moral or not. What Gewirth here means, specifically, is fulfilling one’s purposes in the “intentional sense” (*NSA* 240). This is what is described as the agent’s “pro-attitude toward the purpose of his action” (*NSA* 240), which suggests that, although the agent may not want or even desire to perform an action, they ultimately do perform it because the purpose of the action is in some sense valuable, or worth achieving. Moreover, to be successful in acting and fulfill one’s purposes in the sense described (or to act at all), an agent must also recognize that they require the necessary conditions of action, which are freedom (procedural feature of action) and well-being (substantive feature of action) (*COR* 14). Crucially, at this point, an agent must subsequently accept that they therefore have rights to freedom and well-being. If they do not, as Gewirth suggests, they will in essence be claiming that there would be no problem with not having the necessary conditions of action, and not being able to act successfully. Because this claim would contradict the initial, necessary, and unavoidable

claim that the agent must have the necessary conditions of action in order to act successfully, one must ultimately accept the provision that an agent has rights to freedom and well being (*COR* 18). Thus, as Gewirth nicely summarizes in his related article “Moral Foundations of Civil Rights Law” (*MFCRL*), this first part of the PGC indicates, in a dialectical manner, that “all action is necessarily connected with the concept of rights” (133).

The second part of the PGC simply moves this provision forward to encompass all agents, revealing that duties are correlative to these aforementioned rights to freedom and well-being. To reach this conclusion, the “principle of universalizability [sic]” (*MFCRL* 134) is employed. Essentially, this principle states that, since agents claim these rights to freedom and well being for themselves, and since all agents have relevantly similar features and requirements, then all agents must have *equal* rights to freedom and well-being as the necessary conditions of action. In other words, “if any agent holds that he has the generic rights *because* he is a prospective purposive agent, then he also logically must hold that *every* prospective purposive agent has the generic rights” (Gewirth, *MFCRL* 134). Thus, through this extension of dialectical necessity, we arrive at the final formulation of the PGC:

*Act in accord with the generic rights of your recipients as well as of yourself.*

I call this the *Principle of Generic Consistency* (PGC), because it combines the formal considerations of logical consistency with the material considerations of the generic features and rights of action... Since the generic rights are rights had equally by all agents, and since all humans are actual, prospective, or potential

agents, the generic rights are now seen to be human rights. (*COR* 19)

By generic rights, Gewirth means rights to freedom and well-being as the necessary conditions of action. And so, in terms of the actual content of rights and duties as understood by Gewirth, “generic rights” (*COR* 19) are paramount. The following question should therefore be asked: does the state apology deal in generic rights? When unpacking these terms, it would seem that the answer is affirmative.

For Gewirth, freedom as a necessary condition of action simply refers to “control of one’s behavior by one’s unforced choice with knowledge of relevant circumstances” (*MFCRL* 137). To use an analogy that Gewirth himself employs in his discussion of the right to productive agency, the right to freedom as a necessary condition of action is similar, in the moral sense, to conceptions of autonomy (*COR* 115). Both freedom and autonomy, for Gewirth, belong to the “same family of concepts” (*COR* 115), in that both embody the importance of being able to govern one’s own actions and behavior. Moreover, both freedom and autonomy have both dispositional (particular) and occurrent (long range) qualities (*COR* 116). In other words, one’s actions can be free in the sense of being able to perform a particular action (occurrent), or in the sense of being able to generally control one’s behavior over a longer period of time (dispositional) (*COR* 49).

Alternatively, well being as a necessary and substantive condition of action refers to the actual *goods* that rational agents necessarily claim rights to. In this context, Gewirth identifies three forms of well-being. First, *basic-well being* refers to the prerequisites of action, “such as life, physical integrity, [and] mental equilibrium” (*COR* 14). Next, *non-subtractive well-being* simply refers to the conditions necessary for “maintaining

undiminished one's level of purpose-fulfillment" (*COR* 14). Lastly, *additive well-being* includes the conditions or goods necessary to increase one's level of "purpose-fulfillment" (*COR* 14) through one's actions. Possible examples of additive well-being thus include "education, self-esteem, and opportunities for acquiring wealth and income" (*COR* 14). And so, when an agent necessarily commits to the PGC, they are in effect claiming that they, and therefore all other agents, have the *generic* rights to both freedom and well-being in the sense just described.

As an aside, and in an effort to establish a preliminary link between the features of generic rights and the types of misdeeds for which states apologize, it is important to note that apologies of this variety often deal with gross violations of human rights. Oft cited events that have spurred calls for apologies include genocides such as the Holocaust, and the more recent Rwandan<sup>9</sup> experience. As Jean-Marc Coicaud and Jibecke Jönsson point out, these types of crimes against humanity represent an "outer limit of evil" that might even enter the realm of the "unforgivable" (83). Moreover, in addition to these, other apologies of this collective type have recently dealt with issues related to:

...religious prejudice and persecution, racist policies and behavior, colonialism, the dispossession of native peoples, slavery, political executions...war crimes, medical experiments, the Red Scare, police violence, environmental contamination, and other historical events and government policies now out of favor. (Weyeneth 11)

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<sup>9</sup> For a detailed discussion of apology history in the cases of Rwanda and the Holocaust, see chapters two and four of Negash's text.

Very obviously, these many forms of injustice relate directly to violations of generic rights, either in the sense of freedom or well-being (or, very likely, both). Consider once again, for example, the case of the Tuskegee syphilis trials. It goes without saying that this project denied its participants various forms of well-being<sup>10</sup>, including what Gewirth refers to as “physical integrity” and “mental equilibrium” (*COR* 14). More fundamentally, however, unsettling acts such as this are also seen to disrespect and violate “human dignity” (*COR* 66), which is the ultimate basis of generic rights. In Gewirthian terms, dignity would here simply refer to an agent’s ownership and ability to use the various abilities flowing from their generic rights (*COR* 66). Here, Gewirth’s basic understanding of dignity as related to the normative structure of action helps to illustrate the general ways in which freedom and well-being can be deprived (*COR* 106).

In actuality, basic regard for human dignity is central to Gewirth’s theory and the community of rights. Consider the criticisms levied against Gewirth’s argument by Marcus Singer. In “On Gewirth’s Derivation of the Principle of Generic Consistency”, Singer essentially suggests that it is incoherent to suggest, as Gewirth does, that the prudential rights with which the PGC begins can generate moral obligations (Singer 298). In his reply

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<sup>10</sup> Here, the hierarchy of well-being is helpful in understanding various degrees of harms for which apologies might be made. Given that basic well-being is the most necessary form of well-being for action and generally successful action, violations of this type seem to represent the most essential reason for issuing apology. Similarly, the difference between occurrent and dispositional violations of the various forms of well-being yield insight into the seriousness of harms caused, and the necessity of a reactive duty being discharged. If someone is mildly insulted on one occasion, by this reasoning, it is perhaps less pressing, but not unreasonable, to apologize than instances in which mass violence’s are perpetrated over extended periods of time. In this sense, the hierarchy is useful in its ability to explicate which harms might reasonably result in calls for apology. Of course, specifying the multitude of forms of well-being remains difficult, but the hierarchy goes a distance in simplifying which violations might be particularly salient in relation to apology.

to Singer<sup>11</sup>, Gewirth makes the following point about what could loosely be termed the element of *regard* that is central to the PGC:

Since the sufficient justifying condition which the (any) agent logically must adduce for his claim that he has the generic rights...is that he is a prospective purposive agent, he logically must admit that all prospective purposive agents have the generic rights. Here, the generic rights referred to in the antecedent are prudential; but the generic rights referred to in the consequent are moral...the consequent's rights are moral in that, in setting them forth, the agent now has to uphold or take favorable account of the interests or purposes of other persons...(303)

In this way, the gap between the prudential and the moral is bridged, according to Gewirth, through the necessary regard one must have for the freedom and well being of others.

Because that regard is binding, it appears as a moral obligation, and not as a “prudential ‘ought’” (Scheuermann 292). Subsequently, one begins to see that, in addition to being strictly logical and precise in its derivation of moral obligations, the PGC also attempts to give moral quality to the intuition, or sentiment, that one ought to have regard for the dignity of others.

In terms of apology theory, this is a crucial link. Negash even goes so far to conclude in his analysis that a state apology should aim towards restoring human dignity above other considerations, such as the re-normalization of diplomatic relationships (136). Negash, in

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<sup>11</sup> See Gewirth's "From the Prudential to the Moral: Reply to Singer". Also, for a more thorough account of the 'is-ought problem', see Gewirth's "The 'Is-Ought' Problem Resolved".

fact, concludes his text with the suggestion that:

...a full apology involves the recognition of the Other even to the point of vulnerability. When leaders take into account or are prompted by the humane impulses of their citizens, their apologies are more likely to restore human dignity, which is the key to a successful apology. (157)

Although Gewirth focuses mainly on various forms of economic and political deprivation, this basic understanding of dignity and deprivations thereof provides an important link between the community of rights and state apologies. This issue of dignity will be given further consideration in the following sections, but should serve to exemplify a foundational link between generic rights and the reasons for which states apologize.

Now, to return to the analysis of Gewirth's community of rights, consider the manner in which the state becomes both the respondent to, and embodiment of these rights. As Gewirth argues, the existence of positive rights creates a firm link between individuals and community. Like negative rights to non-interference, positive rights to freedom and well-being are extracted from the dialectical necessity of the PGC. In other words, when any agent makes the necessary claim that they must have generic rights, in this sense, they also must be saying that they must have help in securing their generic rights (i.e. positive). The reason for this is identical to the reason for claiming that one's generic rights should not be interfered with (negative), in that the rejection of the claim for either positive or negative rights allows for the possibility that it be permissible to lack the conditions necessary for action. On pain of self-contradiction, therefore, positive rights and obligations are established. Thus, while negative rights and duties require that generic rights not be

obstructed, positive rights and duties require “positive assistance” (*COR* 36), or: “that persons and groups perform certain kinds of action that provide economic assistance and other helps for persons who cannot attain basic and other action related goods [non-subtractive, additive] by their own efforts” (*COR* 34). Thus, the PGC requires *mutuality* between agents, in that rights are required to be positive as well as negative.

The genuine existence of positive rights, in this fashion, provides the bridge between rights and community. In dealing with the concern that one’s acceptance of positive rights might simply represent an egoistic attempt to contract into certain goods, Gewirth interestingly suggests that such a “self-centered” (*COR* 41) approach would reflect only a thin commitment to rational agency. Rather, the genuinely rational agent would recognize that:

...other persons are similar to her in being prospective purposive agents and having the needs of agency [i.e. generic rights], and on this ground she rationally accepts that they have the same positive rights she necessarily claims for herself. Thus a kind of community, a common status of having needs that require for their fulfillment the positive help of others, lies in the background of the argument for positive rights, so that rights and community are in this way also brought together. (*COR* 41)

Thus, as Gewirth argues, the PGC applies to a wide variety of human transactions ranging from the interpersonal to the institutional. Being the principle of human rights, the PGC thus proves to be incredibly far reaching in its moral governance. In an important and dialectically necessary sense, positive rights are to thank for this breadth. As Gewirth

crucially notes, positive rights create rules so broad, that they might be more appropriately described as moral “attitudes and motivations” (42) that make up the social fabric.

Moreover, positive rights also require, for Gewirth, that the state act as the respondent to these generic rights. In considering the possibility that the institution of positive rights might create an overload of obligations to help the deprived (*COR 54*), Gewirth suggests that, because the exercise of positive assistance is not optional, and because no single agent could reasonably be expected to assist to the extent required, the state becomes the “primary, if not only, respondent to these rights” (*COR 59*). In this way, the state becomes the community of rights, in that it embodies, or should embody, the regard for generic rights that is exemplified by any rational agent or citizen. Thus, while every agent is in effect a mutual respondent of human rights (*COR 56*), the community of rights as a whole, and as represented by a moral government, acts as primary respondent. In this way, generic rights and community are reconciled, and the moral community of rights is established as a result.

I would here suggest that the state must also, therefore, be understood as a respondent to generic rights that have been violated and require some redress in the form of reactive duty. In this sense, an important dimension can be added to the community of rights. If a state, whose responsibility is to ensure that the generic rights of its respondents are respected and upheld, fails to perform its duties, then it is therefore incumbent on that state to discharge a reactive duty in an attempt to restore what has been violated. Given the dialectical necessity of the argument leading to this, it would also be the case that exercise of such a reactive duty in this context would be obligatory in the moral sense, and in the

same fashion that all other obligations owing to the PGC are morally obliged. In actuality, the only difference between reactive duties and non-reactive duties is a certain level of what might be called *historical responsibility*. While the general argument issued by Gewirth and represented by non-reactive assistance and noninterference (i.e. response to an agent's positive and negative rights) suggests that one's regard of others is general and universal, a reactive duty simply specifies that one is also, at the same time, specifically responsible for one's historical transactions, as per the PGC. Presumably, this interpretation of reactive duties would hold for states as well, as they are the primary respondents to generic rights - particularly ones that have been violated under their watch or as a result of their actions.

This point can be taken up further when considering Gewirth's discussions of mutuality. As Gewirth emphasizes throughout his discussions, mutuality characterizes relationships within the community of rights (*COR 75*). I would suggest that reactive duties, although specific in their scope, are not antithetical to this thesis. In fact, I would again suggest that a state's reactive duties are simply an extension or reinforcement of mutuality, and can be explained in the following way. The PGC essentially states that, ideally, one will always be generically consistent in the manner indicated in the above discussion of generic consistency. In so acting, an agent, or respondent state, fulfills the requirements of the PGC and acts in a manner that can be characterized by mutuality, in that they recognize "that they are both the subjects and the respondents of rights" (*COR 79*). At the same time, moreover, the act is characterized by "simultaneity" (*COR 76*), in that this mutuality is simultaneous, and is not premised on ancillary causes other than rational agency and, thus, recognition of generic rights.

Notice, however, that this does not explain what is required when some ancillary cause prompts a generically consistent response. In this context, a counter to my argument might therefore be that a state apology, or any apology, would be characterized by a type of “reciprocity” (*COR* 76) or relationship of contingency, and not mutuality. This might be the case because an apology is not characterized by simultaneity, and has only limited applicability in that persons who are not wronged are excluded from its operation and benefits. In response to this type of objection, I would submit that, in actuality, an apology is more appropriately characterized by mutuality, in that it is relations of moral mutuality that an apology attempts to restore. As will be evident in the following chapter, an ideal apology generally aims to recondition relationships through recognition of the dignity of others. By doing so, the act exhibits a commitment to mutuality, in that the apologizer recognizes the generic rights of a victim as equal to her own. Alternatively, an act that is characterized by contingency (in the reciprocal sense) simply implies a return that is proportional to the prior good (or in the case of apology, the prior wrong). To be sure, features of reciprocity thus conceived are present in any apology process, but mutuality is also emphasized. One can therefore see that the requirement of mutuality continues to obtain in cases lacking simultaneity when generic rights are involved. In this way, reactive duties seem essential in understanding rights that are contingent, but generic nonetheless.

