Apologies in a Legal Setting: Insights from Research into Injured Parties' Experiences of Apologies after an Adverse Event

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There is scholarly support for the use of apologies in the settlement of legal disputes and anecdotal evidence of their effectiveness in mediation and other dispute resolution processes. There is also a growing body of empirical psychological research regarding the use and effectiveness of apologies available to inform and guide the practice of lawyers, mediators and other professionals, and judicial officers when apologies arise in legal proceedings. This article critically reviews the research literature concerning the experience of apology recipients and offers a framework for understanding the circumstances in which an apology may contribute to the resolution of a legal dispute.

Keywords: apology; civil; criminal justice; empirical; law; lawyers; mediation; mediators; research.

Part 1. Introduction

Adverse events trigger complex interpersonal interactions between people who cause injury and those they injure. People who have been injured, including victims of crime and civil wrongdoing, often have psychological needs for apologies from a person they hold responsible as a wrongdoer.¹ There is strong scholarly support for apologies in settlement of legal claims,² and in negotiation,³ mediation⁴ and restorative justice⁵ processes. There is statistical evidence that apologies are a common term of settlement in some areas of conciliated complaints⁶ and anecdotal evidence that apologies can play an important role in mediation.⁷ More generally, there is scholarship and commentary that draws on apology theories and research to provide practical guidance on apologies and apologising which can similarly be applied to dispute and

complaint resolution across a broad range of legal settings.⁸ While some concern has been expressed about the use of apology in the context of legal proceedings,⁹ there are suggestions that these concerns can be addressed through informed and ethical practice¹⁰ and are outweighed¹¹ by the overall benefits of apologies.

These interactions can play out in the presence of third party observers and professionals working with victims and wrongdoers in a legal setting. Numerous scholars and practitioners have proposed mediation as an ideal forum for wrongdoers to offer apologies to injured parties.¹² Indeed, there are many features of the mediation process that make it conducive to apologising, including the opportunity it provides for direct party participation in the process and for confidential and meaningful interpersonal dialogue.¹³ Parties

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have an opportunity to make decisions about the outcomes of the process, including formal and informal terms of agreement, on outcomes involving dialogue, understanding and apologies. The opportunity for parties to give and receive apologies in a legal setting is not confined to mediation. Apologies sometime feature in lawyer assisted negotiations. In civil proceedings, a lawyer may advise a client on settling a matter on terms that include an apology and assist a client to negotiate the terms of a formal apology. In a criminal justice setting, a lawyer may be called upon to advise a client on the significance of an apology from the perspective of the defendant, the victim and the court.

In each of these settings, a third party professional involved in the legal process may form a different view to the recipient about the sincerity and value of an apology offered by a wrongdoer. The third party professional may feel uncomfortable or dissatisfied when they observe an injured party accepting an apology they themselves consider incomplete or otherwise imperfect. Injured parties, however, may accept these imperfect apologies because they consider them good enough, as they satisfy their needs in the specific circumstances and therefore minimise or eliminate the unpleasant psycho-physiological stress they experience in response to the psychological, physiological and social threats posed by the adverse event.

For this reason, both the professional and their client will benefit from understanding the function of apologies following an adverse event and the complexity of apologies. This article furthers that understanding by presenting an overview of the research on the function of apologies and a framework for analysing the features of apologies. The article reviews the psychological research on the experience of apology recipients. It explains the breadth and complexity of apologetic gestures, why in some cases apologies need to be more elaborate than in other cases and why parties to disputes may sometimes

accept what appear to be incomplete, insincere or otherwise poor apologies. The framework of analysis is presented in the context of a legal dispute, but the value of this analysis is not confined to this context. It has relevance to anyone who seeks to anticipate, on an empirical basis, how an injured party will respond to an apology in any particular situation.

A number of factors contribute to the difficulty of anticipating how a person will respond to an apology. One factor is the difficulty of defining what is meant by 'apology' in any particular setting. There is no singular definition of apology. Where authors do refer to a definition of apology,¹⁴ they often refer to the work of sociologist Nicholas Tavuchis, who concludes that, at a minimum, an apology entails 'acknowledgement of the legitimacy of the violated rule, admission of fault and responsibility for its violation and the expression of genuine regret and remorse for the harm done'.¹⁵ According to Tavuchis, an apology has two fundamental requirements: the offender has to be sorry and has to say so.¹⁶ While Tavuchis' definition has much to offer as a sociological theory of apology based on scholarly reasoning, empirical research that takes into account the reported perceptions of lay people regarding what type of apology would satisfy their needs as an injured party in the psycho-social context within which the apology was offered can provide valuable insight into this complex act.¹⁷

Another difficulty arises because, as other scholars have noted, there is a tendency to depict an apology 'as a strictly dichotomous phenomenon wherein a victim either (a) receives an apology or (b) does not',¹⁸ whereas in reality an apology is a complex act capable of multiple forms of meanings.¹⁹ To overcome this difficulty, and based on an understanding of apology from a psychological perspective, we work with a meaning of apology that recognises that there are components of an apology, and that what constitutes

an apology in a particular situation and context is highly variable. There is consensus that a full apology incorporates an expression of heartfelt regret and remorse for what has happened, sympathy for the victim and acknowledgement of the wrongdoer's transgression. For some, the apology must also offer some form of recompense and a commitment to change in the future.

Another factor that makes it difficult to anticipate how an apology will be received is that an acceptable apology is a unique and subjective experience for every injured party. Exactly which components need to be present for an apology to be beneficial in any particular circumstance will depend on many factors. In Part 2 of the article, we discuss briefly the nature of the psychological-physiological reaction experienced by people who have been injured by a wrongdoer. We then present the empirical research on the experience of victims of wrongdoing within a framework for analysing their response to apologies. In Part 3 we identify a number of insights that arise from this research. We conclude in Part 4 that the empirically-based framework for understanding the features of apologies developed in Part 2 can assist third parties in the legal system to advise and assist parties seeking to resolve a legal dispute.

Part 2. The Function of Apologies after an Adverse Event

When injured parties and wrongdoers become aware of an adverse event, they can choose to ignore it, but generally they engage in a remedial (or corrective) interchange²⁰ during which they try to repair their self- and social images²¹ and the relationship between victim and wrongdoer and deal with the psychological and physiological consequences of the event.²² Wrongdoers generally start the remedial process by accounting for events in a way that makes them acceptable to themselves, injured parties and observers,²³ such as by denying responsibility (asserting

innocence), making excuses (minimising responsibility), justifying their behaviour or apologising.

People from most, if not all, cultures learn to use apologies as a mechanism to acknowledge their mistakes,²⁴ repair their and injured parties' social reputations,²⁵ and re-establish the relationships between them²⁶ where required. They might apologise because they feel morally obliged to do so or feel contrite, but they often apologise automatically to be polite²⁷ and/or sympathetic²⁸ without necessarily admitting responsibility. Wrongdoers sometimes apologise when injured parties do not expect them to do so,²⁹ but injured parties generally want apologies after transgressions.³⁰ Injured parties often experience wrongdoers' failure to apologise as a violation of the social norm that wrongdoers should apologise for their wrongs,³¹ which makes them even angrier.³² Injured parties may, however, sometimes find apologies less satisfying than they expected,³³ accept them conditionally,³⁴ or reject them explicitly.³⁵

People, however, *objectively* appear to be more likely to accept apologies³⁶ which observers³⁷ find imperfect.³⁸ Injured parties may in fact covertly reject these imperfect apologies, but not do so explicitly because of social pressure to accept them.³⁹ They may also accept them instinctively and unconsciously without reflecting on their quality,⁴⁰ especially if they feel good about receiving an apology, as people tend to accept the sincerity of those who make them feel good even when situational cues indicate they should not.⁴¹ Injured parties, however, also accept imperfect apologies in settings where judges,⁴² jurors,⁴³ lawyers⁴⁴ and mediators,⁴⁵ work even though the social pressure to accept apologies in such settings should be low and the pressure to make analytical, conscious, critical and objective decisions high. We believe that injured parties' psychological and physiological needs may in part⁴⁶ explain why they make these apparently irrational decisions.

