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Chapter 11

Reasoning Like a State: Integration and the Limits of Official Regret¹

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1. Introduction

Are there wrongs for which states cannot apologise? In this chapter, I argue that the answer is 'Yes'. I begin with the simple observation that reasoning as a state official requires a conception of what officials do, and so a conception of what is - and is not - properly undertaken on behalf of the state. To act as an official, then, requires a theory of what happens in a well functioning state: it requires a 'normative theory of the state. Whether state officials can recognise their own actions or the actions of past state officials as wrongs for which apology is required will depend on their theory of the ends and interests that state actors may, and must, have. What officials believe to be necessary for a state to be a good example of its kind will affect what they recognise as outside the bounds of what a state official ought to do.

This potential limit on what can be recognised as something prior officials ought not to have done and how this limit may be problematic is illustrated by Canada's official apology for imposing residential schools on indigenous peoples. Canada's official apology left out a crucial feature of the schools policy: that forced participation in the schools was part of a larger project to eradicate indigenous communities. This feature is ignored in the official apology in part because of the influence of integrationist theories of the state. Canadian conceptions of citizenship and democracy limit the extent to which officials can see imposing overarching institutions on indigenous communities as outside the range of acceptable state activity. This has limited officials' ability to see the project of restructuring indigenous communities and inculcating attachment to an overarching identity as a wrong in itself and outside the bounds of what a good official ought to undertake,

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and distorted officials' diagnosis of what went wrong in previous reasoning. One effect has been to allow contemporary officials to offer a sincere and comprehensive apology for past officials' human rights violations in indigenous communities while themselves pursuing policies in these communities that violate human rights. In this, the Canadian apology underlines the importance of state officials' understanding of the ends and interests a good state is supposed to serve. The lesson of the Canadian apology is that how state officials theorise the state can undermine their capacity to recognise human rights violations for what they are and distort their judgements of what must be done to remedy past wrongs.

2. Reasoning as an official

When a state official acts qua official, he (or she) acts in such a way that what is done - what happens next- can be described as following from his position. To describe what is done as following from the position is to describe it as action or activity that is rational for someone occupying that position within the state's structures to undertake. It must be possible, for the official himself and for those observing what he does, to describe what is undertaken as 'fitting' the position: as what can be expected of a person motivated by the purposes, priorities and identity of that position. For example, assessments of whether an official has performed well or poorly typically depend in part on a comparison between what it is judged that a person who is reasoning well would have undertaken given her position and the course of action the official in fact undertook. Similarly, understanding of what is required, forbidden and permissible for an official typically reflects a judgement of what a person who is reasoning well would take to be required, incompatible with and permitted to her position. Any description of a state official's position will refer to the state structures that make it what it is. To make sense of an official acting as an official requires a conception of what the position makes rational, which conception necessarily refers to the structure and purposes of the state.

Practical reasoning of this sort - reasoning about action - is necessarily normative.² It proceeds by reference not just to what an actor (in this case a state official) does, but what an actor must do to be a good example of his kind (in this case, a good example of the occupant of that position). Practical reasoning establishes actions as compelling for an actor in virtue of the match or fit between ends, means and interests that would be good for him given the goals and interests he is assumed

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to have.³ In this, practical reasoning necessarily relies on an ideal of the goals and interests an example of her type ought to have, and the pay-offs and trade-offs she ought to pursue and accept insofar as she is reasoning well.⁴ Such an ideal is more than an inventory of the properties or characteristics particular decision-makers actually exhibit: it is a model of the properties and characteristics a decision-maker is supposed to aspire to.⁵

When the actor is a state official, the model gets its content from the position - from the ideal that a person in that official's position is supposed to aspire to. This is in contrast to when a state official acts outside of his official capacity, as private person. When the official acts as a private person practical reasoning proceeds with reference to a model that gets its content from an ideal constructed independently of his position. Filling out the pay-offs and trade-offs a person in the position ought to accept insofar as he is reasoning well requires a view of ends and interests anyone in that position should find compelling. This requires a view of what is required of and by the position given its situation within the structures of the state. Action as a state official requires a view of what occupying that position within the state requires. This in turn requires a view of the ends of state structures.

That reasoning qua official differs from reasoning in a personal capacity is sometimes mistakenly thought to imply that state officials employ a different type of reasoning when they act as officials. This is a mistake.⁶ A state official has the same educational background, the same cultural background, the same scientific and social

scientific theories and the same conception of human nature when he reasons about what a person occupying his position should do as when he reasons about what he should do outside of his official position. What differs in reasoning as an official are the ends and interests that are supposed to serve as a reference point. Reasoning about what to do as an official is supposed to entail using the ends and interests of the position (defined in part by the ends and interests of state structures) to generate conclusions about what is necessary, what is permitted and what is ruled out.