Gewirth seems to further allude to this possibility in his several references<sup>12</sup> to “special rights” (*COR* 69) that apply to interpersonal relationships. In defending his view of

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<sup>12</sup> Gewirth again makes the distinction between a “general right” and a “special right” (*COR* 199) in his discussion of rights to private property and how they might be justified in consequentialist and “antecedentalist” [sic] (*COR* 181) terms.

positive rights, Gewirth considers the possibility that, because certain generic rights are contingent on certain conditions or agreements, they may not be truly universal in the sense intended by the PGC. Specifically, Gewirth cites the interesting example of keeping one's promises. As Gewirth notes, claiming a right to have a promise to oneself honored can apply only to a particular promise, and the respondent to this claim could only be a "particular promiser [sic]" (COR 69). In this sense, such a right can only be understood in terms of the previous conditions that give rise to its claiming. As a result, one might argue that such a right would be merely a *special right*, and not a universal human right. Gewirth, however, provides helpful insight into this problem by suggesting that even a special right can be understood as a universal human right, noting that:

We must distinguish, however, between particular transactions and the general institution that provides their grounding. The institution of promise-keeping generates a general and, indeed, a human right whose subjects and respondents are all (capable) human beings. For the right that promises be kept is a right that one's general level of purpose-fulfillment and one's general capabilities of action not be lowered by other person's actions, and that the benefits of having promises kept be maintained. Since all persons are capable of being affected by such an institution, the associated rights and duties are human rights. And the duty to keep one's promises is a positive duty to which there corresponds a positive right. (COR 70)

I would suggest that an act such as a state apology could be understood in a very similar fashion, although it would represent a reactive duty to a special right. In this sense, the right

to be apologized to can be understood as a human right because it's non-execution is something that every prospective purposive agent, in a similar sense, is capable of being affected by in terms of their generic rights. Although particular and contingent on ancillary violations, strong grounds are therefore provided for understanding the state apology as an ethically universal human right.

Before concluding and moving on to the next chapter, it can briefly be noted that this entire discussion of the PGC and the reactive duties that can be seen to stem from it relates also to the notion of *justice*. According to Gewirth, the PGC can be understood as “a principle of both material or contentual justice and of formal or comparative justice” (*COR* 71). The author then moves on to elaborate:

It is a principle of material justice in that it requires that each person be given what he has a right to (as in the traditional formula that justice consists in giving to each person his due). It is a principle of formal or comparative justice in that it requires that all persons be treated similarly...so that there must be an equality of generic rights (as in the traditional formula that justice consists in treating similar cases similarly). (*COR* 71)

Significantly, understanding of state apologies can be seen to intersect with justice in both of the senses indicated above. Michael Freeman, in an article titled “Historical Injustice and Liberal Political Theory”, suggests in passing that, “Within the theory of distributive justice, apologies may seem permissible, even desirable, but insufficient, since they distribute little value, except perhaps (and importantly) respect” (47). Freeman’s suggestion that an apology can *distribute respect* relates closely to Gewirth’s suggestion that the PGC

is a principle of material justice. Although respect for rights is not material per se, the distribution of respect here alluded to in terms of apologies falls along the same lines as Gewirth's notion that each should be given moral recognition. Moreover, Gewirth's "formal" (*COR* 71) understanding of justice further implies that all persons have an equal claim to the distribution of respect in the first place, in accordance with the PGC. Not having respect distributed fairly, in this sense, constitutes a fundamental injustice in the material and formal senses. As a result of this injustice, one can then say that respect needs to be *redistributed*. Based on the current application of Gewirth's theory, I would contend that a state apology is an important medium through which this redistribution of respect for rights can occur.

To summarize, then, we should be able to see that Gewirth's theory of rights and community provides a strong and meaningful link to a discussion of state apologies. Beginning with the concept of moral supererogation, it becomes clear that state apologies represent a form of duty that can be characterized as reactive in their attempt to repair past wrongs. Also, as was noted in some detail, freedom and well-being as the substantive and procedural features of action and content of generic rights clearly correspond to various forms of human rights violations for which states have apologized. Moreover, when the concept of regard for human dignity is added to this consideration, the connection between the community of rights and state apologies becomes even more explicit. Lastly, the progression from positive rights to a moral community in which the state is the primary respondent to generic rights also lends credence to the notion that states can have moral obligations to apologize for human rights violations. With these considerations in hand, it

can then be concluded that Gewirthian theory provides strong moral grounding for a theory of state apology.

## Chapter 2: A Gewirthian Interpretation of State Apologies

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So, what is a state apology? Aside from the general understanding that a state apology is a public act of contrition or remorse from one party to another (Negash 2), what are the essential features of this gesture? Despite particular disagreements, the consensus appears to be twofold. First of all, a state apology can be clearly better or worse. While some apologies have been commended as successful and noteworthy, others have been deplored as insufficient. Matt James, for example, cites former Prime Minister Brian Mulroney's 1988 apology to Canadians of Japanese descent for unjust internment during the Second World War as a fairly successful example of state apology (140). Conversely, James suggests that the meager reconciliation processes and statements of acknowledgement offered by former Prime Minister Jean Chrétien's Liberal government in relation to the displacement of Canadian Inuit in the 1950s represent "an aggressively preemptive non-apology" (144). These distinctions between better and worse apologies lead to a second general consensus, which is that more successful apologies tend to satisfy, or at least attempt to satisfy, more criteria than less meaningful apologies. And so, more than anything, certain criteria are understood as more or less indispensable to a successful apology. This chapter will illustrate some of these features as they relate to the Gewirthian understanding of moral community. Also, certain problems inherent to state apologies will be explored. Namely, issues of insincerity, collective responsibility, moral and temporal displacement, and state centric approaches will be discussed in the Gewirthian context. Subsequently, the Gewirthian interpretation of state apology can then be compared to Tavuchis', who suggests that apology is intricately concerned with "grounds for

membership in a designated moral community” (6). Ultimately, the following considerations will attempt to further consolidate the community of rights with current understandings of the state apology.

Before discussing the features and problems, however, a framework for apologies in general should be provided. A helpful reference point here will be Nicholas Tavuchis' "four structural configurations of apology" (48) as they are presented in his influential text *Mae Culpa: A Sociology of Apology and Reconciliation*. According to Tavuchis, an apology can be from “*One to One*”, “*One to Many*”, “*Many to One*”, or “*Many to Many*” (48). Within this framework, the first type accounts for the interpersonal apology, while the latter three deal with the “essentially *public* character of apologetic discourse” (Tavuchis 48), in that at least one collectivity is involved in the transaction in each instance. These three forms of public apology, therefore, can serve to characterize most state apologies. Also, although there have been instances in which individual members of the state have offered individual apologies to collectives<sup>13</sup>, the *many to many* form where the state apologizes on behalf of a collective seems to represent the majority of historical apologies issued by nations to other collectives. Within this framework, one can then discern popular features of collective apologies.

Although specific details vary from one account to another, there seems to be a general consensus in the literature on the subject that a certain set of features are native to apologies in general. Negash submits, I would suggest, one of the more interesting and

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<sup>13</sup> As an example, consider former Canadian Natural Resources Minister Lisa Raitt's 2009 apology for describing a shortage of medical isotopes as “sexy” (“Emotional Raitt apologizes”).

insightful views on these features. As Negash argues in the first chapter of his work *Apologia Politica: States and Their Apologies by Proxy*, four criteria are required for a full apology: “acknowledgement, truth-telling, accountability, and public remorse” (9). Within this context, Negash proposes that one can characterize a state apology as either an “apology to mend” or “an apology to heal” (136) based on the degree to which these criteria are fulfilled through the apologetic efforts of the offender. Negash suggests, for example, that an apology to mend, which attempts only acknowledgement and accountability, is merely an effort to normalize relationships by “returning two alienated parties to their original relationship” (136). The focus in apologies that aim to mend is, in this sense, more diplomatic or strategic than moral<sup>14</sup>. This is not to say that these strategic apologies are unimportant or even unjustified<sup>15</sup>. As Negash intelligently suggests, these non-normative apologies can be important in “restoring national pride, rendering justice, and mending relations for the long haul” (143). Despite these advantages, however, such apologies do not aim at full reconciliation in any moral sense, and do not seem to take the importance of moral relations and generic rights into consideration.

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<sup>14</sup> In this category, Negash gives the example of the 1998 bombing of the Chinese Embassy in Belgrade. In this case, the “aim of the U.S. government was to rapidly repair damage of an already tenuous relationship with China...The swift acknowledgement of wrongdoing by the United States and decisions to compensate for the damages was adequate for the Chinese to reverse the initial angry diplomatic responses, including the severing of military relations” (141). As this example indicates, this form of apology aims at political normalization over moral restitution.

<sup>15</sup> Indeed, it is here worthwhile to make general reference to Gewirth’s “*criterion of degrees of needfulness for action*” (COR 45). In instances where rights conflict, according to this mediating principle, “that right takes precedence whose object is more needed for action” (COR 45). On these grounds, one can perhaps see that an apology that offers less (or even nothing) might be justified if, for example, a full acknowledgement endangers the lives of some individuals or groups. As Gewirth later notes in his discussion of political democracy, such conflicts of rights might also reflect a “need for political conflict resolution” (322). On this account, the diplomatic apology can be justifiable.

Alternatively, apologies that aim to heal attempt to fulfill all four criteria, according to Negash. Importantly, this type of state apology recognizes the importance of moral community, and whole-heartedly attempts to address it (Negash 146). In this sense, the apology to heal can be understood as the normatively ideal standard. Referring to Tavuchis' ethic of apology, Negash adds that, while apologies to mend place political ends above moral ones, apologies to heal attempt "a shift of moral attitude on the part of the victim" (145) in some extraordinary sense. As Negash also notes, apologies to heal are far more fitting in circumstances of large-scale injustice, and lingering traumas:

An apology to heal is directed to reconcile two alienated societies. The assumption here is that one society or group is wounded as a result of mass violence...The wounds of the victim can heal by the regeneration of the body cells, so to speak, or repair themselves, leaving a scar nevertheless. But unattended deep societal wounds fester and eventually kill. Consideration of both the physical and socio-psychological dimensions of victimization is important when we think of ways of helping individuals and groups heal.

(144)

Not only does this excerpt capture the ways in which violations of generic rights such as physical and psychological integrity can continue to exist over periods of time, it proposes a standard that aims above normalization, and towards moral restitution. Such a model is complimentary to the Gewirthian framework in that it aims to "restore a community" (Negash 144) in the moral sense by expressing regard for human dignity, and should be understood as the ideal form moving forward.

Though variant in their own ways, other studies on the topic of state apologies have proposed relevantly similar models. For example, Nick Smith suggests that a “categorical apology” (17)<sup>16</sup> would be the “benchmark for apologetic meaning” (17). For Smith, an apology can be understood as categorical when it generally accounts for up to fourteen different criteria<sup>17</sup>. Alternatively, in their important article “The Status of State Apologies”, authors Mark Gibney and Erik Roxstrom offer a nine criteria model for an effective and meaningful apology. Included in the Gibney and Roxstrom model are elements of: publicity, ceremony, explanation, financial assistance, justice, consistency, understanding, forgiveness and avoiding hypocrisy (927-935). The importance of an apology that seeks to fulfill these criteria, according to Gibney and Roxstrom, “lies not only in the recognition of the humanity of others, but also in the understanding of the inhumanity in ourselves” (939). Along the same lines, Aaron Lazare posits that, among other considerations, “restoration of self-respect and dignity” (44) is an important means through which an apology can encourage reconciliation. Despite thin variations between models, in this sense, we can begin to see that these various forms of comprehensive or categorical apology are very much comparable to the normative ideal that Negash establishes with the apology to heal.

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<sup>16</sup> This is not to be confused with Negash’s alternative view of categorical and non-categorical apologies. Unlike Smith, Negash uses these terms to refer to the type of wrongdoing for which a state might apologize. In this context, categorical apologies are premised on “direct action in wrongdoing”, while non-categorical apologies refer to “inaction to prevent a crime” (137).

<sup>17</sup> The fourteen criteria listed by Smith are: corroboration of the factual record, acceptance of blame, possession of appropriate standing, identification of each harm, identification of the moral principles underlying each harm, shared commitment to moral principles underlying each harm, recognition of the victim as a moral interlocutor, categorical regret, performance of the apology, reform and redress, appropriate intentions for apologizing, and experience of certain emotions (140-142).

As a result, it is also clear that the state apology, in its ideal form<sup>18</sup>, is a fundamentally moral gesture. Now, before discussing the various challenges of a state apology thus understood, commonly identified features of these apologies should be unpacked.

To begin, acknowledgement of the offense is overwhelmingly understood as the first and perhaps most essential element to any successful apology, normative or not. As Lazare suggests in his text, “without such a foundation [of acknowledgement], the apology process cannot even begin” (74). By acknowledging an offense, a state crucially recognizes that a given action violated some established moral norm, and accurately accounts for the wrongs that have been committed. In defining this component, Negash suggests that:

...the simple recognition and public admission of wrongdoing can be of crucial symbolic significance to those affected by past wrongs. acknowledgement, in that context refers not only to the reckoning of damage done, but to recognition of the consequences of one’s action to others, thereby acknowledging their humanity. (9)

As this passage nicely indicates, acknowledgement, like the apology process in general, deals in the currency of human dignity. This provides a strong link between the element of acknowledgement, and the recognition of generic rights that is central to the Gewirthian community of rights. Moreover, it is conversely the case that failure to acknowledge an offense thus represents a failure to recognize, or act in accord with, the generic rights of others. As Lazare submits to this theme, failures to honestly acknowledge an offence result

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<sup>18</sup> For another view on the ideal state apology, see Thompson’s “Apology, Justice, and Respect: A Critical Defense of Political Apology”, 40-42.

in “pseudo-apologies” (85)<sup>19</sup> that have a much lesser capacity to restore community. In this same vein, Smith suggests that a similarly deficient apology can be understood as an “Ambiguous Apology” (145) of the non-categorical variety. The result of such failures, I would suggest, is that the generic rights and harms in question are not adequately recognized and specified.