2.1. The Psycho-Physiological Reaction to Wrongs

Both injured parties and wrongdoers perceive adverse events⁴⁷ as potential physical, psychological and/or social *threats* and consequently experience a three stage stress reaction which Hans Selye⁴⁸ named the general adaptation syndrome. People experience a *fight or flight* response during the immediate alarm reaction stage which allows them to physically deal with the perceived stressors. Those who cannot remove the stressors adapt to reduce their impact, and those who fail to adjust effectively to the continuing stressors may eventually experience stage three, during which their bodies' resistance to the stressors gradually decreases until they collapse.

Stage one commences when injured parties perceive events that instantaneously activate their autonomic nervous system, causing them to experience the signs and symptoms associated with sympathetic nervous system responsivity, such as increased cardiovascular (eg, blood pressure and heart rate) and skin conductance (perspiration) activity. The consequent autonomous activation of the *hypothalamus, pituitary gland and adrenal cortex* (HPA axis) causes the secretion of cortisol, increased metabolic activity and elevated levels of sugar and other nutrients in the blood.⁴⁹ Whilst both wrongdoers and injured people experience the same unpleasant physiological reaction, their psychological responses differ notably.⁵⁰

Wrongdoers generally conceptualise events as justified, closed and isolated incidents without lasting negative consequences.⁵¹ They typically experience emotions⁵² such as *fear* that injured parties will retaliate aggressively, complain or litigate; and/or *guilt or shame* because they impaired their social persona, and engage in account-giving behaviour.⁵³

Injured parties, instead, try to understand the causes of events,⁵⁴ what went wrong, the seriousness of the consequences and why the event happened. They continue looking for

answers until they acquire sufficient information to achieve closure⁵⁵ and can attribute blame⁵⁶ for the event.⁵⁷ Injured people consider three dimensions of the situation, namely, *locus of control* (could the person control the event?), *source* (was there an external influence?) and *stability over time* (is this a characteristic of the person?), when they attribute blame.⁵⁸ Injured parties experiencing an adverse medical event will therefore usually attribute a higher degree of blame to what they perceive to be a careless (could control event), lax (internal source) practitioner who acted in a characteristic manner (stable), than to an inexperienced, (less control), over-worked (external source) practitioner who they believe made an uncharacteristic mistake (unstable). They do not generally blame people for adverse events caused solely by external factors,⁵⁹ but may hold them strictly or vicariously responsible even though their behaviour may not be a *sine qua non* for the event.⁶⁰ Injured parties distinguish between justified, accidental (negligent) and deliberate (intentional) behaviour,⁶¹ and often, especially in ambiguous situations,⁶² blame themselves at least partly for what happened.⁶³ The degree of blame they attribute influences the nature and intensity of the emotions they experience,⁶⁴ and notwithstanding who they blame, typically they feel disrespected⁶⁵ and unfairly treated,⁶⁶ and experience feeling of anxiety,⁶⁷ depression,⁶⁸ hostility,⁶⁹ and, in the case of self-blame, also feelings of guilt and shame.⁷⁰ These responses, particularly together with anger,⁷¹ determine how, and to what degree, injured parties will respond after an adverse event.⁷²

Some injured parties internalise the situation and try to flee⁷³ and if they blame themselves they may, in extreme cases, attempt to kill themselves.⁷⁴ They more commonly, however, try to flee the situation by consciously or unconsciously avoiding those they blame and sometimes withdrawing from other people if they experience shame and depression. They thereby deprive themselves

of the important positive social interaction, relatedness and support all people need,⁷⁵ especially when experiencing a crisis. Other injured parties express their anger and contempt for wrongdoers by fighting them and taking revenge⁷⁶ by, for instance, making formal complaints or litigating.⁷⁷

2.2. Unforgiveness

Injured parties whose psychological and social needs remain frustrated may experience a *state of unforgiveness* characterised by continuous negative emotions and hyper-arousal.⁷⁸ Unforgiving people constantly feel angry, hostile and resentful of those they blame for the incident.⁷⁹ Some accept this state because they consider the wrongs in question unforgivable,⁸⁰ others because it protects them from further abuse,⁸¹ helps them maintain their self-respect⁸² and gives them the energy to engage in constructive behaviour.⁸³ People maintain the unforgiveness state by constantly revisiting the incident in a way that perpetuates their negative cognitions and emotions.⁸⁴ Most people, however, try to reduce or eliminate the state of unforgiveness⁸⁵ because they experience it as unpleasant,⁸⁶ unhealthy⁸⁷ and not psychologically or physically good for them⁸⁸ and, intuitively, do not want to enter stage three (the collapse stage) of Seyle's model. People can reduce their unforgiveness in several ways,⁸⁹ including by forgiving⁹⁰ wrongdoers.⁹¹ Apologies can assist in this process.

2.3. Apologies as Promoters of Forgiveness

Researchers' findings of positive correlations between apologies and people's physiological⁹² and psychological⁹³ functioning support injured parties' beliefs that apologies will assist them to forgive.⁹⁴ Researchers also found evidence of an association between apologies and forgiveness,⁹⁵ but an apology does not appear to be a prerequisite for forgiveness,⁹⁶ nor does it automatically lead to benevolent attributions⁹⁷ or forgiveness,⁹⁸

which raises the question what effective apologies look like.

Injured parties do not believe perfect apologies exist, but believe an apology must be *good enough* for the situation.⁹⁹ In situations where two strangers bump against each other, in a shop for example, a discrete, brief, automatic, formalistic gesture or utterance such as 'sorry'¹⁰⁰ will do. In this situation an apology serves to ease the social awkwardness that may linger after both parties realise that they do not face any psychological or physiological threat. Injured parties, however, indicate that severe transgressions such as marital infidelity require long, laborious and complex interpersonal dialogues to bring about forgiveness.¹⁰¹

2.4. Features of the Apology

People respond differently to apologies with different features. All apologies, whether as a discrete event or as a longer process, share three features, namely sincerity, content and focus. We discuss the available research relating to each of these features in this section.

2.4.1. The Sincerity of the Apology

Injured parties generally want sincere apologies¹⁰² and use several indicators to determine this sincerity. Injured parties from all cultures take into account what apologies *cost* wrongdoers in terms of time, effort and so forth.¹⁰³ They expect the persons or entities they blame to provide the apology at a level of decorum appropriate to the situation¹⁰⁴ and prefer *in-person* apologies¹⁰⁵ because they find wrongdoers' body language informative.¹⁰⁶ They do, however, accept written apologies¹⁰⁷ and those offered by third parties on behalf of wrongdoers¹⁰⁸ because they suggest wrongdoers seriously considered the situation. Injured parties also see written apologies as indicators of wrongdoers' sincerity because they believe that documenting apologies involve taking

legal risks.¹⁰⁹ Injured parties consider the *timing* of apologies important,¹¹⁰ and initially researchers found early apologies to be more effective.¹¹¹ Recently researchers found that injured parties find delayed apologies acceptable¹¹² when they perceive them to be well-considered,¹¹³ especially if wrongdoers have been punished or paid compensation.¹¹⁴ Based on the current information, it appears that the right time for apologies depends on injured parties' ripeness and readiness to receive them.¹¹⁵ Researchers found that *spontaneous* apologies have a beneficial influence,¹¹⁶ but Robbenolt found that people do not necessarily distinguish between spontaneous¹¹⁷ and non-spontaneous apologies, and that the situation may be more complex than previously believed.¹¹⁸ Injured parties may view spontaneous apologies as attempts to escape or reduce punishment and/or revenge¹¹⁹ and experience more anger. In ambiguous situations where there is doubt about responsibility, injured parties might apportion the blame, but if apologies include admissions of responsibility in ambiguous situations,¹²⁰ thereby removing all doubt about responsibility, they may apportion all blame to the apologiser. Injured parties may find non-spontaneous apologies useful¹²¹ because they can provide specific information,¹²² reveal wrongdoers' emotions¹²³ and provide public, or at least private, vindication,¹²⁴ as most, if not all, apologies involve an element of self-humiliation on the part of wrongdoers.