This distinction between reasoning with reference to the ends and interests of the position and reasoning with reference to personal ends and interests is a defining element of the distinction between persons and offices.⁷ Part of recognising action as having been undertaken in an official capacity, then, is recognising it as something that could or would be undertaken by anyone occupying the position. Judgements about whether it would be rational for anyone occupying the position to do as an official has done will inevitably refer in part to how occupying

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the position serves the personal ends and interests of the actor. But the bulk of the judgement of whether a state official pursued a course of action that would be compelling to anyone occupying that position will depend on how the position is characterised in its own terms, and how that position must be characterised in its own terms for it to be worth occupying.

This last observation is important. Giving content to what is required by a position requires an account of why anyone in that position would find its requirements compelling. This requires a normative conception of the position and so a normative conception of the state whose ends play a role in filling out the ends and interests of the position. Reasoning as an official requires a view of ends and interests of the state that are worth pursuing. It requires a normative theory of the state.

3. Normative theories of the state and official apologies

This connection between action in an official capacity and normative theories of the state highlights an important and often underappreciated feature of official apologies. Official apologies are moments in which state officials criticise and repudiate one normative theory of the state - that which previous officials endorsed - and assert an alternative - that which makes it rational to apologise for past action. In an apology, contemporary officials characterise prior officials' actions as having been undertaken in an official capacity, but wrongly so. In this, contemporary officials accept that prior officials believed that what was done followed from their positions but deny that prior officials were right about this. The conception of the interests and ends of the position within which the actions of prior officials were rational is repudiated and an alternative conception that rules out those past actions is asserted instead.

This element of official apologies makes clear what is repudiated in the old theory and what is asserted in the alternative part of the story of how official apologies succeed and fail. In the remainder of this chapter, I examine one example of an apology in which the alternative theory asserted by state officials helps to explain the official statement's limited success: Canada's official apology for the removal of indigenous children to

residential schools. In their repudiation of previous officials' theories, and in the conception of citizenship at the heart of their alternative, contemporary officials characterise non-state institutions as complements to the overarching institutions of the state. This makes it difficult for them to recognise the project of reconstructing indigenous

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communities that motivated the schools policy as outside the bounds of acceptable state activity, and so limits the extent to which this aspect of the policy can be seen to be part of the wrong. State officials are able to characterise previous officials' treatment of individual indigenous persons and previous officials' acceptance of the physical, psychological, social and cultural harms inflicted on indigenous individuals as outside the bounds of what a good state official does. But it is difficult for them to characterise the treatment of indigenous communities or the project of inculcating attachment to an overarching identity as out of bounds. As a result, the official apology repudiated the means by which the schools policy was executed and the effects on individuals that were tolerated, but not the larger project of restructuring indigenous communities and encouraging the integration of indigenous individuals into the overarching institutions of the state.

4. The Canadian apology

On 11 June 2008 the Prime Minister of Canada, Stephen Harper, made a statement of apology on behalf of the Government of Canada and all Canadians, to former students of Indian residential schools, the students' families and the students' children for the government's policy of removing and isolating indigenous children from 'their homes, families, traditions and cultures'.⁸ The apology was extensive, comprehensive and specific. It was issued in the House of Commons and was endorsed and elaborated upon by all three leaders of the opposition parties. The House sitting as a committee of the whole then heard statements from representatives of the Assembly of First Nations, the Congress of Aboriginal Peoples, the Inuit Tapiriit Kanatami, the Metis National Council and the Native Women's Association of Canada.

Unlike previous statements of regret, the official apology did not attempt to hedge or qualify the responsibility of government officials and explicitly used the word 'apologise'. It was carried live on both national networks and obvious care was taken to use phrasing that presented the government as an active participant in and perpetrator of the wrongs named, and to accept responsibility for those wrongs. The fact of the apology was not trivial from the perspective of the government, which had spent years denying that a formal apology was necessary or appropriate, or from the perspective of many survivors of the schools, who had had to endure years of the government denying that there was a wrong to be remedied and downplaying the degree and extent of the suffering and harm that the schools policy entailed.

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The 2008 apology marked a turn in the way the schools policy appears in dominant discourses so that, although not fully discredited, a framing of government

officials' actions as 'benevolent but misguided' has become more difficult to sustain. The facts of the schools the government forced indigenous children to attend are so malevolent that it is implausible that they would have been tolerated and carried forward by successive governments if the motivation were securing some greater good of the children forced to attend.⁹ For example, a report on the schools from the Department of Indian Affairs Medical Inspector in 1907 indicated that in western Canada children entering the residential schools had a mortality rate of between 35 per cent and 60 per cent in the first five years after admission.¹⁰ Food shortages, neglect and violence were common within the schools; punishments included lashes to the face and being force-fed spoiled meat.¹¹ The mere fact of admitting what was done in the schools and that it was done at the government's behest has created an opening in public discourse for acknowledgement that indigenous children were not removed for their good, but for the good of someone or something else. As discussed below, the historical record suggests that the removals were motivated by the good of the state, or perhaps more charitably, for the good of non-indigenous Canadians which officials believed themselves to be serving when they consolidated and extended the state's reach.