The importance of truth-telling and accountability to the apology process, it would seem, are closely related to acknowledgment in the sense described above. In terms of truth-telling, Negash suggests that being “transparent about the facts of the injurious event becomes essential in the eyes of the victim” (9). Similarly, Smith identifies corroboration of the factual record as a crucial element to the categorical apology, arguing that “we should not underestimate the importance of creating an official, public, or otherwise authoritative record of facts salient to the offense” (167). Tavuchis also captures this importance, emphasizing in his analysis of apologies from “*Many to Many*” (48) that “The apologetic record” (102) needs to be established in order for reconciliation to occur. Questions of justice aside, the importance of telling the truth becomes further apparent when one notes the rise of truth commissions as means to address historical wrongdoing<sup>20</sup>. Like the feature of acknowledgement, truth-telling implies a connection between honesty, and recognition of how victims have been harmed. Truth-telling, I would thus suggest, has the effect of providing formal recognition to victims in the form of a public record, or by confirmation

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<sup>19</sup> Lazare suggests that the following problems are often evident in failed acknowledgements: “(1) offering a vague and incomplete acknowledgement; (2) using the passive voice; (3) making the offense conditional; (4) questioning whether the victim was damaged; (5) minimizing the offense; (6) using the empathetic “I’m sorry”; (7) apologizing to the wrong party; (8) apologizing for the wrong offense” (86).

<sup>20</sup> See Corntassel and Holder, p. 469.

of a shared “moral narrative” (Smith 28). In this way, one can again observe the importance of generic rights being appropriately recognized.

Similarly, the ideal of accountability, which is implicit in any successful apology, is susceptible to a Gewirthian reading of deontic commitments. Specifically, we may here recall Gewirth’s considerations on generic consistency and disparities. As was noted above, generically inconsistent actions fail to respect the generic rights of other agents, and thus “uphold a disparity” (*RM* 187) between a given right holder and her respondent. Above, these considerations were applied to the question of moral supererogation, and it was concluded that, while a supererogatory act upholds a generically consistent but unnecessary disparity, an apology, alternatively, attempts to restore generic consistency based on the antecedent existence of some generic inconsistency. Implicit in this reading is the suggestion that one be accountable for the disparities that one creates in acting, which leads to the concept of reactive duty. This argument also parallels other views of moral accountability. According to Negash, for instance, accountability “refers to who will morally be answerable for the damages or crimes committed” (10). Supplementing this type of view, Janna Thompson suggests in her essay “Apology, Justice, Respect: A Critical Defense of Political Apology” that accountability also entails a commitment to preventing similar wrongs in the future (42). Tavuchis makes a similar claim in his assertion that, along with acknowledgement and remorse, an apology must also include a “pledging henceforth...to abide by the rules” (8)<sup>21</sup>. In this context, the element of accountability

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<sup>21</sup> This view might also be compared with Gibney and Roxstrom’s view of “hypocrisy” (935) as an important consideration related to the state apology. For more, see “On the Status of State Apologies”.

becomes a way of understanding applied responsibility for actions and disparities, and commitment to moral norms. As a result, one can see meaningful similarities between this view of accountability, and Gewirth's understanding of accountability for disparities between generic rights.

Another frequently cited but inherently problematic element of a successful state apology is remorse, or the expression thereof (Negash 10; Thompson, "Apology, Justice, and Respect" 35; Smith 229; Lazare 108; Tavuchis 19, 71; James 139). To begin, Lazare provides a working definition of remorse: "By 'remorse' I mean the deep, painful regret that is part of the guilt people experience when they have done something wrong. To feel remorse for an action is to accept responsibility for the harm caused by it" (108). As Lazare later suggests, a lack of remorse in the apology process is sometimes understood as a "rejection of social morality" (113), in that the unremorseful wrongdoer "may not share the moral standards of the rest of society" (111). Despite this importance, however, serious problems remain in articulating a theory of state remorse<sup>22</sup>, as would be the requirement in a state apology. Primarily, this is the case because a state might apologize for actions that a current administration or government may have had no direct involvement with. Also, however, suggesting that all members of the group whom a state apologizes on behalf of

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<sup>22</sup> It should here be noted that a public apology (or state apology) need not be collective. It makes sense, for example, that an individual representative of a state might issue an apology as a representative of the state. However, I take this criticism to be most seriously applied to public apologies that are collective and given on behalf of the state, despite the fact that Tavuchis also ascribes the problem of remorse to public apologies from individuals to collectives (71). According to Tavuchis, the problem of remorse applies to all forms of public apology because of the emphasis placed on "performance" (71) under observation, and the "collective need to have it [apology] on the record" (71-72). My interpretation of Tavuchis' claim, however, is that the possibility of genuine remorse decreases as a collective grows in size. Smith makes a similar point in his discussion of "consensus" (161).

are similarly remorseful seems unlikely and unjustified (Thompson, “Apology, Justice, and Respect” 35; Smith 175). Further to this, others have claimed that it *might* in fact be paradoxical and hypocritical for a state to sincerely apologize for past wrongdoings when it might be the case that those harmful actions made a present state possible (Thompson, “Apology Paradox” 471). As a result of these types of challenges, the legitimacy of a state apology might be threatened by the problematic of remorse.

In response to the problem, Tavuchis provides a more realistic model of how a public apology might function despite the challenges of remorse and sincerity. First, Tavuchis notes that, while remorse is paramount in the context of an interpersonal apology, the same is not the case for a public model. As Tavuchis argues, sorrow is prioritized over expression in the interpersonal setting, while “The reverse seems to be the case in the public sphere; sorrow gives way, is overshadowed and subverted by the apparent compulsion to generate unambiguous speech” (71). In this sense, the public apology sets out to fulfill a similar agenda to the interpersonal variety – i.e. provide reconciliation – but without demonstrating genuine remorse<sup>23</sup>. In contemplating this problem, Tavuchis then proposes that the creation of a record represents the real power of public, and particularly collective, apology:

In stark contrast [to interpersonal apology], *although still within the conceptual purview of what is recognized as interpersonal apology*, the major

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<sup>23</sup> It is worthwhile to note that, while genuine remorse might be impossible, this does not preclude the possibility of expressing sympathy in an apology. Smith takes up this point, noting that “collective apologies often express sympathy rather than accept blame for wrongdoing” (173). On one level, this remains problematic because this does not constitute an apology in the strict sense of acknowledging a wrong and accepting responsibility. However, as Smith further notes, the sympathetic voice “could convey significant meaning” (174) without providing a categorical apology. This issue will be further explored later in this chapter.

structural requirement and ultimate task of collective apologetic speech is to put things on record, to document as a prelude to reconciliation. And what goes on record...does not necessarily express sorrow and, except in pro forma fashion, need not in order to effect reconciliation between collectivities. It is the latter function, then, that is the singular and significant achievement of collective apology. (109)

Thus, reconciliation can be accomplished or at least attempted because the public apology, or state apology, “defines a social reality” (Tavuchis 103) around some previous act of wrongdoing. This view might also corroborate with Lazare’s emphasis on how an apology should ensure the existence of “shared values” (Lazare 53)<sup>24</sup>, or Smith’s discussions on collectives identifying and endorsing the moral principles underlying wrongdoing (Smith 223-227). As these understandings suggest, an emphasis is placed on a state apology’s ability to confirm and record<sup>25</sup> a common morality as an important means of prompting forgiveness and healing.

Briefly, these answers to the problem of remorse also seem to mirror Gewirth’s interpretation of reactive duties. As was noted in the previous chapter, Gewirth alludes to the expression of feelings “in words or deeds or both” (329) as part and parcel of reactive

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<sup>24</sup> Lazare’s point is similar to that of Tavuchis. He argues that, “As long as an apology meets important psychological needs of the offended, or, by being public, it re-establishes and reaffirms social values, we should not diminish its effectiveness by becoming critics” (Lazare 158).

<sup>25</sup> In terms of the creation of a record, Matt James stresses in his model that state apologies be “recorded officially in writing” (139). Ideally, according to James, an apology would be given in such a way that it would become an official or legal record through a process such as “parliamentary proceedings” (139). A similar point is made by Miyagawa, who states that “an official, on-the-record statement” (27) is more desirable than an unofficial apology.

duties. However, Gewirth also notes that reactive duties don't require particular mental states or emotions. Instead, in a view that is very similar to Tavuchis' discussions of "the apologetic record" (Tavuchis 102), Gewirth suggests that the "most direct justification for this duty [reactive] is that it serves to promote a social order in which the *PGC* will be more readily observed, so that it has instrumental justification" (*RM* 329). Here, then, we can again see that remorse need not be completely genuine in order for a state apology to provide the moral goods that are owed. By setting a record, a state apology can be seen to create or alter the common moral climate of an environment by establishing moral norms. This view is echoed by de Greiff, who suggests that "to the extent that communities can be defined in terms of allegiance to norms and values, and that apologies involve the affirmation of norms, apologies can have community-inducing effects" (131). Of course, this does not mean that remorse is altogether impossible. Negash, for example, suggests that Tavuchis' emphasis on the apologetic record strips the "moral weight" from state apology, and that "the effective and performative dimensions of apology" (17) should not be written off. While this ideal view is acknowledged, the pragmatic problems associated with articulating a conception of collective remorse remain. As a note, these problems will be taken up further in the next chapter when the psychosocial development of the community of rights is explicated. In the present context, however, it will suffice to conclude that, although remorse would ideally be present in any apology, healing can be provided even in its absence.

Similar to this problem of collective or public remorse is the problem of collective responsibility (Smith 178-204), or what Tavuchis describes as the "problematic ontological

status of the many” (96). While the challenge of collective remorse centers on the question of whether collectives can feel, the issue of collective responsibility revolves around whether a collective can be accountable in the first place (and in the same fashion as an individual could). Smith, in particular, spends considerable time discussing this problem, and ultimately suggests that “collective apologies often serve as poor substitutes for categorical apologies from individual members of the group even if they can provide important meanings as supplements to individual apologies” (186). Primarily, Smith’s concern is that collective apologies might “obscure culpability” (192) by not accurately assigning blame, or by allowing faulty individuals to hide behind a collective, thus further “obfuscating lines of moral responsibility” (192)<sup>26</sup>. On this view, Rhoda Howard-Hassman and Mark Gibney suggest that a collective apology might suffer from “the fallacy of composition” (6). One might here cite President Clinton’s apology for inactions committed during the Rwandan genocide as an example of this problem (Smith 192; Negash 90). In this instance, President Clinton’s apology was vaguely given on behalf of the ‘international community’, and thus “released him of any accountability” (Negash 91). These concerns about collective responsibility, moreover, apply also to cases where an apology is issued on behalf of perpetrators who are deceased. On this point, Smith argues that, unless moral standing can literally be transferred (which is not at all obvious), there are no grounds to transfer moral responsibility (185). In this sense, collective responsibility, like collective remorse, proves challenging.

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<sup>26</sup> In a related manner, Abdel-Nour observes that “Any causal story in an account of responsibility is always in need of a defense against competitors” (698). The suggestion here is that many individuals could be said to be responsible for a “bad state of affairs” (698), thus complicating an attempt to ascribe responsibility.

The following thoughts might here be imparted on these challenges to collective responsibility. First, I would suggest that Smith is entirely correct in arguing that the assigning of individual responsibility should not be sacrificed by a collective apology. Clearly, if an individual is solely at fault for some transgression, it makes relatively little sense for a collective to take up the task of providing redress<sup>27</sup>. In the same sense, as I will examine later in this chapter, it also seems strange for a collective to apologize for a past crime with which it has absolutely no relationship. One might here cite the alleged incoherence of apologizing for misdeeds in the very distant past, as Michael Freeman does in his observation that “no one demands that the Italian government apologize for the injustices perpetrated by the Roman empire” (50). The implication here, of course, is that the relationship between the current Italian government and the former Roman empire is completely severed by time, thus invalidating any ongoing responsibility and concurrent opportunity to apologize. On these points, certainly, I would agree with Smith that an absolute emphasis on collective responsibility leads one into morally unintelligible territory.

I would argue, however, that this does not imply a hierarchy where individual apology is always preferable to the collective variety. As Smith notes, the validity of collective responsibility may lie in the relevance it has to “institutional arrangements” and “structural ills” (183). According to Smith, “large-scale social harms” might be better served by the “synthetic” (183) and broad apologetic meaning that collectives can provide.

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<sup>27</sup> This point relates directly to Smith’s discussion of moral “standing” (207) as a prerequisite to any categorical apology.

On this view, I would suggest that the need for an individual apology would not necessarily comment on the need for a collective one, in that both seem to be legitimate in their own ways. One could here appeal to the Gewirthian framework and community of rights for clarification. In terms of the individual apology, agents are responsible for disparities that they create in their interpersonal transactions. Under the prescriptions of reactive duty, an individual would have an obligation to express apologetic meaning based on a violation of generic rights. On a much broader scale, the same type of justification provides a basis for understanding collective responsibility. Because the mutuality of rights described by the PGC culminates in a moral community (or community of rights) with the state as the primary respondent, a sense of collective responsibility follows. As Gewirth points out, the community of rights is not atomistic, but is instead characterized by the “cooperativeness and fellow feeling” (*COR* 85) that flow from mutual commitments to generic consistency<sup>28</sup>. These psychological considerations will be taken up further in the next chapter, but can provide an important reference point here.

In this manner, I would submit that the Gewirthian model of the community of rights as defined by mutuality provides meaningful justification to a view of collective responsibility. On the one hand, individual members of the community of rights are responsible for their own transactions and transgressions. On the other hand, although individual members might not be directly blameworthy (i.e. responsible) or possess moral standing to apologize for state wrongdoing in the individual sense that Smith desires,

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<sup>28</sup> Gewirth further suggests that this mutuality exists not only for “members of societies geographically demarcated as countries or nation-states; but in principle it applies internationally as well” (86).

commitment to the PGC is seen to create an environment of mutual concern for the generic rights of others, as well as the creation of structural or “institutional arrangements that are both feasible and, in their general outlines, morally obligatory as fulfilling human rights” (COR 352). This interpretation of social solidarity is also evident in Gewirth’s framing of the “*social contribution thesis*” (83), which essentially articulates that the obligations agents have towards society in general are simply a reciprocation of the nurturing that the state provides. This point becomes particularly salient when considering Thompson’s view of collective action. According to Thompson, an effective state apology will attempt to do the following:

Its content and the way it is presented should, so far as possible, be endorsed by people who belong to the nation responsible for the wrong. It cannot be expected that all citizens will endorse an apology, but an effort can be made to promote public discussion of the issues, particularly in forums where victims and members of the perpetrating group can interact. (“Apology, Justice, and Respect”, 41)

The model represented by Gewirth’s community of rights, which emphasizes that individuals have a commitment to ensuring the rightness of “institutional arrangements” (COR 82), seems particularly apt in addressing this type of requirement. As Smith would likely note, this doesn’t go so far as to demonstrate that a collective can be responsible in the same sense that an individual can, but it does suggest that a legitimate understanding of collective solidarity can add authenticity and real substance to a theory of state apology. As a result, I would be reluctant to endorse a number of individual apologies over a collective

model, or to discredit the collective variety.