2.4.2. The Content of the Apology

Researchers found that people consider the content of apologies more informative than their presentation.¹²⁵ Most researchers, at least by implication, accept that apologies consist of specific components.¹²⁶ They differ as to the specific number and names of the components. Following Slocum et al,¹²⁷ we will refer to them as Affirmation, Affect and Action.

Affirmation represents the cognitive aspects of apologies which researchers independently refer to as admission of

responsibility,¹²⁸ blameworthiness¹²⁹ or fault.¹³⁰ Injured parties expect wrongdoers to specifically identify and explain¹³¹ events with a high degree of specificity, particularly those shrouded in uncertainty,¹³² and to accept responsibility for them and their consequences.¹³³ *Affect* denotes the emotional aspects of apologies which researchers refer to individually as expressions of remorse,¹³⁴ regret,¹³⁵ true sympathy¹³⁶ or concern, caring and empathy.¹³⁷ Injured parties look and listen for signs in wrongdoers' body language and voices¹³⁸ that show they feel remorse for what happened.¹³⁹ The *Action* component reflects the behavioural aspect of apologies and injured people's expectation that there must be actual or meaningful offers of repair or compensation,¹⁴⁰ promises of future restraint and forbearance¹⁴¹ or action preventing recurrences.¹⁴²

Researchers found that each of these components has an autonomous effect and independently has a greater effect than the offering of no apology, but that the accumulation of components has an additive effect.¹⁴³ People therefore prefer¹⁴⁴ *full* (all three components) apologies to *no* apologies and *partial* (less than three components) apologies.¹⁴⁵

Injured parties' subjective perception of components influence their interpretation of apologies¹⁴⁶ and they may believe one component (affirmation, affect or action) implies the existence of affirmation and/or affect,¹⁴⁷ or they may perceive some patterns of components to be more effective than others. Whilst affirmation and/or affect do not independently or together imply action, action could imply their presence, or, if present, reinforce them.¹⁴⁸ Injured parties may come to these conclusions because they realise that some people, particularly males, find it difficult to communicate their cognitions and affect,¹⁴⁹ or because behaviour carries more weight than words.¹⁵⁰ They may also come to this conclusion if the action leads them to consider the wrongful behaviour as atypical and not reflective of wrongdoers' true character and therefore unlikely to recur.¹⁵¹ Action

in the form of harm removal only, however, does not change injured parties' negative feelings and evaluations of wrongdoers.¹⁵² Injured parties appear to interpret affect as an indication that wrongdoers will resist repeating the wrongful behaviour,¹⁵³ but verbal expressions of remorse appear to be neither essential nor necessarily effective, because injured parties do not always accept them as indications of wrongdoers' remorse.¹⁵⁴ People judge wrongdoers who admit responsibility (affirmation) without any of the other two components negatively,¹⁵⁵ possibly perceiving them to be callous and flawed. Injured parties also judge wrongdoers who admit responsibility when clearly at fault negatively if they see it as impression management.¹⁵⁶ Wrongdoers who admit responsibility in ambiguous situations remove doubt about their liability,¹⁵⁷ which could make injured parties angrier, unless the admission absolves them from blame.

2.4.3. *The Focus of the Apology*

Slocum and her colleagues¹⁵⁸ found that apologies can range from exclusively *self* to *self-other* focussed. People's inherent self-centredness¹⁵⁹ makes it inevitable that they will primarily focus on their own needs.¹⁶⁰ They might offer self-serving apologies¹⁶¹ to avoid the risk of humiliation and/or greater punishment, should their apologies be rejected.¹⁶² A wrongdoer charged with assault might say 'I am sorry it happened', or, when confronting the anger of the injured party, the person may say 'I am sorry you feel angry'. Injured parties sometimes accept such self-focussed apologies, but ideally they want self-other focussed apologies, which indicate that wrongdoers recognise the physical, psychological and social impact the events had on them.¹⁶³ They therefore want self-other focussed statements, which indicate wrongdoers feel regret for the right reason and understand why they are hurting,¹⁶⁴ eg, in this case, 'I am sorry I punched you and humiliated you in front of your friends'.

Injured parties therefore want wrongdoers to apologise because they experience guilt and/or shame, not because they pity them,¹⁶⁵ want to appease them,¹⁶⁶ want to save face¹⁶⁷ or avoid lawsuits.¹⁶⁸

2.5. *Variables that Influence Injured Parties' Requirements of Apologies*

We will now discuss five variables that may influence injured parties' decisions whether apologies are good enough to meet their specific requirements in the particular situation.¹⁶⁹

2.5.1. *Personal Variables*

People's expectations of apologies and their propensity to accept them differ,¹⁷⁰ and several variables may explain this. Researchers found that though people from different *cultures* share many expectations regarding apologies, their distinct cultural socialisation patterns¹⁷¹ and their manner of interpreting and managing conflict¹⁷² lead to unique cultural expectations.¹⁷³ Injured parties from individualistic cultures such as the United States therefore tend to have higher expectations of apologies for infringements of their self-image, whilst those from collectivistic cultures (eg, Japan) have relatively higher expectations when wrongdoers violated social duties.¹⁷⁴ Injured parties' cultural perceptions of themselves as independent, connected with specific others or connected with broader society influence how they evaluate apologies. Those who emphasise relationships require wrongdoers to show remorse for the pain they had caused them, whilst injured parties who feel more connected to the broader society want wrongdoers to show that they realise they violated a social norm.¹⁷⁵

People's *age* influences their interpretation of apologies,¹⁷⁶ but it remains unclear whether it influences what they expect of apologies. Forgiveness researchers,¹⁷⁷ however, found older people more forgiving, which suggests that they may have less stringent requirements of apologies.¹⁷⁸

The few research findings regarding *education* and forgiveness suggest that higher-educated people may be more willing to forgive,¹⁷⁹ and therefore may be more willing to accept apologies.

Many researchers examined *gender* differences in respect of apology,¹⁸⁰ but they mostly focus on how males and females differ as apologisees, and how the content,¹⁸¹ frequency¹⁸² and strategic use¹⁸³ of their apologies differ. The few researchers who examined whether the genders differ regarding their expectations of apologies did not find significant gender differences.¹⁸⁴ The genders' different social orientations may lead them to interpret apologies differently.¹⁸⁵ Bennet¹⁸⁶ found that females, for example, reported that they judged apologies they received from men and women differently because they considered men's behaviour over a period of time more informative than their words.

Researchers investigating injured parties' *dispositions* in the context of the attribution of responsibility¹⁸⁷ and forgiving¹⁸⁸ found that people considered to be well-functioning and agreeable tend to be more forgiving. These findings suggest that injured parties' dispositions may influence their interpretation and acceptance of apologies, and apology researchers found empathic people¹⁸⁹ and those susceptible to social pressure¹⁹⁰ less critical of apologies they receive. In contrast, injured parties with defensive self-esteem¹⁹¹ and with low *need for cognition* (ie, less motivated to engage in effortful thought) may, in contrast, be more critical of apologies.¹⁹²

2.5.2. Injured Parties' Perceptions and Attributions

Injured parties may have higher expectations of apologies coming from those whose status and linguistic styles differ from their own, because people tend to make harsher judgments of *out-group* people,¹⁹³ but to date researchers have investigated the effect of status on the offering of apologies¹⁹⁴ rather

than how status influences injured parties' expectations of apologies.