On this same topic, one can also consider instances in which responsibility is transferred through time, as is the case when a state apologizes on behalf of perpetrators who are deceased (and perhaps *to* victims who are deceased). Here, the problems are similar to those levied against the notion of collective responsibility in that questions of moral standing and blameworthiness seem to undermine the proper functioning of apology<sup>29</sup>. As Thompson points out, these types of cases become morally problematic because of the common view that “the sins of the fathers and mothers are not supposed to become the moral debts of children” (“Apology, Justice, and Respect” 37). A famous example of this type of thinking is represented by former Australian Prime Minister John Howard’s refusal to apologize to indigenous Australians for crimes of the past (Short 503; Thompson, “Apology, Justice, and Respect” 31). In a 2009 interview with online newspaper *WA Today*, Prime Minister Howard is in fact quoted as saying that an apology from a current generation on behalf of a former generation is so easy that it’s “meaningless” (Christian). Not unlike Smith, Prime Minister Howard’s comments seem to reflect the view that “the deceased presumably went to their graves unapologetic and without delegating standing to apologize to the collective” (Smith 185).

While I would certainly acknowledge the spirit of these views, I would once again

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<sup>29</sup> Smith, for example, emphasizes that even if we can “hold one person accountable for the moral debts of another, this does not entail that fault and guilt also transfer to the third party” (179). As a result, the accepting of responsibility, which is central to an apology, is “misplaced” (Smith 179). On a related topic, Abdel-Nour proposes that “national shame” (711) is more promising than “national guilt” (709) because individuals might not wish that certain events did not occur. It should be noted, however, that Abdel-Nour’s argument is that “national shame” (711) can provide a bridge to “national responsibility” (Abdel-Nour 713).

caution against a total condemnation of this type of practice. Similar to Thompson, I would argue that one could make limited sense of the “transgenerational associations” (Thompson, “Apologies, Justice, and Respect” 39) implied by apologies for past crimes. According to Thompson, a “transgenerational polity” can make some sense if a collective is “able and willing to recognize circumstances in which their state should make commitments or should take responsibility for past injustices” (“Apologies, Justice, and Respect” 40). Similarly, Lazare imparts the following in regards to the same topic:

First, people are not guilty for actions in which they did not participate<sup>30</sup>. But just as people take pride in things for which they had no responsibility (such as famous ancestors, national championships of their sports teams, and great accomplishments of their nation), so, too, must these people accept the shame (but not guilt) of their family, their athletic teams, and their nations.

Accepting national pride must include willingness to accept national shame when one’s country has not measured up to reasonable standards. (41)<sup>31</sup>

Not unlike the possible justification for collective responsibility, as these arguments suggest, the transgenerational apology<sup>32</sup> might be justified through a Gewirthian view of

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<sup>30</sup> “Participate” is here difficult to define. As will be explored later in this chapter, the boundaries of participation are not always clear.

<sup>31</sup> A similar point is put forward by Abdel-Nour in his account of an agent’s national responsibility when he states that “an individual’s pride in the achievements of others is the key to rendering the idea of national responsibility intelligible. It is via her pride in her nation that an individual agent identifies herself imaginatively with the cause of certain select actions performed by others...For better or worse she hangs much of her sense of dignity and social standing on this identification” (702).

<sup>32</sup> I will use the term transgenerational apology to describe apologies for events in the past that those apologizing did not actually commit or have any direct involvement with. I take this term from Thompson and her discussion of the “transgenerational polity” (“Apologies, Justice, and Respect” 40).

state solidarity<sup>33</sup>. Moreover, one could also appeal again to the power of apology to create a record, or promote “shared values” (Lazare 53) in an effort to effect reconciliation with those who continue to bear the burdens of past harms<sup>34</sup>. The Gewirthian notions of generic rights, as well as moral community, as has been discussed above, support these accounts through their emphasis on mutuality.

Without question, this would certainly represent a thinner justification of responsibility than would be represented by an interpersonal apology, or a collective apology that is not transgenerational and includes proper acknowledgement, truth-telling, accountability, and remorse<sup>35</sup>. One would have to suppose, for example, that a current generation could legitimately apologize for past injustices only if past harms continue to bear on “the dignity of survivors and those whose identity is linked with them” (Freeman 54). Clearly, the extent to which past injustices continue to effect present individuals is difficult to quantify, making this a difficult limitation to conceptualize. In the same fashion, others have referred to an argument similar to Gewirth’s “*social contribution thesis*” (83) by suggesting that present generations benefit from past circumstances, and thus incur reciprocal obligations (Freeman 48-49). Again, however, the benefits incurred seem

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<sup>33</sup> Despite his caution, Smith does in fact allude to the possibility of a collective giving a meaningful and coherent (i.e. categorical) apology. Interestingly, he suggests that collectives characterized by “considerable solidarity” (245) are better positioned to do so.

<sup>34</sup> Thompson, for example, seems to appeal to the notion of “shared values” (Lazare 53) in her suggestion that “it is obviously desirable that their [citizens] political society pass on obligations and entitlements from one generation to another”, and that such commitments promote “political stability”, “individual security”, and “contribute to moral relationships” (39).

<sup>35</sup> Variations of these criteria could certainly be imagined and accepted, as was noted previously. Also, as was discussed in some detail, remorse remains an obviously problematic concept in the context of state apologies.

difficult to quantify or even conceptualize.

Still others, in related fashion, struggle with the assertion that it would be paradoxical for an individual or group that has benefited from past circumstances to apologize for a wrong that they did not commit, and which they might in fact owe their existence to. On this topic, Thompson ultimately concludes that such an apology must be reinterpreted:

...it [a transgenerational apology] is not, strictly speaking, an apology *for* the deeds of our ancestors or an expression of regret that they happened. Rather it is an apology *concerning* deeds of the past, and the regret expressed is that we owe our existence and other things we enjoy to the injustices of our ancestors. Our preference is for a possible world in which our existence did not depend on those deeds. (“Apology Paradox” 472)

In response to this view presented by Thompson, Neil Levy suggests the alternative view that the paradox is not legitimate because the content or spirit of an apology can be “temporally indexed” (368). What Levy here means is that, when we apologize for something that we may in fact owe our existence to, we are speaking from a “past temporal perspective” (Levy 366). In the process, Levy claims, our current perspective and circumstances are “temporarily placed in parentheses” (366). In this context, it’s plain to see that conflicting views abound when it comes to the topic of apologies for events in the distant past. Despite all of these problems associated with one generation directly accepting responsibility for crimes of the past, however, the ability to provide affirmation of important moral norms (de Greiff 120) and shared values through a record can be salvaged, leaving room for legitimate apologies of this variety. Such a view is premised on a

Gewirthian interpretation of solidarity, and can be seen to fall in line with the deontological model represented by the community of rights.

Some might here argue – perhaps rightly – that these interpretations of collective and transgenerational responsibility move out of the category of apology altogether, while moving into the realm of sympathetic expression. Smith, for example, suggests in his discussion of collective responsibility that, “In the absence of blameworthy individuals, apologies drift toward expressions of sympathy or declaration of values” (198). The implication here, of course, is that sympathetic apologies lack a certain direct and meaningful relationship to a victim, and thus carry less normative force. As Smith suggests earlier in his text, the expression of sympathy “without causal moral responsibility” is perhaps more akin to an expression of “*condolences*” (146) than it is to apology. Such a criticism would bear directly on the Gewirthian view of apology as reactive duty, and should thus be considered.

We can here recall that the Gewirthian justification of apology as obligation rests on the argument that apology does not constitute a supererogatory action. On this topic, Gewirth suggests that expressions of feelings such as “sympathy and kindness” (*RM* 184) cannot be considered obligatory because they are not needed, as per the PGC, to respect the generic rights of others. In this sense, a serious problem might be seen to arise in relation to notions of collective responsibility and transgenerational apology, which can both be seen to drift, as Smith suggests, towards the sympathetic. If the expression of sympathy cannot be related to obligation, in this sense, we might drift out of the rubric of the PGC altogether, thus eliminating the opportunity to provide the Gewirthian theory to the practice

of state apology.

In response to this concern, we might summarize the main arguments of this chapter. First, I would suggest that it would be disingenuous to characterize the state apology as a purely sympathetic gesture. As we have seen, the state apology has healing and reconciliation as its ideal goal, and attempts to recognize and restore generic rights through its various elements (e.g. acknowledgement of wrongdoing, truth-telling, accountability, and an effort to express remorse). Apologies that fall short of this normative ideal, we might recall, illuminate the distinction between what Negash describes as apologies to heal versus apologies to mend (136), and what Smith describes as the categorical versus non-categorical apology. As these distinctions suggest, a state apology faces the danger of becoming a “quasi-apology”, or even a “non-apology” (James 146) by failing to provide the required apologetic meaning. The problem of sympathetic expression is, I would suggest, a symptom of this problem, but does not defeat the legitimacy of state apologies.

As I have indicated above, the problem of sympathy stems from difficulties in ascribing responsibility to collectives, particularly over long periods of time. However, it must here be re-emphasized that the state apology must achieve apologetic meaning through different avenues than interpersonal apology. This is why Tavuchis, for example, argues that a public (state) apology can accomplish *apologetic work* without being genuinely remorseful by creating a public apologetic record (Tavuchis 109). By the same reasoning, I would suggest that a state apology could also provide apologetic meaning despite the problems associated with collective responsibility. As the application of Gewirth’s theory has illustrated, the state apology can be seen to provide healing through

recognition of generic rights that have been violated. The solidarity and mutuality of the community of rights suggests that all agents have a fundamental and collective interest in providing redress to those whose generic rights have been violated. The state apology, I argue, is a means through which this redress is provided, and is endorsed by the community of rights in general through feelings of mutuality and regard for generic rights as the “needs for agency” (COR 51). To the extent that the aim of the act is redress, the state apology can be seen as a reactive duty rather than a supererogatory act. I concede that this falls short of showing that a state and all of its constituents can be responsible for some wrong that a state apologizes for, but would maintain that this does not constitute merely sympathetic and, thus, charitable expression. As Smith suggests, the collective apology above all has the power to comment on “institutional arrangements” (183). Application of Gewirth’s “*social contribution thesis*” (COR 83) suggests that individuals have collective interests in, as well as obligations to, ensure that these communal arrangements remain in line with the PGC (COR 83), and that the generic rights of others are adequately recognized by the state. This interpretation is consistent with Gewirth’s suggestion that, while the state is the primary respondent to human rights, individuals have the “duty, correlative...with violated rights, to press their governments to take appropriate measures” (COR 60). As a result, an alternative but legitimate view of collective responsibility defined by individual yet common interests in the moral community and shared needs for agency can be established.

At this point, a general and concluding clarification is in order. As is evidenced by the above discussions of collective remorse and responsibility, the entire issue of collective action is fairly problematic and controversial. Briefly, and without attempting to solve the

entire problem of whether collective agency is truly possible, the intended meaning of the term ‘collective’ as I use it in the Gewirthian sense should here be broached. Primarily, what I have in mind is the general distinction between “collective and corporate responsibility” (Sverdlik 62). In his essay “Collective Responsibility”, Steven Sverdlik nicely summarizes these notions, noting that while “collective responsibility is the idea that individual persons within a group are responsible for an outcome produced collectively”, corporate responsibility more controversially suggests that “the group is treated as a being distinct from its members and responsibility for wrongdoing is attributed to it” (62). Gilbert echoes this distinction in her essay titled “Collective Guilt and Collective Guilt Feelings”. According to Gilbert’s more sophisticated model, which will be taken up further in the next chapter, differences can be perceived between aggregate feelings of “personal guilt” (Gilbert 135), aggregate feelings of “membership guilt” (Gilbert 135), and the feelings of some “plural subject” (Gilbert 139). While the first two views corroborate roughly to collective responsibility in the sense described by Sverdlik, the “plural subject” (Gilbert 139) view approximates to a view of strict corporate responsibility. Given these important distinctions, the following question can therefore be asked: does the Gewirthian answer to collective responsibility fall into the realm of the *collective* or the *corporate*?

At first blush, the answer to this question would seem to be that the Gewirthian interpretation of collective action and responsibility fits the collective interpretation of responsibility provided by Sverdlik. This answer is evidenced by Gewirth’s suggestion that the PGC “embodies a certain kind of ethical individualism” (COR 97). According to Gewirth:

...it [ethical individualism] is not a reflexive relation whereby each individual should aim only at his own benefit. It is rather a social relation bearing on the ends of social policies and institutions. It is the equal goods and rights of individuals, including their rational autonomy, that constitute the primary objects of human rights as social concerns and hence the primary criterion or end of moral rightness as set forth in the principle of human rights [i.e. PGC].  
(COR 97)

Moreover, this individualism is given a necessarily “communitarian specification” (COR 97) through the mutuality inherent to the PGC, in that individuals are obligated to show regard for the generic rights of other individuals. As was discussed in chapter two, this account of positive rights helps to bridge the gap between rights and community, and gives rise to the community of rights. In this sense, it should be concluded that Gewirthian collective responsibility exists in the same family as Sverdlik’s “collective responsibility” (62). Because the community of rights is premised primarily on the rights and obligations of individuals, the responsibility of the community is collective in the aggregative sense that the universality of individual commitments is reflected in the ethical institutions of the community of rights.

In this way, the Gewirthian model compares most closely in form to Gilbert’s membership account of guilt<sup>36</sup> feelings. As Gilbert suggests, a “feeling of membership guilt will at some level involve the judgment that a collective of which the subject of the guilt is

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<sup>36</sup> I say in form because, as others have implicitly and explicitly noted (Lazare 41; Smith 179; Van Den Beld 188), it is debatable whether one can be guilty (or blameworthy) when one hasn’t necessarily committed some wrong. Again, the possibility of shame has been mentioned as a substitute for guilt (Abdel-Nour 711; Lazare 41).

a member has done something wrong” (Gilbert 135). Moreover, as Gilbert goes on to explain, the membership model of collective guilt finds “clear rationale in the joint commitment that underlies a collective action” (137). This notion of “joint commitment” (Gilbert 125) is helpful in clarifying the sense in which Gewirth’s theory can provide an account of collective responsibility. In effect, it can be said that all agents are necessarily jointly committed to the PGC by virtue of its dialectical necessity. In other words, all agents are mutually committed to ensuring the protection of the freedom and well being of other agents – particularly those whose generic rights are or have been deprived. Moreover, as the “*social contribution thesis*” (COR 83) suggests, agents also have obligations as members of moral communities to ensure that social institutions and arrangements protect these same generic rights. In this sense, all agents within a particular community<sup>37</sup> have a collective responsibility to ensure that the moral community functions *as it should*. Subsequently, although individuals might not be directly blameworthy for actions perpetrated by a state, they can still be said to have meaningful responsibilities to ensure, to the extent possible, that the state to which they belong *acts* a certain way in regards to the generic rights of individuals whose rights have been violated. It is in this membership sense that the Gewirthian notion of collective (aggregative) responsibility makes sense and helps to render the state apology and some of its obstacles intelligible.

As a side note to the above, however, it should be disclaimed that this is by no means a perfect science. Questions remain, for example, around problems associated with “joint commitments” (Gilbert 125). As an example, Gilbert states that “even group members who

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<sup>37</sup> Recall that states are the respondents of rights (COR 59)

do not directly contribute to the group's action are linked through their participation in the foundational joint commitment", and that this foundational commitment might be exist by "virtue of the acts of a person or body authorized to make decisions for the group" (Gilbert 136). In the context of the state apology, this statement implies that one's decision to vote for a particular group or individual, for example, might render one guilty in the decisions made by that party. As a result, as Freeman notes, "the obligations of those who did not vote for the government and/or actively opposed the wrongful policy are...in question" (48). This is a legitimate and strong counter to the view of collective responsibility espoused thus far, and deserves attention.

My response to this problem would be thus. The Gewirthian interpretation of collective responsibility, or collective responsibilities, is not intended to show that all members of the community of rights are blameworthy for any wrong done by any member at any time. Such a statement would be overly vague, and would add no substance to a theory of state apology. Here, we might recall Smith's warning that collective apologies run the risk of "obfuscating lines of moral responsibility" (192), and that individual apologies should not be obviated by the presence of a collective apology, and vice versa. In this context, the purpose and legitimacy of the state apology lies in its power to provide affirmation of moral norms (de Greiff 120) that are derivative of the principle of human rights (PGC). Such an affirmation is a reactive duty, and is legitimized by universal commitments to ensure that the state as the community of rights discharges its obligations appropriately. Subsequently, the point is not to show that members of the community of rights are directly culpable. Indeed, they may not be. Rather, the point is to show that all

members have a joint interest in “institutional harmony among...society’s members” (*COR* 83) through their bond with the community of which they are a member, and can thus endorse or condemn the actions made by that group, state, or society. In other words, as Ton Van Den Beld argues, an individual may not *be responsible* for a given action performed by their group, but the proximity between their identity and that of their group can determine whether “*accepting responsibility*” (198) occurs. In essence, the community of rights is all about members collectively accepting responsibility for the generic rights of others by requiring a “conscientious concern for the common good” (*COR* 93), and thus provides helpful insight into the ideal workings of state apology.

In these ways, this defense of collective responsibility as rooted in the mutuality and solidarity of the community of rights also evades the dilemma of “*imperfect obligations*” (*COR* 353). According to Gewirth, the suggestion might be made that, when “there are no determinate individuals who have the positive duty to fulfill these [any given] rights...the rights are left indeterminate and ineffectual” (*COR* 353). As I have iterated in the previous chapter, states are the primary respondents to rights in general, but also, particularly, to rights that they have violated or allowed to be violated. Moreover, as the above account suggests, the mutuality of the community of rights provides strong grounds for such redress. In this sense, while it would certainly be the case that such mutual obligations may not be “legally enforceable”, as Gewirth notes when considering the obligation to participate in political democratic processes, they remain “morally required” (*COR* 354). Subsequently, I would conclude that this moral interpretation of the practice of state apology as a Gewirthian reactive duty remains viable.

Still, of course, some state apologies might fail to live up to this high normative standard, thus amounting to nothing more than sympathetic expression. In part, this problem might be seen to indicate the inherent difficulty associated with providing a successful state apology. We can here remember that the view of state apology examined thus far is certainly ideal. In this sense, although I have described the ethical ideal of state apology, we might recognize the validity of Elizar Barkan's suggestion that "only partial justice is feasible...to attempt a general reversal of the past is utopian" (329)<sup>38</sup>. At the same time, however, I believe that this lingering threat of sympathetic expression also points to what Tavuchis calls "the temporal dimension of the apologetic process" (87). This point bears directly on problems associated with the transgenerational apology. As is evident in the preceding arguments, apologies that occur after long periods of time are difficult, although not impossible to conceptualize. It might be argued that, as the length of time between harm and an apology increases, the amount of communal solidarity and commitment must increase as well in order for the apology to be legitimized. This view is similar to that made by Tavuchis, who proposes that "there is a critical, if variable, period following a transgression after which the potential efficacy of an apology diminishes or is nullified" (87). These temporal considerations bear, I believe, on the likelihood that an apology will come across as merely sympathetic. In this context, it is also clear that the quality with which the obligation to apologize is exercised relates also to the timing of the

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<sup>38</sup> Gewirth makes a similar point about complete justice when he notes in his discussion of the civil liberties "What is sought is not an unattainable absolute equality of effective influence for each person...but rather a closer approach to equality" (*COR* 342). Similarly, Gewirth also notes in his section on economic democracy that the "full community of rights" might only be fulfilled in "varying degrees" (*COR* 310). Pablo de Grieff, on this topic, suggests that "it is impossible to go back to the status quo ante" (121).

act. Importantly, however, this also suggests that the problem of sympathy is not entirely built into the concept of state apology from the outset.

The final set of possible challenges to this Gewirthian justification of state apology might be described as problems with a *state centric* model of reconciliation. Generally, this problem is two fold. First, the state centric model could be problematic in the sense that a state dictates the terms of reconciliation through an apology (Freeman 51-52; Corntassel and Holder 466), thus undermining and invalidating the ideal spirit of the act. In part, this is what Matt James refers to as a problematic form of “counterfeit reconciliation” (148). Second, the state centric model might be seen to pose some challenges when an apology is cross-cultural and different apologetic meanings are at play (Renteln 64-66; Coicaud and Jönsson 89; Smith 122-124). On this topic, Corntassel and Holder argue that “state-dominated” (466) reconciliation mechanisms, such as apologies, represent a form of “cheap reconciliation” (467) if they don’t adequately recognize the autonomy of a victim. Similarly, Coicaud and Jönsson contemplate “how challenging it can be to apply a given normative framework of apology to environments that do not share the cultural premises of that framework” (89). One might in this context wonder whether an apology is even a “universal concept” (Renteln 70) to begin with. These problems are salient to the Gewirthian understanding of state apology described so far, which emphasizes the role of the state as the primary respondent to human rights related needs.

In response to this concern, one might acknowledge Barkan’s “neo-Enlightenment synthesis” (309). According to Barkan, this synthesis is built “on a core of liberal rights enveloped by social and cultural values stemming from local traditions and preferences”

(309), and provides a model of restitution based on “negotiated morality” (312). In this sense, while the state centric model might be seen to potentially impose reconciliation, the neo-Enlightenment synthesis offers a view that is, perhaps not unlike Gewirth’s, “cognizant of the tension between the group and the individual and is committed to address both while refusing to privilege either” (309). This view of reconciliation processes as “specific conflict resolution” (Barkan 347), however, runs counter to the notion that the basis for giving or demanding apology is universal, which is what the Gewirthian interpretation highlights. The universalism of rights and obligations under the PGC, Gewirth suggests, are guaranteed through the “universality of the needs of agency among all human beings” (*COR* 67). As I have attempted to show, the state apology addresses these universal needs of agency. As a result, I would suggest that while the Gewirthian interpretation suggests that a state apology in general is obligatory in instances where generic rights have been violated by a state, this leaves questions related to the specific content, delivery or negotiation of an apology in specific circumstances open.

This view can be further clarified by referring to Gewirth’s discussions of the non-neutrality of the community of rights and political democracy. On the former topic, Gewirth suggests that while the state as the community of rights is neutral in regards to conceptions of the good that do not bear on generic rights<sup>39</sup>, it is non-neutral in regards to the endorsement and promotion of PGC related concerns (*COR* 162). In this way, the universal normative framework of state apology is maintained, while the possibility of

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<sup>39</sup> Gewirth gives the examples of “religion, sexual orientation, choice of occupation, political activity or ideology, and many other spheres of thought or action” (*COR* 163) as non-generic issues.

particular flexibilities remains open. On the topic of political democracy, moreover, Gewirth more specifically engages the problem of whether PGC related rights and obligations are flexible. Here, Gewirth notes that while PGC related rights (i.e. the economic, social and political rights) are specifications of the “rationally grounded principle of human rights”, these specifications can be subject to the workings of political democracy, and thus “may leave open alternative possibilities as to means to given ends” (*COR* 323)<sup>40</sup>. At the same time, however, Gewirth suggests that, “in their [the economic, social and political rights] main outlines, they should be kept inviolate” (*COR* 326). This same interpretation of flexibility in terms of specification can be applied to the Gewirthian understanding of state apology. While the “main outline” (*COR* 326) of the right to a state apology can be maintained, particular changes can be imagined which reflect a level of “social pluralism” (*COR* 315) within the community of rights. In this way, the state centric problem can be resolved.

Ultimately, then, these considerations are aimed to show a largely complimentary relationship between Gewirth’s imagination of the community of rights, and the practice of state apology. Beginning with the general elements of state apology, I have argued that the act ideally relates to what Gewirth describes as the generic rights to freedom and well being by recognizing the dignity of victims. Subsequently, in dealing with the problem of remorse, I have suggested that Tavuchis’ emphasis on the creation of an apologetic record

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<sup>40</sup> Gewirth notes, however, that the basic rights to freedom and well-being are so indispensable to every human agent as the “essential preconditions of action” (*COR* 324) that they should not be the subject to the political democratic process. It is interesting to note that these basic rights, such as “abstention from murder, enslavement, physical assault, illegal imprisonment, and other crimes that are basic harms” (*COR* 324) relate closely to the contents of many state apologies, and perhaps illustrate the difficulty in allowing flexibility.

(Tavuchis 109) corresponds with Gewirth's view of reactive duty. Similarly, I have also attempted to show that the Gewirthian understandings of mutuality and solidarity can be seen to legitimize, to a certain extent, notions collective responsibility and transgenerational apology. Related to these concerns, moreover, the problem of sympathy has been discussed, and it has been suggested that the state apology remains a reactive duty despite the difficulties that it encounters. Lastly, I have considered the problems associated with a state centric approach, and have suggested that Gewirth's model can be seen to encourage particular negotiations while remaining actively committed to the universal character of the PGC. In arguing thus, I hope to have provided a moral theory that can both justify and clarify the view that a state apology can be owed.

With all of these features and challenges of state apology thus considered from the Gewirthian perspective, moreover, we can generalize, as Tavuchis does, that apology "is concerned with the fundamental sociological question of the grounds for membership in a designated moral community" (6). As the Gewirthian reading of the topic suggests, apology as reactive duty is primarily concerned with providing moral redress by recognizing fundamental generic rights that have been violated, and also, therefore, by affirming the shared norms of the moral community as a means to effect reconciliation. In this sense, we can adopt a Gewirthian view of Tavuchis suggestion that:

...as symbolic barometers, apologies register tensions, and displacements in personal and public belief systems, that is, the contraction and expansion of interdictory motifs – what calls for an apology and what does not – either precede or follow changes in social behavior and cultural expectations. (13)

Based on the above considerations, this view of state apologies as contributing to the common “moral order” (Tavuchis 14) by affirming the importance and content of generic rights can be established. In the next chapter, I will continue this discussion by further considering the relationship between the state apology and the psychosocial attitudes implicit in the community of rights.

Before moving to consider the psychosocial facets of the “decent society” (*COR* 348), however, I also note that certain questions have been overlooked. Primarily, it is worth considering whether the state apology represents the only means of reconciliation, or should be considered only a division of larger reconciliation and restitution processes. The issue of reparations, in this context, cannot be ignored, and has garnered substantial attention in studies of apology (Smith 83-91; Thompson, “Apology, Justice, and Respect” 42; Freeman 55-57; Renteln 72-73; Lazare 127-133). Based on these considerations, one might therefore question whether my interpretation of apology is simply indicative of larger or different responsibilities stemming from the community of rights. As has been noted above, particular specifications of generic rights can be imagined while a “main outline” (*COR* 326) remains firm. While my study focuses more specifically on the state apology as a Gewirthian duty, these questions are certainly worthy of further discussion.

### Chapter 3: The Psychosocial Biography of the “Decent Society”

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Unlike this project, Gewirth’s applications of the PGC focus directly on human rights as they relate to economic and political issues stemming from the “*deprivation focus*” (COR 110) of the community of rights. It is with this particular focus that Gewirth articulates the “economic biography” (COR 99), which consists of the rights to productive agency, private property, employment, and economic democracy. In the same fashion, Gewirth also touches on the political biography, which consists of the rights to economic and political democracy. On one level, the analysis of state apology given thus is similar to these two biographies. The similarity, I would submit, lies in the fact that one’s right to a state apology is derived from generic rights to freedom and well-being in the same necessary fashion as the economic and political rights described by Gewirth<sup>41</sup>. In this way, the argument presented thus far can be considered a legitimate specification of a right under the PGC.

On a more abstract level, however, the above argument regarding state apologies also seems to point more directly towards the subtle psychosocial features that underlie and support the community of rights in general. Perhaps no passage from *The Community of Rights* is more striking, for example, than Gewirth’s suggestion that the arrangements of the moral community “represent an institutionalization of love as a deep concern for the

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<sup>41</sup> Thus, this interpretation of the state apology falls in line with Gewirth’s discussion of rights specification, in which he states that “the central justification of all the human rights, including the more specific ones, is their contribution to the equal fulfillment for all persons of the generic needs of agency, consisting in the proximate necessary conditions of action and generally successful action” (COR 105).

freedom and well-being of all the members of the society” (*COR* 83). It thus makes sense, at this point, to discuss the deeper relationship between the “mixed altruism” (*COR* 307) of the community of rights and the obligation for that community to apologize through the state when generic rights have been violated. The goal of this section, in this sense, will be to further solidify the complimentary relationship between Gewirth’s deontological theory, as culminated in the psychosocial virtues of the “decent society” (*COR* 348), and the state apology. Subsequently, the deeper relationship between the practice of state apology and the community of rights will be manifest.