The *degree of responsibility* injured parties attribute to wrongdoers influences the anger they experience,¹⁹⁵ and their anger influences their willingness to accept apologies¹⁹⁶ and grant forgiveness.¹⁹⁷ Injured parties experience less anger when they attribute negligence to a wrongdoer rather than recklessness or intentional wrongdoing, because they associate intentional behaviour with immoral motives.¹⁹⁸ Injured parties who question the character of wrongdoers expect apologies that counter these concerns, and apologies that fail in this regard may increase injured parties' anger and escalate the conflict.¹⁹⁹

2.5.3. The Relationship Between the Parties

Relationships between people can vary across many dimensions,²⁰⁰ which will influence what injured parties expect of wrongdoers' apologies. Researchers found that injured parties in horizontal established relationships make similar attributions of responsibility and forgiveness irrespective of whether they are co-workers, friends or romantic partners²⁰¹ and that the relationships' qualities, such as levels of attachment and injured parties' satisfaction with the relationship, influence their expectations of apologies.²⁰² The level of trust within relationships influences injured parties' expectations of apologies²⁰³ because, whilst all injured parties experience a betrayal of trust²⁰⁴ and a consequent sense of injustice, these emotions intensify as the perceived level of trust increases.²⁰⁵ Injured parties' expectation of apologies therefore increases as the levels of trust in relationships rise, peaking in fiduciary relationships such as between business and intimate partners.²⁰⁶

2.5.4. The Wrongful Behaviour

Injured parties generally perceive wrongdoers' commissions (in contrast to omissions),²⁰⁷ breaches of formal norms²⁰⁸ and untrustworthiness (in contrast to incompetence)²⁰⁹

negatively and this could influence what they expect of apologies. Injured parties, for instance, see wrongdoers' integrity violations (eg, financial mismanagement) as *prima facie* evidence of their flawed characters and find their expressions of regret more reassuring than their acceptance of full responsibility.²¹⁰

2.5.5. Nature and Severity of the Harmful Consequences

Events may not have tangible consequences (eg, physical or financial harm), but they always have intangible consequences, which may be as devastating for injured parties as tangible consequences.²¹¹ Intangible consequences can range from psychological (eg, anger, embarrassment, shame, feelings of injustice and disrespect and impaired self-images) and psychopathological reactions (such as post-traumatic stress disorders) to physical pain and cognitive disabilities associated with physical injuries.²¹² Injured parties may also experience lingering or permanent consequences that perpetuate the stress and may prevent their anger from dissipating.²¹³ Injured parties who focus on the discrete and tangible harm of events may have lesser expectations of apologies if they received the compensation or reparation they wanted.²¹⁴

Injured parties' perceptions of the severity of the consequences of events do, however, notably influence their expectations of apologies.²¹⁵ They do not expect elaborate apologies after what they perceive to be trivial events,²¹⁶ but their perceptions of what constitutes trivial events often differ from that of wrongdoers,²¹⁷ and their expectations of apologies increase as their perception of the severity of the consequences increases.²¹⁸

Part 3. Insights from the Psychological Research

The previous part reviewed the psycho-physiological reaction by injured parties to events

they perceive to be wrongful and the potential role of apologies in promoting forgiveness. We suggest that an understanding of the psychological needs of an injured party and the complexity of apologies can assist a third party professional working with the parties to a legal dispute. The analysis of the research literature in Part 2 provides a number of valuable insights about recipients' experiences of apologies. Firstly, the complexity of apologies is accounted for by perceptions of sincerity, content and focus of the apology and by variables which include the relationship between the parties, the nature of the wrongful behaviour, the nature and severity of the harmful consequences, the injured party's perceptions and attribution of responsibility and personal variables related to the wrongdoer and the recipient. It tells us that the perception of what kind of apology in any particular circumstance will meet a recipient's needs is based on their subjective and unique experience. Whether an apology is acceptable to the injured party is a very personal judgment. A third party, including a legal advisor or a mediator, is able to refer to the variables identified in the previous part to assist parties to an adverse event to strive for an apology that contributes to the resolution of a legal dispute between them, psychological closure and, possibly, forgiveness.

Second, not all components need to be present for an apology to be 'good enough' to have value to an injured party. Nor does an apology require specific words. A person might feel they have received an apology through words or gestures, even when the words 'sorry' and 'apology' are not used. This explains why a third party may find a recipient's response difficult to understand in the circumstances. It also explains why the third party need not assess or evaluate the value of an apology that has been offered from their perspective or from an objective point of view. The third party, however, may also need to work with the reality that a recipient is unable to explain their decision to accept or refuse an apology. The third party

should accept the explanation the injured party gives, even though the apology appears to be incomplete or not 'good enough' in other ways to the observer.

Third, the research referred to in the previous part provides an empirical basis for concluding that there is no formula for 'a perfect apology'. Whether a person considers an apology 'good enough' in the circumstances will depend on the sincerity, content and focus of the apology and multiple variables relating to the circumstances in which the apology takes place. Third parties working with an injured party can draw on this framework of analysis to assist an injured party and a wrongdoer to understand their psychological needs and how these needs might be addressed by an apology. In a legal setting, this explains why an apology that satisfies an injured party's need for *affirmation*, even in the absence of sincerity and a self-other focus, might be accepted. It can also explain why an apology that meets an injured party's need for *affect* through an expression of regret or remorse and a commitment to *action* in the form of changes in the future may be acceptable, even in the absence of acknowledgement of legal fault or wrongdoing by the wrongdoer.

Part 4. Conclusion

Apologies are often sought by people who feel aggrieved. Apologetic gestures in the form of expressions of regret and remorse, acknowledgements of wrongdoing, offers to make amends and other forms of apology are known to be important to the resolution of legal disputes. It is important, therefore, for professionals assisting and advising parties to disputes to have a sound understanding of how people experience apologies and what constitutes an acceptable apology. How should a lawyer, mediator and other professionals, including judicial officers, react when they observe an injured party accepting an apology that they consider incomplete or in other ways imperfect from an objective

viewpoint? What if they believe the injured party is accepting an apology guided automatically by the apology-forgiveness script, or because they experience social pressure or because of their internal need to feel good?

This article offers a framework for analysis of apologies based on empirical research and a series of qualitative empirical studies of the perceptions of lay people as to what type of apology would satisfy their needs. We have briefly discussed the nature of the psychological-physiological reaction experienced by a person who has been wronged and offer insights from psychological research that can inform and enhance resolution of disputes in a legal setting and beyond. We show that an injured party may be accepting an 'imperfect' apology because they consider it to be good enough. In other words, the apology satisfies their needs in the specific circumstances and therefore minimises or eliminates the unpleasant psycho-physiological stress they experience in response to the psychological, physiological and social threats posed by an adverse event.

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Notes

1. In this article we refer to events that cause physical and psychological injury as an adverse event. We refer to the person who injures another person as the 'wrongdoer' (even though legal wrongdoing may be in issue) and to the other party to the apology interaction either as 'the injured party' or the 'victim', depending on the context.
2. Eg, JR Cohen, 'Apology and Organisations: Exploring an Example from Medical Practice' (2000) 27 *Fordham Urb L J* 1447; A Allan, 'Apology in Civil Law: A Psycho-Legal Perspective' (2007) 14 *Psychiatry Psychol & L* 5–16, 5.