It can be noted before proceeding, however, that the following broad statements about the community of rights might be seen to contradict the aforementioned suggestion that the collective responsibility here envisioned only equates to an aggregation of common individual commitments. Specifically, it might be claimed that the following view of the “decent society” (*COR* 348) in fact equates to a “plural subject” (Gilbert 139) or “corporate” (Sverdlik 62) account of the collective; a view which carries its own particular set of theoretical challenges. In response to this concern, it should be disclaimed that the distinction between the aggregative and corporate views of collective action is blurry at best. Gewirth himself recognizes the tension between these two positions, stating that it is “important to distinguish between such an extreme organicist position whereby each person has value only as a part of the whole and the more moderate position of ethical individualism whereby each person...has worth and dignity in her own right” (*COR* 125). However, given that the position of ethical individualism eventuates in the strong community of rights through positive rights, it seems as though a collective identity

separate from the identities of individual members might be seen to follow.

My interpretation of this problem is, briefly, as follows. On a certain level, the exact boundary between the collective and the corporate is arbitrary. As Margaret Gilbert intelligently suggests in the context of guilt feelings:

The existence of guilt feelings of any of the three kinds [personal, membership, plural subject]...will tend to be associated with guilt feelings of the other kinds. People who feel membership guilt, for instance, are likely to express this feeling to one another in such a way that they constitute themselves a plural subject of guilt feelings. (142)

Following this kind of observation, it can be stated that the aggregative view of individual commitments is a broad category with boundaries that are difficult to clarify. As a result, it can legitimately be claimed that, in some sense, the community of rights does represent an “organicist” (*COR* 125) doctrine of collective actions and responsibilities in the way that mutuality dictates social relationships, as well as economic and political policies. At the same time, however, this does not obviate the ethical individualism that is the *cause and justification* of these potentially plural phenomena. In this way, the problem of distinguishing between the two can be acknowledged without substantially threatening the current interpretation of state apology, which is based on the ethical individualism that constitutes the PGC and the community of rights. In proceeding, then, the apparent psychosocial biography of the “decent society” (*COR* 348) can be explicated without major concern.

The origins of the psychological elements of the community of rights, it can be noted,

lie within the structure of the PGC itself. Prior to Gewirth's significant discussion of "the idea of community" (COR 81) in the third chapter of *The Community of Rights*, the author makes a significant point in regards to the distinction between rights and the alleged requirements of "humanity" (COR 80). According to Gewirth, a distinction can be made between justice or rights in the sense of treating like cases alike, and *humanity* in the sense of "protecting [a person's] basic well-being" (COR 80) without implicit regard for rights. Residually, it becomes important to determine whether the PGC is strictly a matter of justice, or whether the notion of humanity is incorporated as well. As Gewirth emphasizes at this point, protection of generic rights must be necessary by virtue of the categorical nature of the PGC, and cannot be left to acts of "private beneficence" (COR 79). As such, acts of humanity cannot displace the central importance of human rights, despite their moral quality.

At the same time, however, Gewirth interestingly suggests that the central notion of humanity as "concerned with protecting basic well-being" (COR 80), perhaps without regard to rights, is incorporated into the structure of the PGC. As Gewirth suggests, the reason for incorporating the notion of humanity into the PGC can be found in the "criterion of degrees of needfulness for action" (COR 81), which suggests that those goods most necessary for action be granted higher priority, which is then combined with the framing of positive rights (COR 38-44). Similarly, Gewirth also presents the contrast between humanity as "goal-based" in the sense that it is concerned with end results, and justice as "rights-based" (COR 43) by virtue of its emphasis on procedural fairness. Here, Gewirth suggests that this distinction is not entirely valid, given that the PGC, as a principle of

justice, emphasizes both *procedural and substantive* features of action as necessary. In other words, well-being as a substantive condition of action is stressed in addition to freedom as a procedural condition, thus suggesting that the PGC is not simply preoccupied with procedural fairness. Rather, because the PGC also deals with well-being, the division between goal-based and rights-based concepts of humanity and justice is made less relevant. Subsequently, Gewirth shows that the PGC incorporates the concerns normally attributed to the concept of “humanity” (COR 80), while remaining a strict principle of human rights. As a result of this brief argument, in this sense, the PGC can be seen as a *humanitarian* principle of rights in that it focuses on the well-being of the deprived in addition to the freedom of other agents. It therefore becomes apparent that the PGC, which captures this concern for well-being that characterizes the concept of humanity, contains a certain attitudinal dimension that filters through the community of rights in general. In addition to the actual content of the PGC, which Gewirth specifies as the various social, economic, and political rights, a certain altruistic concern interestingly flows through each specification, and through the community of rights in general. Significantly, this psychosocial chassis can be seen to support the current interpretation of state apology.

And so, what are the sentimental contents of the benevolent humanity that is native to the PGC? Some of the most substantial answers to this question are found in Gewirth’s discussions of community in the third chapter of *The Community of Rights*. Consider, for example, Gewirth’s discussion of the notion of community, and the “*social contribution thesis*” (COR 83). Here, Gewirth argues that acceptance of the PGC represents “a departure from egoism and individualism” (COR 83) because agents become committed to an

environment of mutuality and sharing. As Gewirth goes on to note, however, this sharing is not only material:

...the harmony is also psychological insofar as the members are aware of the rightness of the arrangements as deriving from the rationally justified principle of human rights. Indeed, in a significant respect these arrangements represent an institutionalization of love as a deep concern for the freedom and well-being [i.e. generic rights] of all the members of society. (COR 83)

In this way, the humanitarian concern arrived at through the PGC relates directly to the moral sentiments of the community's members. As Gewirth goes on to note, because "society functions to fulfill their [individual's] human rights of agency, its members develop psychological attitudes of gratitude and loyalty to it, so that it becomes a community of cooperativeness and fellow feeling" (COR 85). In this way, according to Gewirth, the community of rights has psychosocial dimensions that compliment and support the logical and necessary goals derived from the PGC and its "*deprivation focus*" (COR 110).

As a specific example of this type of psychosocial development, consider Gewirth's discussion of the right to productive agency in both the general and economic sense, and the notion of "*productivist welfarism*" (COR 134). Consistent with the spirit of the PGC, Gewirth here suggests that a citizen's right to productive agency should not simply imply a form of economic redistribution that leads to "passive welfarism" (COR 135) because agents should be helped to increase their capacities to fulfill their own needs and, subsequently, the needs of others who cannot succeed by their own efforts. This is the

model exemplified by Gewirth's framing of the "*reasonable self*" that is "aware of its own agency needs and rights...[but] also takes due account of the agency needs of other persons" (COR 93). In terms of productive agency, therefore, this reasonable self requires more than just the materials requisite for survival. Instead, as Gewirth sophisticatedly suggests, rational selves also acquire a certain broad psychological disposition<sup>42</sup>. It is in this sense that Gewirth suggests that "agency is both the metaphysical and the moral basis of human dignity" (COR 135). In addition to being morally derived from the dialectical necessity of the PGC, human rights and dignity are also enmeshed in a correspondingly *metaphysical* sense.

In this same discussion of the underpinnings of productive agency, Gewirth then moves to explicate the psychological "conditions and abilities" (135) effectuated by the community of rights and PGC. According to Gewirth:

Productive agency...entails certain personal prudential virtues. Persons who have productive agency as an enduring disposition or capacity have corresponding traits of character which may be summed up as three of the four traditional cardinal virtues. They have courage, which includes fortitude, perseverance, and a sense of personal responsibility in the face of obstacles;

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<sup>42</sup> In opposition to the makeup of the "*reasonable self*" (COR 93), Gewirth brings up the issue of the "free rider...the purely self-interested individual who greedily takes advantage of others' adherence to the community's moral requirements while flouting them himself" (COR 93). Importantly, Gewirth here takes the realistic position that "not all persons are reasonable, nor are reasonable selves always reasonable" (COR 94). As a result of this reality, "punishment" is justified, and the state takes on the responsibility of providing "educational and other institutions that help to provide guidance and motivation for persons' becoming reasonable selves" (COR 94). Presumably, Gewirth is here referring at least in part to the importance of this psychosocial biography as something the community of rights needs to develop and exemplify.

they have temperance, controlling their appetites and inclinations judiciously; they have prudence, whereby they can calculate the most efficient means to achieving their ends...When, moreover, productive agency is put into the context of the mutuality required by the principle of human rights, it also entails the moral virtue of justice. For the productive agent then acts in accord with the generic rights of his recipients as well as of himself. (*COR* 136)

These comments cement the alleged link between the moral and the metaphysical; between the rules of the community of rights and the dispositional attitude that renders them both viable and meaningful. Subsequently, it can be concluded that, in addition to the economic and political biographies explicitly traced by Gewirth, a significant psychosocial development occurs as well.

In this regard, it subsequently makes sense to speak of the PGC as an account of moral character at both the personal and institutional levels. Gewirth, for example, infers that these personal virtues may well imply “cultural virtues” (*COR* 164) in that the community of rights takes a very broad position on which way of life is the best from a moral perspective, and, consequently, which “virtues it requires” (*COR* 165). Based on the universal character of the PGC, it can indeed be deduced that the ideal moral virtue of each productive agent is reflected in the community in general through the mutuality and “fellow feeling” (*COR* 85) exemplified by positive rights. It is in this sense that Gewirth refers to the structure of the community of rights as operating through “mixed altruism” (*COR* 307). Instead of exemplifying pure altruism and lack of self-interest, reasonable selves are meaningfully “aware of the inherent rationality” (*COR* 307) of the PGC, and therefore

exhibit concern for the impoverished or disenfranchised needs of others. In this context, the reasonable altruism of the community of rights becomes the core of what Gewirth calls the “decent society” (COR 348) in his conclusion to *The Community of Rights*. In this decent society, the likelihood of individuals exhibiting “compassion” (COR 354) for others is increased, and the needs of deprived persons are therefore met. A more complete view of the community of rights is achieved through this interpretation of the community’s *moral character*. Moreover, the psychosocial biography that I have here pointed to also adds to the current application of Gewirth’s theory to the topic of state apologies.

First, in a substantial sense, these psychological implications buttress the interpretation of collective responsibility submitted in the previous chapter. Members of the community of rights are not only committed in theory or principle. Rather, they are committed in spirit to common humanitarian concerns, and can legitimately support one another while having concerns about the manner in which the community acts. Moreover, this dispositional investment in the community of rights shows that the solidarity required for legitimate collective responsibility exists not only at the level of argument. Instead, this general communal spirit exists at a meaningful level that “reasonable selves” (COR 94) can and should grasp. Specifically, what I mean here is that reasonable agents accept the PGC and gain a crucial “awareness of moral rights” (COR 26)<sup>43</sup> and favorable concern for the needs of others.

Moreover, this psychosocial framework also provides further insight into the importance of the similar suggestions that apologies should document a “record” (Tavuchis

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<sup>43</sup> I will refer to this as *moral awareness*.

109), appeal to “shared values” (Lazare 53), and provide “affirmation of norms” (de Greiff 131). Given the above considerations of the apparent psychosocial biography of the community of rights, these appeals to records and shared norms can be seen as confirming the importance of the *moral awareness* of the community. In other words, state apologies can be seen to confirm or deny the appropriateness or necessity of certain moral sentiments housed in the social structure. On one level, ideal state apologies will provide redress through the acknowledgement of generic rights and the violations thereof, accountability for those violations, an honest account of wrongs committed, and some kind of expression of remorse<sup>44</sup>. On a more abstract level, however, one might say that all of these elements refer in some way back to the moral psychology that makes an apology seem necessary in the first place; that is, the common *concern* that is derived from the community of rights. In this way, a more substantial and rich view of collective responsibility is achieved. Members of the community of rights are committed not only through logic. Rather, they are committed through the *moral awareness* and subsequent level of altruism furnished by acceptance of the PGC. Thus, the notion that individual members of the community act to “fulfill its [the community’s] collective right of support” (COR 83) takes on a fuller meaning that adds to the current interpretation of state apology.

Here, it might be contended that this discussion of the psychosocial biography reveals a fundamental problem with the current application of Gewirth’s thesis to the topic of state apologies. Recall that I have noted in both preceding chapters that a central problem

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<sup>44</sup> For more on problems associated with the expression of collective or state remorse, see chapter 2. Also, as has been noted previously, other legitimate criteria might be imagined.

associated with the state apology is whether the feelings commonly associated with apologizing are genuinely possible. In the first chapter, I briefly drew attention to the possibility that the reactive obligation to apologize might be seen to constitute an obligation to *feel* a certain way in certain situations. In chapter two, I examined the issue of state (collective) remorse in more detail, and ultimately adopted Tavuchis' suggestion that, in terms of collectives apologizing<sup>45</sup>, the expression of remorse is subordinate to the creation of a public record (Tavuchis 109). In light of these former considerations, it might appear that a contradiction has occurred. While it seems to be the case that one has no *obligation to feel*, and that the primary obligation is to *express* certain information, the psychosocial biography seems to imply that certain emotional dispositions are in fact mandatory. As a result, we might arrive at the seemingly problematic position reached by Julie Tannenbaum in her article "Acting with Feeling from Duty". As Tannenbaum argues, "If what morality requires is acting with compassion, then one's action must express compassion, and thus one must feel compassionate towards the recipient" (332). A critical question thus arises: does the apparent psychosocial biography amount to an *obligation to feel*? And by extension, does the reactive obligation to apologize indeed amount to a strict obligation to *feel* remorseful?

In response to these questions, I would submit that the psychosocial biography does not amount to an obligation to feel specific emotions and specific points in time, as Tannenbaum would suggest. Rather, what the PGC cultivates is simply a broad psychological disposition, or what I have referred to as a kind of *moral awareness*. The

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<sup>45</sup> As I previously noted, the collective apology is taken to represent state apologies in general.

core of Tannenbaum's argument is that "emotions can shape an action without motivating it", and that "acting compassionately [or with the appropriate emotions] from duty alone is possible" (Tannenbaum 324)<sup>46</sup>. Subsequently, Tannenbaum suggests that, since one may be obligated to feel and express certain emotions, one also has a previous obligation to develop "the right kind of emotional dispositions" (335). Based on a Gewirthian reading, it seems that we can accept the premise that one ought to develop one's moral character, but must reject the strict conclusion that one is obligated to feel specific emotions in specific contexts.