3. Eg, J Brown, 'The Role of Apology in Negotiation' (2003–2004) 87 Maro L Rev 665. More generally in settlement of tort claims, see D Shuman, 'The Role of Apology in Tort Law' (2000) 83 Judicature 180; C Brown, 'Apology Legislation: Oiling the Wheels of Tort' (2009) 17 Tort L Rev 127.
4. M Bolstad, 'Learning from Japan: The Case for Increased use of Apology in Mediation' (2000) 48 Clev St L Rev 565; H Cohen, 'Mediation in Divorce: Boon or Bane?' (1984) 5 Women's Advoc 1; DL Pavlick, 'Apology and Mediation: The Horse and Carriage of the Twenty-first Century' (2003) 18 Ohio St J on Disp Resol 829, 853–55; E Latif, 'Apologetic Justice: Evaluating Apologies Tailored Towards Legal Solutions' (2001) 81 BU L Rev 289, 295–96; R Carroll, 'Apologising "Safely" in Mediation' (2005) Australian Disp Resol J 40; D Foong, 'A Discussion of Apology and its Use in Alternative Dispute Resolution' (2007) 18 Australasian Disp Resol J 73.
5. Eg, CJ Petrucci, 'Apology in the Criminal Justice System: Evidence for Including Apology as an Additional Component in the Legal System' (2002) 20 Behav Sci Law 337–62.
6. Apologies are a common term of settlement negotiated during conciliation of anti-discrimination complaints in Australia. See, eg, 'Equal Opportunity Commissioner's ebulletin' (July 2015) <<http://www.eoc.wa.gov.au/publications/e-bulletin/past-issues/2015/08/27/equal-opportunity-commissioner's-e-bulletin-july>> accessed 2 October 2015, where the Western Australian Equal Opportunity Commissioner reports that apologies are a common outcome negotiated in the conciliation of complaints under the Equal Opportunity Act 1984 (WA). See also A Allan, D McKillop and R Carroll, 'Parties' Perceptions of Apologies in Resolving Equal Opportunity Complaints' (2010) 17 Psychiatry Psychol & L 538–50. Cases settled by conciliation or decided by courts and tribunals in the anti-discrimination jurisdiction across Australia generally indicate that there are circumstances in which parties to complaints and legal proceedings apparently place some value on an apology that is not offered willingly and possibly even sincerely. For discussion, see R Carroll, 'You Can't Order Sorriiness, so is there Any Value in an Ordered Apology? An Analysis of Apology Orders in Anti-Discrimination Cases' (2010) 32 UNSW L J 360.
7. See, eg, DL Levi, 'The Role of Apology in Mediation' (1997) 72 NYU L Rev 1165; DL Levi, 'Why Not Just Apologize? How to Say You're Sorry in ADR' (2000) 18 Alt High Cost Litig 147; Pavlick (n 4).
8. See, eg, A Lazare, *On Apology* (OUP 2004), esp. ch 10; AFM Brenninkmeijer, 'Apologies in Public Administration' (National Ombudsman's Office, March 2010) The Hague; NSW Ombudsman, 'Apologies: A Practical Guide' (2nd edn, 2009) <www.ombo.nsw.gov.au> accessed 2 October 2015.
9. See, eg, L Taft, 'Apology Subverted: The Commodification of Apology' (2000) 109 Yale L J 1135.
10. L Taft, 'When More than Apology Matters' (2013) 13 Pepp Disp Resol L J 181.
11. See, eg, British Columbia Ministry of Attorney General, 'Discussion Paper on Apology Legislation' (Ministry of Attorney General 2006); British Columbia Office of the Ombudsman, 'Special Report to the Legislative Assembly of British Columbia on the Power of an Apology: Removing the Legal Barriers' (No 27, 2006).
12. See, eg, Levi, 'The Role of Apology in Mediation' (n 7); Pavlick (n 4); Latif (n 4), for a discussion of features of the mediation process that support apologies in mediation. See also SS Raines, 'Can Online Mediation be Transformative? Tales from the Front' (2005) 22 Conflict Resol Q 437; Foong (n 4).
13. Mediation provides an opportunity for parties to express their needs and how they believe those needs might be met. Mediators are trained to recognise when it is important to parties that their needs are met other than through legal outcomes and remedies. In doing so, mediators can empower parties by guiding them 'to resolutions that go beyond "legal solutions" to solutions that reflect their deeper interests'. National Alternative Dispute Resolution Advisory Council, 'Maintaining and Enhancing the Integrity of ADR Processes – From Principles to Practice Through People' (2011) 1 <<https://www.ag.gov.au/LegalSystem/AlternateDisputeResolution/Documents/NADRAC%20Publications/Maintaining%20and%20enhancing%20the%20integrity%20of%20ADR%20processes%20%20From%20principles%20to%20practice%20through%20people.PDF>> accessed 2 October 2015.
14. See, eg, Pavlick (n 4) 834, 835.

15. N Tavuchis, *Mea Culpa: A Sociology of Apology and Reconciliation* (Stanford University Press 1991) 3.
16. Tavuchis (n 15) 36.
17. For a review of the definition of an apology and apology theories, see D Slocum, A Allan and MM Allan, 'An Emerging Theory of Apology' (2011) 62 *Aust J Psychol* 83.
18. R Fehr and MJ Gelfand, 'When Apologies Work: How Matching Apology Components to Victims' Self-construals Facilitates Forgiveness' (2010) 113 *Organ Behav Hum Dec* 37.
19. N Smith, *I Was Wrong: The Meanings of Apologies* (CUP 2008) 12.
20. HS Hodgins and E Liebeskind, 'Apology versus Defence: Antecedents and Consequences' (2003) 39 *J Exp Soc Psychol* 297. These processes, as the other decision-making processes we discuss in this section, are guided by people's schemata and scripts which are socio-cognitive mental frameworks that allow people to make decisions automatically, intuitively and unconsciously. See G Gigerenzer and PM Todd, 'Fast and Frugal Heuristics: The Adaptive Toolbox' in G Gigerenzer, PM Todd and AR Group (eds), *Simple Heuristics that Make Us Smart* (OUP, New York 1999) 3–34; SJ Reynolds, 'A Neurocognitive Model of the Ethical Decision-making Process: Implications for Study and Practice' (2006) 91 *J Appl Psychol* 737; J Rieskamp and U Hoffrage, 'When Do People Use Simple Heuristics, and How Can We Tell?' in Gigerenzer, Todd and Group (eds), *Simple Heuristics* 141–67; Tversky and Kahneman, 'The Belief in the "Law of Numbers"' (1971) 76 *Psychol Bull* 105; A Tversky and D Kahneman, 'Judgment Under Uncertainty: Heuristics and Biases' (1974) 185 *Sci* 1124. Schemata refer to mental concepts people have of something, for instance, what they consider to be right or wrong, and scripts guide them what to do, and in what order, in a particular social context. Schemata therefore assist people to process incoming information reactively and make fast decisions, and scripts allow them to behave in a certain manner. Wrongdoers who realise they have transgressed will therefore have an overlearned and culturally ingrained script that guide them to behave in a certain way and to expect a certain behaviour in response. Injured parties similarly use scripts to guide them. People's scripts allow them to quickly and effectively make complex decisions, but they sometimes make wrong decisions or decisions they later regret making. People can, and do, make more conscious, considered and purposeful decisions if they know they will be held accountable or the decision could reflect negatively on them if they make a mistake. See PE Tedlock, L Skitka and R Boettger, 'Social and Cognitive Strategies for Coping with Accountability: Conformity, Complexity, and Bolstering' (1989) 57 *J Pers Soc Psychol* 632; AW Kruglanski, 'The Psychology of Being "Right": On the Problem of Accuracy in Social Perception and Cognition' (1989) 106 *Psychol Bull* 395. It is, nevertheless, doubtful that people can on their own make totally rational decisions independent of any subjective biases.
21. Injured parties experience the event as a threat to their self-image, status and power, and wrongdoers see it as a threat to their self- and social images as moral and socially acceptable people. N Shnabel and A Nadler, 'A Needs-based Model of Reconciliation: Satisfying the Differential Emotional Needs of Victim and Perpetrator as a Key to Promoting Reconciliation' (2008) 94 *J Pers Soc Psychol* 116.
22. B Ho, 'Apologies as Signals: With Evidence from a Trust Game' (2012) 58 *Manag Sci* 141; T Holtgraves, 'The Form and Function of Remedial Moves: Reported Use, Psychological Reality and Perceived Effectiveness' (1989) 8 *J Lang Soc Psychol* 1; K Ohbuchi and K Sato, 'Children's Reaction to Mitigating Accounts: Apologies, Excuses, and Intentionality of Harm' (1994) 134 *J Soc Psychol* 5; S Takaku, 'The Effects of Apology and Perspective Taking on Interpersonal Forgiveness: A Dissonance-Attribution Model of Interpersonal Forgiveness' (2001) 141 *J Soc Psychol* 494.
23. MJ Cody and ML McLaughlin, 'Interpersonal Accounting' in H Giles and WP Robinson (eds), *The Handbook of Language and Social Psychology* (Wiley, London 1987) 227–55; E Goffman, *Interaction Ritual: Essays on Face-to-Face Behaviour* (Penguin Books, London 1967); E Goffman, *Relations in Public: Microstudies of the Public Order* (Basic Books, New York 1971); Holtgraves (n 22); ML McLaughlin, MJ Cody and NE Rosenstein, 'Account Sequences in Conversations Between Strangers' (1983) 50 *Commun Monogr*

- 102; K Ohbuchi, M Kameda and N Agarie, 'Apology as Aggression Control: Its Role in Mediating Appraisal of and Response to Harm' (1989) 56 *J Pers Soc Psychol* 219.
24. BW Darby and BR Schlenker, 'Children's Reactions to Apologies' (1982) 43 *J Pers Soc Psychol* 742.
25. Ohbuchi and Sato (n 22).
26. M Bennett and C Dewberry, "'I've Said I'm Sorry, Haven't I?'" A Study of the Identity, Implications and Constraints that Apologies Create for their Recipients' (1994) 13 *Curr Psychol: Dev, Learn, Pers, Soc* 10.
27. P Brown and S Levinson, *Politeness: Some Universals in Language Usage* (CUP, Cambridge 1987).
28. MC Blackman and EC Stubbs, 'Apologies: Genuine Admissions of Blameworthiness or Scripted, Sympathetic Responses?' (2001) 88 *Psychol Rep* 45.
29. RF Baumeister, AM Stillwell and SR Wotman, 'Victim and Perpetrator Account of Interpersonal Conflict: Autobiographical Narratives About Anger' (1990) 59 *J Pers Soc Psychol* 994; S Blum-Kulka and E Olshtain, 'Requests and Apologies: A Cross-cultural Study of Speech Act Realization Patterns (CCSARP)' (1984) 5 *Appl Linguist* 196; JS Zechmeister and C Romero, 'Victim and Offender Accounts of Interpersonal Conflict: Autobiographical Accounts of Forgiveness and Unforgiveness' (2002) 82 *J Pers Soc Psychol* 675. This may, however, be an artefact of how researchers formulate their questions, or a demonstration of how people follow the apology-forgiveness script in order to do what they perceive to be socially desirable. See A Jaworski, 'Apologies and Non-apologies: Negotiation in Speech Act Realisation' (1994) 14 *Text* 185. People's eagerness to apologise may also be higher in the case of lesser wrongs when they use formalistic expressions of apology such as *excuse me*, *pardon* and, most frequently, *sorry*. See Blum-Kulka and Olshtain; AJ Meier, 'Apologies: What Do We Know?' (1998) 8 *Int J Appl Linguist* 215; A Trosborg, 'Apology Strategies in Natives/Non-natives' (1987) 11 *J Pragmat* 147; Jaworski 185.
30. TH Gallagher and others, 'Patients' and Physicians' Attitudes Regarding the Disclosure of Medical Errors' (2003) 289 *J Amer Med Assoc* 1001; T Marshall and S Merry, *Crime and Accountability: Victim-Offender Mediation in Practice* (HMSO, London 1990); KM Mazor, SR Simon and JH Gurwitz, 'Communicating with Patients About Medical Errors: A Review of Literature' (2004) 164 *Arch Intern Med* 1690; H Strang and LW Sherman, 'Repairing the Harm: Victims and Restorative Justice' (2003) 15 *Utah L Rev* 15; AB Witman, DM Park and SB Hardin, 'How Do Patients Want Physicians to Handle Mistakes? A Survey of Internal Medicine Patients in an Academic Setting' (1996) 156 *Arch Intern Med* 2565.
31. RL Thomas and MG Millar, 'The Impact of Failing to Give an Apology and the Need-for-Cognition on Anger' (2008) 27 *Curr Psychol* 126.
32. Ohbuchi, Kameda and Agarie (n 23).
33. D De Cremer, 'To Pay or to Apologize? On the Psychology of Dealing with Unfair Offers in a Dictator Game' (2010) 31 *J Econ Psychol* 843.
34. Bennett and Dewberry (n 26).
35. Allan, McKillop and Carroll (n 6).
36. Bennett and Dewberry (n 26).
37. Such as judges, jurors, lawyers and mediators. See JJ Rachlinski, C Guthrie and AJ Wistrich, 'Contrition in the Courtroom: Do Apologies Affect Adjudication?' (2013) 98 *Cornell L Rev* 1189; JK Robbennolt, JM Darley and RJ MacCoun, 'Symbolism and Incommensurability in Civil Sanctioning: Decision Makers as Goal Managers' (2003) 68 *Brook L Rev* 1121; JK Robbennolt and LM Lawles, 'Bankrupt Apologies' (2013) 10 *J Empirical Legal Stud* 771; BH Bornstein, LM Rung and MK Miller, 'The Effects of Defendant Remorse on Mock Juror Decision in a Malpractice Case' (2002) 20 *Behav Sci Law* 393; JK Robbennolt, 'Attorneys, Apologies, and Settlement Negotiation' (2008) 13 *Harv Negotiation L Rev* 349; L Bradt, M Bouverne-De Bie and S De Visscher, 'Victim-Offender Mediation and Social Work: Focus Groups with Mediators in Flanders' (2014) 57 *Int Soc Work* 121; Levi, 'The Role of Apology in Mediation' (n 7).
38. Bennett and Dewberry (n 26); A Jehle and others, 'How Voluntariness of Apologies Affects Actual and Hypothetical Victims' Perceptions of the Offender' (2012) 152 *J Soc Psychol* 727; Especially see the series of informative experiments done by Risen and Gilovich. These researchers, inter alia, found that injured party participants accepted apologies that observers considered to be coerced and judged worse than no apology. As observers, anecdotally, less