An initial reason for rejecting the strict obligation to experience specific mental states can be traced back to the problem of supererogation. Recall that one has no obligation to spontaneously create generically consistent disparities in favor of an act's recipients<sup>47</sup>. Based on this reasoning, Gewirth has suggested that "sympathy and kindness" (*RM* 184) are supererogatory qualities. Indeed, these qualities are supererogatory. At the same time, however, the development of such qualities should occur based on the original acceptance of the PGC. To employ a Gewirthian distinction, one might say that the above interpretation of the *duty to feel* indicates that while one is not required to genuinely possess and display appropriate feelings *occurrently*, the psychosocial biography suggests that one should develop and apply certain virtues *dispositionally* as a result of the PGC

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<sup>46</sup> To support this argument, Tannenbaum draws the reader's attention to "the difference between an action's manner and its motive" (Tannenbaum 324). In this context, a duty can be the motive, while an emotion is the required manner stemming from duty alone. As a result, Tannenbaum is able to make the interesting point that "emotion can bear a significant relation to an action without serving as its motive" (327).

<sup>47</sup> See the first chapter.

(COR 46)<sup>48</sup>. In this sense, one is not obligated to experience specific emotional responses whenever one is faced with an obligation under the prescriptions of the PGC. At the same time, however, one *is* obligated to be psychosocially aware of the moral rights of others based on one's rational acceptance of the PGC as the principle of human rights. As a result of that awareness, one is prone to the development of an altruistic and virtuous attitude. Furthermore, the aggregation of these mutually altruistic attitudes develops one's social environment into what Gewirth would call the "decent society" (COR 348). Thus, while the focus is not initially on one's possession and display of certain feelings<sup>49</sup>, one is nonetheless committed to an awareness that ultimately fosters what could be called, according to Gewirth, the "goods of character" (COR 162) that parallel the community of rights. In this sense, while one will ideally experience and display the appropriate emotions at the appropriate times<sup>50</sup>, this is not an obligation proper. Instead, one's obligations stem from the PGC and incorporate, among other things, general "duties to develop one's prudential virtues" (COR 103).

Subsequently, the current application of the psychosocial biography does not contradict the previous claims made in regards to one's *obligation to feel*, or of state

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<sup>48</sup> Gewirth uses this distinction in his discussion of freedom, saying that this generic feature of action exists in a "hierarchy", and "should not be used as a global, undifferentiated concept" (COR 46). In this context, occurrent freedom refers to one's immediate freedom at some "particular time" (COR 45), while dispositional freedom refers to the possession of "long-range" (COR 46) freedom. Gewirth argues that it is appropriate to constrain occurrent freedoms in order to preserve and enrich dispositional freedoms. Specifically, Gewirth employs this distinction to argue for the legitimacy of taxation.

<sup>49</sup> As Gregory Walters observes of Gewirth's theory, virtuosity occurs only as a result of the rational rule represented by the PGC, and not the other way around (Walters 193).

<sup>50</sup> It would appear to be the case, however, that the development of one's "prudential virtues" (COR 103) might increase the likelihood that appropriate emotions will accompany one's actions.

remorse. It remains the case that one is not obligated to feel specific feelings, and that state or collective remorse remains problematic at best. What the current interpretation of the psychosocial biography with its “humanistic cultural values and virtues” (*COR* 100)<sup>51</sup> instead accomplishes is a reinforcement of the thesis that a state apology can be understood as a *meaningful* obligation. Primarily, this reinforcement is accomplished through the implicit virtuosity or moral character of the community of rights. By drawing attention to this feature of the community, the “awareness of moral rights” (*COR* 26) is shown to have significant psychological dimensions. Members of the community of rights are in this way shown to develop altruistic attitudes and dispositions that facilitate the type of *right action* represented by the state apology.

In his essay “Apologies in National Reconciliation Processes”, Pablo de Greiff similarly draws attention to the ways in which a state apology can effect an “attitudinal change” (121) amongst citizens through “affirmation of norms” (de Greiff 120)<sup>52</sup>. Here, I believe that de Greiff’s conception of the “reconciled society” (122) can provide further insight into what Gewirth refers to as the “decent society” (*COR* 348). For de Greiff, reconciliation can essentially be framed in terms of “civic trust” (de Greiff 126). As de Greiff writes, “Trust involves an expectation of a shared normative commitment” (125) which “facilitates cooperation” (126). On the social level, in this same context, one can

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<sup>51</sup> It can be noted that Gewirth’s specific claim is that “the [economic] biography will also encompass ethical and other humanistic cultural values and virtues whose attainment the economic development makes possible” (*COR* 100).

<sup>52</sup> It should be noted that de Greiff in fact rejects accounts of reconciliation that are purely “psychological” (de Greiff 121). However, my goal is not to reduce the concept of state apology to a psychological phenomenon. Rather, my aim is to support the “affirmation of norms” (de Greiff) thesis through an appeal to the psychosocial dispositions that facilitate such affirmations.

observe a civic trust “which is the sort of disposition that can develop among citizens who are strangers to one another, but who are members of the same political community” (de Greiff 126). On this basis:

Reconciliation, minimally, is the condition under which citizens can trust one another *as citizens* again (or anew). That means that they are sufficiently committed to the norms and values that motivate their ruling institutions, sufficiently confident that those who operate those institutions do so also on the basis of those norms and values, and sufficiently secure about their fellow citizens’ commitment to abide by these basic norms and values. (de Greiff 126-127)

In this sense, reconciliation “involves, but is more than, a psychological state” (de Greiff 127). As a result, de Greiff’s interpretation compares favorably to the current interpretation of the psychosocial biography. Both involve an appeal to broad attitudes that citizens have towards each other and towards the community at large. Based on these shared attitudes and cooperation, a civic trust is formed. By extension, moreover, violations of human rights are felt to disrupt this trust and require reconciliation.

Subsequent to this argument for civic trust, de Greiff considers the role of apology in providing reconciliation<sup>53</sup>. According to de Greiff, violations of shared norms have the effect of creating “feelings of resentment” (128) among victims and within society in general. In this context, a state apology “can be expected to allay resentment, and in this

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<sup>53</sup> It should be noted that de Greiff does not suggest that an apology can by itself provide reconciliation. Instead, he suggests that an apology can be seen as a part of larger “transitional justice initiatives”, which might include a “*prosecutions policy*”, truth-telling, and reparations (de Greiff 132-133).

way, to contribute to reconciliation” (de Greiff 131) by affirming basic norms and rights. In essence, de Greiff’s interpretation can be seen to parallel the proposed relationship between the state apology and the psychosocial biography here outlined. While not a purely psychological operation, the state apology should refer to the attitudinal and dispositional features of the community as a means to restore the status of what Gewirth would term “moderate altruism” (*COR* 25), or what de Greiff would describe as civic trust. As both of these terms overtly suggest, the *good* community is one that is characterized by certain general feelings and attitudes. We can therefore observe, as Robert Goodin does, that it seems as though “the welfare state depends heavily on internalized moral sentiments among the citizenry” (63). By incorporating this dimension into the current interpretation, it becomes clear that an ideal state apology is more than a hollow exercise. Rather, the psychosocial biography of the community of rights hints at both the purpose and potential of the state apology. By affirming moral norms and restoring conditions of respect and dignity, the state apology can become a meaningful and necessary vector in the healing process, and an important feature of the community of rights.

In this way, the community of rights is supported by the psychosocial biography. Rather than being purely self-interested, members of the community can be seen to develop an awareness and concern for the generic rights of others. This moral awareness ultimately culminates in the “decent society” (*COR* 348) that Gewirth imagines the community of rights to be. The altruism and virtuous disposition that flows from this awareness, moreover, supports the current interpretation of state apology. Most basically, the psychosocial biography enriches the view of collective responsibility espoused in the

previous chapter by suggesting that members of the community of rights are meaningfully aware of and concerned for the rights of others in a shared fashion. In addition to this, I have also submitted through de Greiff's account of "civic trust" (126) that the state apology takes account of psychosocial attitudes by effecting attitudinal changes and reducing "feelings of resentment" (de Greiff 128). By attempting to restore certain feelings of mutuality and trust, as de Greiff suggests, the state apology can be seen to relate directly to the psychosocial biography and the "fellow feeling" (COR 85) that run underneath the community of rights and its concern for human rights. As a result of this analysis, it is my conclusion that Gewirth's deontology provides moral justification to the idea that a state apology can be *owed*. Through the PGC and the community of rights, Gewirth's theory supplies a framework that renders the human right to a state apology intelligible, meaningful, and legitimate.

## Chapter 4: The United States Apology for the Tuskegee Syphilis Study

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With this Gewirthian interpretation of state apology as reactive duty thus developed, we can briefly examine the historical example mentioned at the beginning of this paper: the U.S. apology for the Tuskegee Syphilis Study. To recapitulate, this study was an overtly unethical effort to observe the effects of syphilis in black males in Macon County, Alabama (Brandt 21). Beginning in 1932 and ending a shocking 40 years later, the U.S. Public Health Service (USPHS) deliberately deceived study participants into believing they were being treated for “bad blood” (Brandt 24). In actuality, the men were given treatments known to be ineffective in order to preserve their interest in the study, which proved to be a disturbingly effective approach for the USPHS (Brandt 24). In this spirit, the researchers intentionally violated the contemporary standard of care at several points during the project. When the study began in 1932, treatment with “arsenical compounds and bismuth injection” (Brandt 23) was understood as effective in managing the disease and was not offered. Instead, participants were given “mercurial ointment” (Brandt 24) – a treatment known to be ineffective – to ensure their continued participation and interest. At the onset of the 1950’s, penicillin became the “preferred treatment” (Brandt 21) for syphilis, and was not provided. Spinal taps were also to be disguised as “special treatment”, while “Bringing the men to autopsy” (Brandt 24) remained the end goal of the project. The USPHS even asked black physicians in Alabama for “their cooperation in not treating the men [i.e. participants]” (Brandt 25) in order to preserve the goal of the study. In total, it has been estimated that over 100 men may have died as a result of their untreated and advanced syphilis (Brandt 21). As was noted earlier, the study was premised on overtly racist views

of the black population (Brandt 23), and fundamentally violated the human rights of the participants.

On May 16<sup>th</sup>, 1997, some 25 years after the study's belated conclusion in 1972, U.S. President Bill Clinton offered a state apology to the eight remaining survivors of the Tuskegee Syphilis Study. After acknowledging the survivors present at the White House ceremony, President Clinton delivered the long awaited apology:

So today America does remember the hundreds of men used in research without their knowledge or consent...Men who were poor and African American, without resources and with few alternatives, they believed they had found hope when they were offered free medical care by the United States Public Health Service. They were betrayed.

Medical people are supposed to help when we need care, but even once a cure was discovered, they were denied help, and they were lied to by their government. Our government is supposed to protect the rights of its citizens; their rights were trampled upon. Forty years, hundreds of men betrayed, along with their wives and children, along with the community in Macon County, Alabama, the City of Tuskegee, the fine university there, and the larger African American community.

The United States government did something that was wrong – deeply, profoundly, morally wrong. It was an outrage to our commitment to integrity and equality of our citizens.

To the survivors, to the wives and family members, the children and grandchildren, I say what you know: No power on Earth can give you back the lives

lost, the pain suffered, the years of internal torment and anguish. What was done cannot be undone. But we can end the silence. We can stop turning our heads away. We can look at you in the eye and finally say on behalf of the American people, what the United States government did was shameful, and I am sorry.

The American people are sorry – for the loss, for the years of hurt. You did nothing wrong, but you were grievously wronged. I apologize and I am sorry that this apology has been so long in coming. (Clinton)

The above represents the core of President Clinton’s apology. With that being said, we can begin to analyze this apology from the Gewirthian perspective developed thus far. And so, to what extent does this apology fulfill the mandate of reactive duty? To what degree are elements of acknowledgement, truth-telling, accountability, and remorse<sup>54</sup> provided? Are generic rights adequately recognized in this process, and is the ideal psychosocial attitude expressed? These are some of the questions that I will take up in order to determine the merits of this historical apology.

To start, I would suggest that this apology provides more than adequate acknowledgement of the harms committed and damages caused. Rather than making general statements of regret, President Clinton points to specific actions performed by a specific government agency within specific socioeconomic circumstances. The apology employs the strong and plain language of participants being “betrayed”, “lied to by their government”, having their human rights “trampled upon” (Clinton), and presents the

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<sup>54</sup> These are the four criteria provided by Negash. Again, other features could certainly be imagined and employed. For more, see chapter 2.

profound immorality of the study in direct and powerfully honest terms. More importantly, however, the President at various points throughout his speech also recognizes the grave harm done to *those whose human rights had been violated*<sup>55</sup>. In an inclusive and honest manner, the apology acknowledges those who participated in the study, their families, the Tuskegee community, the larger African American community, and even “the doctors who have been wrongly associated with the events there [i.e. in Tuskegee]” (Clinton).

Interestingly, this apology can also be seen to go an extra distance by acknowledging the failure to provide an apology at an earlier and more appropriate point in time. Here, President Clinton ironically offers an apology for apologizing so late, saying “I am sorry that this apology has been so long in coming” (Clinton). In this manner, the apology directly acknowledges the harms done to various groups and makes no real attempt to evade responsibility.

Similarly, this apology makes an effort to be transparent in capturing the circumstances and deceit of the Syphilis Study. The apology, for example, is straightforward in asserting that “America does remember the hundreds of men used in research without their knowledge and consent” (Clinton). Subsequently, by pointing out the fact that these victims were “poor...without resources and with few alternatives” (Clinton), the President’s places the grievous act within an accurate and relevant social context. It is then made clear that these victims “were offered free medical care by the United States Public Health Service”, and “were betrayed” in the process (Clinton). Also, in addition to

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<sup>55</sup> As Aaron Lazare observes, “by means of the apology [for the Tuskegee Syphilis Study], people who had been treated as nonhuman experimental subjects were now acknowledged as humans with rights like any others” (52).

the use of the strong language indicated in the above discussion of acknowledgement, this apology is honest in its disclosure of a “shameful past”, and the fact that the various victims “did nothing wrong, but...were grievously wronged” (Clinton). Certainly, the apology could have been more forthcoming in listing specific actions, such as the withholding of penicillin when it became available, or the deceitful advertisement of spinal taps as beneficial treatment. In the same sense, particular perpetrators of the Syphilis Study could have been identified in an effort to be completely transparent. Despite these deficiencies, however, it seems to be the case that this state apology makes an effort to be honest in relation to the Syphilis Study, the context in which it was executed, and deceit with which it was perpetuated. As a result, the apology can be seen as a fairly transparent effort to create an official record of the harm done by the event.