- frequently question injured parties' decision to refuse apologies, we will focus on the acceptance of apologies, but some of the mechanisms we present also explain the rejection of apologies. JL Risen and T Gilovich, 'Target and Observer Differences in the Acceptance of Questionable Apologies' (2007) 92 *J Pers Soc Psychol* 418.
39. Bennett and Dewberry (n 26); JJ Choi and M Severson, "'What! What Kind of Apology is This?': The Nature of Apology in Victim Offender Mediation' (2009) 31 *Child Youth Serv Rev* 813.
 40. Risen and Gilovich (n 38).
 41. R Vonk, 'Self-serving Interpretations of Flattery: Why Ingratation Works' (2002) 82 *J Pers Soc Psychol* 515.
 42. Rachlinski, Guthrie and Wistrich (n 37); Robbenolt, Darley and MacCoun (n 37); Robbenolt and Lawles (n 37).
 43. Bornstein, Rung and Miller (n 37).
 44. Robbenolt, 'Attorneys, Apologies, and Settlement Negotiation' (n 37).
 45. Bradt, Bouverne-De Bie and De Visscher (n 37).
 46. We do not know of any empirical research regarding how wrongdoers and injured parties think about apology as a moral issue and therefore do not exclude the possibility that people may objectively accept imperfect apologies because of their moral or religious beliefs, but this does not negate our functional explanation. We note that most of Cooney and her colleagues' participants did not see forgiveness as a moral issue: A Cooney and others, 'The Forgiveness Process in Primary and Secondary Injured Parties of Violent and Sexual Offences' (2011) 63 *Aust J Psychol* 107.
 47. JC Anderson, W Linden and ME Habra, 'Influences of Apologies and Trait Hostility on Recovery from Anger' 29 (2006) *J Behav Med* 347.
 48. H Selye, *The Stress of Life* (McGraw-Hill, New York 1978).
 49. For a more comprehensive discussion, see A Allan and D McKillop, 'The Health Implications of Apologising after an Adverse Incident' (2010) 22 *Int'l J Quality Health Care* 126.
 50. B Weiner, *Judgments of Responsibility: A Foundation for a Theory of Social Conduct* (Guilford Press, New York 1995).
 51. Baumeister, Stillwell and Wotman (n 29); AM Stillwell and RF Baumeister, 'The Construction of Victim and Perpetrator Memories: Accuracy and Distortion in Role-Based Accounts' (1997) 23 *Pers Soc Psychol Bull* 1157; Zechmeister and Romero (n 29).
 52. BM Riek, LM Root Luna and CA Schnabelrauch, 'Wrongdoers' Guilt and Shame: A Longitudinal Examination of Forgiveness Seeking' (2014) 31 *J Soc Pers Relat* 751.
 53. Allan, McKillop and Carroll (n 6); R Banerjee, M Bennett and N Luke, 'Children's Reasoning About the Self-Presentational Consequences of Apologies and Excuses Following Rule Violations' (2010) 28 *Brit J Dev Psychol* 799; D Keltner, RC Young and BN Buswell, 'Appeasement in Human Emotion, Social Practice, and Personality' (1997) 23 *Aggressive behav* 359; BR Schlenker and MF Weigold, 'Interpersonal Processes Involving Impression Regulation and Management' (1992) 43 *Annu Rev Psychol* 133; B Weiner and others, 'An Attributional Analysis of Excuse Giving: Studies of a Naive Theory of Emotion' (1987) 52 *J Pers Soc Psychol* 316; B Weiner and others, 'Public Confessions and Forgiveness' (1991) 59 *J Pers* 218.
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 55. Wong and Weiner (n 54).
 56. B Weiner, *An Attributional Theory of Motivation and Emotion* (Springer-Verlag, New York 1986). They do not attribute legal or causal responsibility but make psychological attributions of responsibility in their effort to explain the causes of events. We will refer to this attribution of responsibility as blame to distinguish it from the other meanings the word responsibility can take. See, eg, HLA Hart and J Gardner, *Punishment and Responsibility: Essays in the Philosophy of Law* (OUP, Oxford 2008).
 57. FD Fincham, 'The Kiss of the Porcupines: From Attributing Responsibility to Forgiving' (2000) 7 *Pers Relat* 1; F Heider, *The Psychology of Interpersonal Relations* (Wiley, New York 1958); EE Jones and KE Davis, 'From Acts to Dispositions: The Attribution Process in Person Perception' in

- L Berkowitz (ed), *Advances in Experimental Social Psychology* (Academic Press, New York 1965) 219–66; HH Kelley, 'Moral Evaluation' (1971) 21 *Am Psychol* 293; HH Kelley, 'The Process of Causal Attribution' (1973) 28 *Am Psychol* 107; Weiner, *An Attributional Theory* (n 56); Weiner, *Judgments of Responsibility* (n 50).
58. See Weiner, *An Attributional Theory* (n 56).
59. DA Schroeder and DE Linder, 'Effects of Actor's Causal Role, Outcome Severity and Knowledge of Prior Accidents upon Attributions of Responsibility' (1976) 12 *J Exp Soc Psychol* 340.
60. An example of this would be parents holding their daughter's boyfriend responsible for her drowning whilst she was swimming without his knowledge because he had promised to take care of her when they left home.
61. TJ Ferguson and BG Rule, 'Effects of Inferential Set, Outcome Severity, and Basis for Responsibility on Children's Evaluations of Aggressive Acts' (1980) 16 *Dev Psychol* 141; Fincham (n 57); Heider (n 57); Schroeder and Linder (n 59).
62. Wong and Weiner (n 54).
63. I Frieze, S Hymer and MS Greenberg, 'Describing the Crime Victim: Psychological Reactions to Victimization' (1987) 18 *Prof Psychol-Res Pr* 299; R Janoff-Bulman, 'Characterological Versus Behavioral Self-blame: Inquiries into Depression and Rape' (1979) 37 *J Pers Soc Psychol* 1798; R Janoff-Bulman and CB Wortman, 'Attributions of Blame and Coping in the "Real World": Severe Accident Victims React to Their Lot' (1977) 35 *J Pers Soc Psychol* 351.
64. Schroeder and Linder (n 59); Weiner and others, 'An Attributional Analysis of Excuse Giving' (n 53).
65. LM Cortina and others, 'Incivility in the Workplace: Incidence and Impact' (2001) 6 *J Occup Health Psychol* 64.
66. R Walster, E Berscheid and GW Walster, 'New Directions in Equity Research' (1973) 25 *J Pers Soc Psychol* 151.
67. JK Kiecolt-Glaser and others, 'Emotions, Morbidity, and Morality: New Perspectives from Psychoneuroimmunology' (2002) 53 *Ann Rev Psychol* 83.
68. Kiecolt-Glaser and others (n 67).
69. Kiecolt-Glaser and others (n 67).
70. JP Tangney and others, 'Shamed Into Anger? The Relation of Shame and Guilt to Anger and Self-reported Aggression' (1992) 62 *J Pers Soc Psychol* 669.
71. Walster, Berscheid and Walster (n 66); Weiner, *An Attributional Theory* (n 56); Kiecolt-Glaser and others (n 67).
72. Weiner, *Judgments of Responsibility* (n 50).
73. JM Gottman, 'A Theory of Marital Dissolution and Stability' (1993) 7 *J Fam Psychol* 57; JM Gottman, *What Predicts Divorce?* (Erlbaum, New Jersey 1994).
74. RF Baumeister, 'Suicide as Escape from Self' (1990) 97 *Psychol Rev* 90; PJ Dean and LM Range, 'Testing the Escape Theory of Suicide in an Outpatient Clinical Population' (1999) 23 *Cog Therapy Res* 561; ES Shneidman, *The Suicidal Mind* (OUP, New York 1996).
75. RF Baumeister and MR Leary, 'The Need to Belong: Desire for Interpersonal Attachments as a Fundamental Human Motivation' (1995) 117 *Psychol Bull* 497; RM Ryan and EL Deci, 'Self-determination Theory and the Facilitation of Intrinsic Motivation, Social Development, and Well-being' (2000) 55 *Am Psychol* 68.
76. ME McCullough, R Kurzban and BA Kurzban, 'Cognitive Systems for Revenge and Forgiveness' (2013) 36 *Behav Brain Sci* 1.
77. Gottman, 'Theory of Marital Dissolution' (n 73); Gottman, *What Predicts Divorce?* (n 73); ME McCullough and others, 'Interpersonal Forgiveness in Close Relationships II: Theoretical Elaboration and Measurement' (1998) 75 *J Pers Soc Psychol* 1586.
78. EL Worthington and NG Wade, 'The Psychology of Unforgiveness and Forgiveness and Implications for Clinical Practice' (1999) 18 *J Soc Clin Psychol* 385; EL Worthington and M Scherer, 'Forgiveness is an Emotion-Focused Coping Strategy that Can Reduce Health Risks and Promote Health Resilience: Theory, Review, and Hypothesis' (2004) 19 *Psychol and Health* 385. Unforgiving is an unfortunate term given that forgiving is not the only way of resolving this state, but we will use it because there is not currently a term that accurately captures the resentment, bitterness and hostility that people who believe they have been wronged feel.
79. Walster, Berscheid and Walster (n 66); Weiner, *An Attributional Theory* (n 56); EL Worthington, 'The Pyramid Model of Forgiveness: Some Interdisciplinary Speculations about Unforgiveness and the Promotion of Forgiveness' in EL Worthington (ed), *Dimensions of Forgiveness: Psychological Research and Theological*

- Perspectives* (Templeton Foundation Press, Philadelphia 1998) 107–37.
80. GF Bachman and LK Guerrero, 'Forgiveness, Apology and Communicative Responses to Hurtful Events' (2006a) 19 *Commun Rep* 45; KM Mazor and others, 'Health Plan Members' Views on Forgiving Medical Errors' (2005) 11 *Am J Aged Care* 49; DL Rapske and others, 'Not Forgiven, Not Forgotten: An Investigation of Unforgiven Interpersonal Offenses' (2010) 29 *J Soc Clin Psychol* 1100.
 81. See, eg, J Stubbs, 'Beyond Apology? Domestic Violence and Critical Questions for Restorative Justice' (2007) 7 *Crim and Crim Just* 169; C Lavery and M Achilles, 'Apologies: Balancing the Needs of Victims and Offenders' (1999) 3 *VOMA Connections* 6; JK McNulty, 'The Dark Side of Forgiveness: The Tendency to Forgive Predicts Continued Psychological and Physical Aggression in Marriage' (2011) 37 *Pers Soc Psychol Bull* 770.
 82. LB Luchies and others, 'The Doormat Effect: When Forgiving Erodes Self-respect and Self-concept Clarity' (2010) 98 *J Pers Soc Psychol* 734.
 83. For instance, by advocating and bringing about reforms that may decrease the risk of a similar harmful event from occurring in future.
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 85. GJ Gold and J Davis, 'Psychological Determinants of Forgiveness: An Evolutionary Perspective' (2005) 29 *Humboldt J Soc Relat* 111.
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 87. Kiecolt-Glaser and others (n 67).
 88. Cooney and others (n 46); Kiecolt-Glaser and others (n 67); A Harris and CE Thoresen, 'Forgiveness, Unforgiveness, Health, and Disease' in EL Worthington (ed), *Handbook of Forgiveness* (Brunner-Routledge 2005) 321–33; RM Kaplan and DP Saccuzzo, *Psychological Testing: Principles, Applications, and Issues* (5th edn, Wadsworth 2001); J Pingleton, 'The Role and Function of Forgiveness in the Psychotherapeutic Process' (1989) 17 *J Psychol and Theol* 35; CE Thoresen, AHS Harris and F Luskin, 'Forgiveness and Health' in ME McCullough, KI Pargament and CE Thoresen (eds), *Forgiveness: Theory, Research, and Practice* (Guilford Press 2000) 254–80.
 89. Other methods include taking revenge, denying the consequences, cognitively reframing the event, pursuing legal action or getting reasonable restitution in another way. See Wade and Worthington (n 86); Worthington, 'Unforgiveness, Forgiveness, and Reconciliation' (n 86).
 90. We will use the word forgiveness in a generic sense of the word because many of the researchers whose research we refer to did not define the construct clearly, but the term can be used in several specific ways. Injured people often say that they must forgive themselves before they can forgive wrongdoers and describe it as moving away from feeling guilty to feeling empowered enough to let 'go of their negative experiences for their own benefit'. See Cooney and others (n 46) at 112. This letting go can be called *intra-forgiveness* because injured parties choose not to, or cannot, communicate their internal forgiveness to wrongdoers because they are unidentified or absent. Jacoby (at 347) describes this internal forgiveness as a 'state of mind – a condition that may be emotionally meaningful to the one who forgives but has no significance as a social bond'. Injured parties who feel they understand the situation and wrongdoers' motives may experience neutral to positive feelings towards wrongdoers and can tell available wrongdoers they forgive them. This form of *interpersonal forgiveness* may be followed by reconciliation which constitutes the restoration of the mutual trust between the parties. See Fincham (n 57); McCullough, Kurzban and Kurzban (n 76); KA Lawler-Row and

- others, 'The Varieties of Forgiveness Experience: Working Towards a Comprehensive Definition of Forgiveness' (2007) 46 J Relig Health 233; JW Younger and others, 'Dimensions of Forgiveness: The Views of Laypersons' (2004) 21 J Soc Pers Relat 837; JS Zechmeister and others, 'Don't Apologise Unless You Mean It: A Laboratory Investigation of Forgiveness and Retaliation' (2004) 23 J Soc Clin Psychol 532; JH Hall and FD Fincham, 'Self-forgiveness: The Stepchild of Forgiveness Research' (2005) 24 J Soc Clin Psychol 621; S Jacoby, *Wild Justice: The Evolution of Revenge* (Harper and Row, New York 1983).
91. Wade and Worthington (n 86); Worthington, 'Unforgiveness, Forgiveness, and Reconciliation' (n 86).
 92. Anderson, Linden and Habra (n 47).
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148. See, eg, Allan and others, 'Apology in Restorative and Juvenile Justice' (n 102); Allan, McKillop and Carroll (n 6); Allan and others, 'Apologies Following an Adverse Medical Event' (n 145); Mazor and others, 'More than Words' (n 126); Schmitt and others (n 126); Slocum, Allan and Allan (n 17).
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200. Relationships can vary in respect of their *nature*, ranging from incidental (eg, two motorists who collide) to established (romantic or business relationships) and their *purpose*, ranging from instrumental (professional-client) to intrinsic (friendship) relationships. The *social distance* between parties at the time of the event can range from being strangers (eg, where there was an accident) to very close, such as in romantic and professional relationships. The *direction* of relationships can range from horizontal (eg, between romantic or business partners) to vertical (eg, between superiors and subordinates or professionals and clients). In the case of vertical relationships, the roles of the parties will dictate their status which could range from low to high. The *norms* of relationships also differ because all established relationships, whether interpersonal, group or organisational, have norms based on explicit agreements or, more frequently, implicit and informal understandings amongst members of the relevant group. Group members may not always be able to articulate the rules, but know when they have been violated. Finally, but very importantly, the level of trust in relationships may differ. At the *social end* of the continuum, people trust those who cross their paths to adhere to generally accepted norms (ie, moral and legal rules) and to be competent (ie, have the knowledge and skills required) to undertake the activities they engage in, such as driving a motor car. At the other end of the continuum are fiduciary relationships where people, by definition, have to place high trust in those they have the relationships with. People often engage in these relationships to satisfy their basic human needs, but by necessity make themselves vulnerable to exploitation by those they have to trust. People in relationships may have to trust others because of their circumstances (eg, people whose cognitive, communication and physical disabilities make them reliant on others to survive), because their psychological needs to belong and to feel loved motivates them to enter into intimate relationships or because their survival needs lead to them to gain employment or to enter into professional relationships. Baumeister and Leary (n 75); A Allan and MM Allan, 'The Definition and Nature of Domestic Violence' in MF Taylor, JA Pooley and RS Taylor (eds), *Overcoming Domestic Violence: Creating a Dialogue Round Vulnerable Populations* (Nova Science Publishers 2014) 11; VL Hamilton, 'Who Is Responsible? Toward a Social Psychology or Responsibility Attribution' (1978) 41 Soc Psychol 316; SL Robinson, 'Trust and Breach of the Psychological Contract' (1996) 41 Admin Sci Q 574; DM Rousseau, *Psychological Contracts in Organizations: Understanding Written and Unwritten Agreements* (Sage Publications 1995).
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203. Slocum, Allan and Allan (n 17).
204. See Robinson (n 200).
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- 212. For a review of the debate regarding the relative value of apologies depending on whether the consequences are tangible or intangible, see Allan (n 2); Shuman (n 3).
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- 216. Blumstein and others, 'The Honoring of Accounts' (1974) 39 *Am Sociol Rev* 551; Shapiro, Buttner and Barry (n 54).
- 217. Witman, Park and Hardin (n 30).
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