President Clinton’s apology on behalf of the American people also makes an effort to provide accountability for the harms caused. Importantly, this accountability is provided on two levels. First, the apology officially states that the American government is and should be accountable for the harms caused by the Syphilis Study. On this level, President Clinton states that the “government is supposed to protect the rights of its citizens” (Clinton) and had failed to do so. Similarly, the President then moves on to suggest that that Study itself “was an outrage to our commitment to integrity and equality for all our citizens” (Clinton). In this way, accountability for past wrongs is established. At the same time, however, accountability is established in a forward-looking manner as well. At the end of the speech, for example, President Clinton presents several initiatives aimed at furthering the process of reconciliation. Among these initiatives are the building of a

“memorial at Tuskegee”, the establishment of “a center for bioethics in research and health care”, and a commitment to “increase our community involvement” (Clinton) to restore trust. Additionally, the President pledges to have a report developed on how to “best involve communities, especially minority communities, in research and health care”. In terms of bioethics, the President also commits to strengthening “researchers’ training in bioethics”, and “providing postgraduate fellowships to train bioethicists especially among African Americans and other minority groups”. Finally, the President orders that “the charter of the National Bioethics Advisory Commission” be extended to October 1999. In this sense, the apology is also accountable in terms of providing a commitment to prevent similar wrongs from occurring in the future. Subsequently, I would submit that this apology is appropriately accountable for the past as well as the future.

In terms of remorse, which has been described as problematic in the context of state apologies, this official apology seems to make a meaningful attempt to express a feeling of contrition. Specifically, President Clinton’s statement that “The United States government did something that was wrong – deeply, profoundly, morally wrong” (Clinton) suggests an understanding that the Syphilis Study was more than just inappropriate, and that this understanding is a source of remorse. Unfortunately, however, the problems listed in the second chapter of this paper continue to apply in the context of President Clinton’s expressions of remorse. It is unclear, for example, whether it is actually true or even possible that “The American people are sorry” (Clinton). Moreover, it also seems to be the case that the apology seems to drift into sympathetic expression when President Clinton suggests that American’s are sorry “for the loss, for the years of hurt”, but clearly not for

perpetrating the wrongs themselves. This sympathy is echoed later in the apology when the President expresses regret “that your [the victims’] federal government orchestrated a study so clearly racist”. Here, it becomes clear that the American people are not capable of apologizing or being genuinely remorseful for an action that they had no direct hand in committing. We must, however, recall the points made in the second chapter. The primary goal of a public apology, as Tavuchis emphasizes, is to “put things on record” (109). Rather than expressing genuine remorse, the state (and public) apology attempts to define “a social reality” (Tavuchis 103) as a means to effect reconciliation and provide victims with the moral recognition they are owed. To a large extent, President Clinton’s apology can be seen as an attempt to accomplish this goal. Based on the Gewirthian interpretation, it also makes sense to refer to meaningful collective responsibility *in the sense* that all agents should have mutual and common concern for each other’s human (or generic) rights to freedom and well-being. As was noted in the previous chapter, this common concern is accompanied by the development of certain psychosocial attitudes that can be characterized by a “moderate altruism” (COR 25). “ In this sense, saying that “The American people are sorry” (Clinton) can remain a meaningful statement in that the American people are collectively interested in conditions of mutual respect and regard for human rights. While remorse remains challenging and difficult to gauge, it therefore remains the case that this apology *does* attempt to create a meaningful record of transgressions through acknowledgement, accountability, and honesty.

In this regard, we might conclude that President Clinton’s apology for the Tuskegee Syphilis Study fulfills the Gewirthian mandate of reactive duty. By acknowledging

wrongdoing, speaking transparently, accepting accountability and expressing regret, this apology attempts to illustrate the *moral awareness* that was so painfully lacking throughout the course of this horrific endeavor. Through the creation of this official public record, it becomes plain that certain fundamental moral norms, such as equality, respect, and dignity, *should not* be violated. Moreover, we can also note a direct relationship between the content of this apology and the intelligent statements made by Pablo de Greiff. As President Clinton frankly suggests, the Tuskegee Study “broke the trust...that is the very foundation of democracy”, and apology is an important part of repairing that broken trust. As de Greiff suggests, reconciliation is an important attempt to effect the attitudinal changes required to restore “civic trust” (de Greiff 126). Moreover, to the extent that they affirm crucial norms and rebuild this trust, “apologies can have community inducing effects” (de Greiff 131). In this respect, this apology compares favorably to the Gewirthian emphasis on generic rights. When generic rights are violated, conditions of mutual respect for rights and equality – of community – are in need of restoration. As President Clinton aptly notes, “We cannot be one America when a whole segment of our nation has no trust in American”. Apology is an important avenue through which these restorations of respect and community can be attempted and accomplished.

Of course, this is not to say that the apology for the Tuskegee Syphilis Study is perfect or completely successful. The apology, for example, should have been given much sooner than it was. The fact that only eight survivors lived to receive an apology is an injustice in and of itself, as President Clinton suggests in his acknowledgement that the apology was late in coming. In the same way, I’m confident that other deficiencies and

failures could be pointed out; that the perpetuation of some residue of injustice could be made evident. Unfortunately, this seems to be a feature of apologies in general. We can here note Tavuchis' reference to apologies as "paradoxical and talismanic" (5) in their ability to change things without visibly changing anything. As Tavuchis' observation might be seen to imply, apology can be a frustrating project, in that one can't expect that harms will be reversed or forgotten in any literal fashion. We can also note once again that apologies are an imperfect science, and that total reconciliation is likely impossible. At the same time however, it should be acknowledged that the state apology for the Tuskegee Syphilis Study makes an important attempt to provide something that is clearly owed: respect for human rights. Violations of these rights are fundamentally unethical actions in need of addressing. A state apology is a moral duty to address these serious errors by showing regard for human rights and exhibiting the *moral awareness* that is central to the community of rights. The Tuskegee apology makes a satisfactory effort to discharge this duty.

## Concluding Remarks

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Premised on the above, I hope to have brought clarity to the ambiguous notion that one can be *owed* a state apology. Moreover, I hope to have added moral weight to the idea of state apology by suggesting that this type of gesture deals in the currency of human rights. By adding the notion of apology to the lexicon of Gewirth's community of rights, I ultimately conclude that the state apology, in its ideal form, can be understood as a moral obligation. Through this application of Gewirth's thesis, I conclude, the purpose and dynamics of the state apology are made coherent and meaningful. Rather than viewing the practice as part of an insincere political game, the Gewirthian considerations sketched above present a view of state apology that relates to a basic interpretation of human rights and dignity.

Starting with Gewirth's PGC, I have proposed that the state apology is best understood as a reactive duty. Rather than being supererogatory and beyond the realm of legitimate moral obligations, my argument suggests that the state apology exists at the level of duty. By appealing to Gewirth's core notion of generic consistency, it becomes clear that the state apology, which is premised on antecedent violations of generic rights, cannot be understood as an act of moral charity. Rather, by attempting to respect and restore the status of generic rights, the state apology is a reactive duty. Further to this, I have suggested that the state apology, which is often premised on serious and horrific violations of human rights, relates very clearly to freedom and well-being as the necessary conditions of action that all agents have human rights to. These considerations, combined with Gewirth's

argument for positive rights, cement the link between the state apology as a moral obligation and the larger community of rights.

Subsequently, this interpretation of state apology as reactive duty has also been related to current interpretations of state apologies in general. By examining commonly cited elements of successful state apologies, I resubmit that apologizing in this fashion can best be understood through the Gewirthian lens of generic rights and the respect that *ought* to be accorded to them. Features such as acknowledgement of wrongdoing, truth-telling, accountability, and remorse, I have concluded, can all be related back to the obligation to respect human rights that is represented by Gewirth's PGC. Here, I have also considered the very legitimate complaints against the notions of collective remorse and collective responsibility. In relation to the problem of remorse, I have supported Tavuchis' suggestion that, in the context of public or state apologies, the provision of remorse is not as important as the creation of a public record. In terms of collective responsibility, I maintain that the community of rights presents a model of collective responsibility that is decidedly unlike any interpretation of individual responsibility. While members of the community of rights are not directly responsible or blameworthy for wrongs committed, they all have basic obligations to maintain an environment of mutual concern and respect for the generic rights of others. Here, I have also considered the issue of "*imperfect obligations*" (Gewirth, *COR* 353), and problems related to the state centric nature of these apologies. Ultimately, I have concluded that the state apology remains morally viable in that the state as the community of rights is an appropriate executor of this obligation, while the specific apologetic process remains adaptable to particular circumstances and situations. Given the Gewirthian view of

the state as the primary respondent of this communal obligation, the state apology should be viewed as an important avenue through which fundamental respect for human rights can be restored.

Following this analysis, I have considered the more general psychosocial biography of the community of rights, and have related this biography to the concept of state apology. Based on this implied psychosocial biography, it becomes apparent that the community of rights fosters an important *moral awareness*. In this regard, a view of the community of rights as a virtuous and “decent society” (Gewirth, *COR* 348) is brought forward. As a result of this analysis, the Gewirthian interpretation of state apology is further strengthened. Members of the community of rights have meaningful and humanitarian regard for the generic rights of others, and are part of an environment of “cooperativeness and fellow feeling” (Gewirth, *COR* 85). Pablo de Greiff, I have noted, similarly alludes to the notion of civic trust (126) in his essay on state apology. As de Greiff intelligently suggests, the state apology attempts to change attitudes by affirming significant moral norms and restoring civic trust. In the same manner, the PGC requires a certain *moral awareness* of and “moderate altruism” (Gewirth, *COR* 25) towards other agents for the community of rights to function optimally. Based on this analysis, I have therefore concluded that this psychosocial biography further crystallizes the potential legitimacy of state apology.

Lastly, I have reviewed the U.S. apology for the Tuskegee Syphilis Study from the Gewirthian perspective. This horrific clinical analysis of untreated syphilis in men of African American descent, which was perpetrated by the U.S. Public Health Service in Macon County, Alabama, between 1932 and 1972, serves as a disquieting reminder that

violations of human rights require redress. The official state apology, given by President Bill Clinton in 1997, attempts to provide this redress and express a commitment to the rights of the victims in a respectable and solemn fashion. From the Gewirthian perspective, this apology refers to the importance of respecting rights as a means to existing in a moral community, and provides an official record of transgressions that are morally unacceptable in an effort to commit to important social norms. As I have suggested, the state apology as a reactive duty should attempt to restore dignity through recognition of generic human rights, and should express allegiance to the moral norms that the community aspires towards. Although delivered in untimely fashion, the apology for the Tuskegee Syphilis Study attempts to accomplish these goals. As a result, the Gewirthian interpretation of state apology developed thus far is shown to be applicable and coherent. By appealing to the Gewirthian community of rights, the obligations behind and purposes of the state apology are made clear.

Certainly, criticisms can be levied against specific features of this apology and others like it. Problems related to the sincerity of remorse expressed, ulterior political motives, and vague statements of mere sympathy, for example, remain salient to the practice. At the same time, however, I hope to have shown that the reconciliatory and community strengthening potential of state apology does exist in meaningful form. We might here end with Aaron Lazare's apt observation that, regardless of its various difficulties, "the apology process holds out a promise that is well worth the effort it requires: the prospect of restored respect, of healed relationships, or civility, and of a clearer sense of morality among individuals and nations who inhabit an ever-shrinking

world” (203). In sum, the Gewirthian interpretation of state apology reaches a similar conclusion. While legitimate criticisms remain, the practice of state apology carries a definite potential that is made clear through Gewirth’s deontology. Although elusive, the potential of state apology lies in its ability to express a fundamental and basic moral regard for the dignity and rights of human beings who have been violated. As a result, the state apology also carries the power to reaffirm and refine the moral norms that allow the moral community to exist.

In his poignant article titled “A Sorry State”, Mitch Miyagawa gives touching insight into this potential. As a Japanese Canadian, Miyagawa was one of many people that the Government of Canada apologized to for internment of Japanese citizens during World War II. The second husband of Miyagawa’s mother, it is noted, had paid the Chinese head tax, and had similarly received an apology from the Canadian Government in 2006. In the same vein, Etheline, the second wife of Miyagawa’s father, had attended an aboriginal residential school. As an attendee of one of the nightmarish residential schools, Etheline had received an apology from the Canadian Government in 2008. Speaking of this, Miyagawa refers to his family as a “multi-case study” (25) in apology, and is skeptical of the apology process in general. Miyagawa worries that state apologies simply become “Forgettable” (29) by attempting to take care of whole histories of injustice in only a few words. However, Miyagawa also writes somewhat profoundly of his stepmother, Etheline, in the following way:

...I never once asked you about your time in residential school. I never really related until that night, after we’d watched Harper’s shining

moment, that powerful ceremony – and I'd watched how it moved you, felt the hair on my arms raise and a shiver in my back when we talked late and you told me how your grandfather was taken from his family when he was four...told me how he'd never known his parents...how he'd raised you when your mother couldn't; how you were in the mission school, too, for four years, and your grandfather wouldn't let them cut your braids, and you'd feel the cold brick walls with your hands, and the laundry ladies would call you by your number, and you would stare out the window toward the dirt road that led away from the school...I never knew...And I apologize again, for bringing it all up, for writing down your private pain. But we need to tell it again and again. It has to be there; it has to get into people's hearts.

And here I make an apology for the government apology.

For whatever I feel about them, about how they can bury wrongs in the past instead of making sure the past is never forgotten, about how they can use emotion to evade responsibility, they have indeed changed my life.

They've made me rethink about what it means to be a citizen of this country. They've brought me closer to my family. (30)

As this reflection beautifully reveals, the problems of state apology must be weighed against their potential to strengthen communal ties and affirm a basic moral order. The duty to exercise this potential in instances where rights have been violated should not be overlooked.

Without a doubt, certain questions remain open for discussion. The role of reparations, the larger processes of reconciliation, and determining the place of forgiveness in the apology process, for example, are all topics worthy of further discussion and inclusion in the current conversation. Similarly, alternative specifications of apology processes could likely be imagined in the context of cultural difference, and might be legitimate. Primarily, this study has only focused on whether Gewirth's deontological theory with its focus on rights and obligations can be successfully applied to the practice of state apology. Based on the above analysis, the answer to this question has been affirmative. Through application of Gewirth's theory, the state apology can be seen to accomplish its most important work in the dire moral landscape between the community of rights and a *community of wrongs*. Given the primacy of human rights and the obligations correlative to them, the state apology must be understood as an obligation to recognize the moral significance of these rights. It must be viewed as a means to restore the community that houses those rights together in harmony; as a way to move from conditions of moral disrespect to an environment of moral regard.

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