But although the official apology was important, and although it has shifted the discursive terrain of public discussion, Mr. Harper's statement was deficient in a number of respects. For example, although the phrasing did not hedge or equivocate, some have pointed out that the construction of the speech had the rhetorical effects of bracketing off the schools policy as an aberration and of absolving contemporary Canadians from responsibility.¹² In addition, and perhaps more worryingly, subsequent remarks by Mr. Harper, continuing failure by the government to commit adequate resources for social services and housing within indigenous communities, and escalating rates of child removals from indigenous families within the child welfare system have cast doubt on the sincerity of the apology and the will and capacity of the Canadian government to build new relationships with indigenous peoples.¹³

Mr. Harper's personal attitudes and his political party's ideology may have contributed to the limited success of the 2008 apology. However, the root of the problem is not specific to either the Prime Minister or to the ruling party of the day. For example, the speeches given

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by the leaders of the three opposition parties endorsing and elaborating the official statement of apology contained many of the same defects as the statement issued by Mr. Harper. Gilles Duceppe, the leader of the Bloc Quebecois, and Jack Layton, the leader of the New Democratic Party, both noted the need to follow up the apology with concrete action and substantial resources in indigenous communities. But Mr. Duceppe, Mr. Layton and Stéphane Dion, the leader of the Liberal party, all followed Mr. Harper in describing the policy as directed at and harmful to individuals in the first instance, and as directed at communities secondarily insofar as these were impacted by or necessary instrumental to the government's goals regarding indigenous individuals.

Moreover, two of the most significant factors in scepticism and perceptions of the official apology as inadequate - the chronic underfunding of social services in indigenous communities and the escalation of removals from indigenous families - pre-date the

current government and are simply a continuation of long-term trends.¹⁴ The tension between apparently sincere regret for the human rights violations perpetrated in the schools and indifference to contemporary policies with respect to indigenous communities is especially striking.

The absence of public reflection on contemporary policies is closely related to one of the central defects of the official apology: failure to acknowledge that the schools were part of a deliberate attempt to eradicate indigenous communities. There is clear historical evidence that officials at the time conceived of the schools as an apt instrument for an ongoing project to eliminate First Nations, Metis and Inuit peoples as peoples.¹⁵ This larger goal does not appear as part of the wrong for which apology is due in the official statement, nor does the full nature of the reasoning that enabled the schools to continue despite evidence of their malevolence. Government officials had evidence from the outset that children were dying, being injured and falling ill in the schools at much higher rates than they would be had they been left in their communities, yet officials persisted in requiring that children be sent to the schools.¹⁶ In this, officials made a policy calculation that it was acceptable and appropriate to trade off the well-being of the children in the schools against the future value of getting rid of the 'Indian problem' once and for all.¹⁷ This policy calculation is not reflected in the apology. In the official apology the motivating project for the schools is transforming indigenous children into a different type of person, more malleable and fit for governing officials' purposes. This description is consistent with how the policy's purpose was characterised in

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previous statements of official regret, and in the 1996 Report of the Royal Commission on Aboriginal Peoples.¹⁸

In this, the problem with prior officials' reasoning is located in the conception of what was permissible with respect to indigenous individuals: specifically, that turning indigenous individuals into someone other than who they were was within the bounds of what a good state official does. The policy calculation that this attempt at transformation was worth pursuing at the price of grievous harm and death to the individuals being transformed was not acknowledged or addressed. Ignoring the policy calculation is a huge omission; but it is not surprising. To acknowledge and address the policy calculation, Mr. Harper would have had to name the project of restructuring indigenous communities and imposing overarching institutions as part of the wrong that the schools perpetrated: he would have had to name these as ends that previous state officials ought not to have adopted.

These silences in Mr. Harper's speech reflected a limit on what could be recognised as a problem in prior officials' reasoning. The predominant characterisation of how the schools policy related to indigenous communities was that the impact on communities was collateral damage of the policy regarding individuals that was wrongly seen as acceptable when in fact it was not. This was true of Mr. Harper's statement. It was also true of the statements of the opposition leaders. Mr. Duceppe was distinct in specifically acknowledging the damage to communal life in addition to the harm of fellow communal members as individuals.¹⁹ However, even Mr. Duceppe accepted and reproduced the historically suspect characterisation of the policy as for and primarily directed at transforming individuals.

Mr. Harper's apology continued the trend in official characterisations of the schools policy of describing state officials' motivations as similar to the motivations of the religious organisations with which it partnered: to transform individual children into more manageable subjects by detaching them from their families, communities and cultures. This description of government officials' motivations is not plausible. Church officials may have been primarily interested in indigenous individuals. But for government officials, the primary target was the management of indigenous communities.²⁰ Government officials were concerned with the ways in which the persistence of indigenous communities shaped and limited the scope of state institutions. Education policy with respect to indigenous children was a means to address this problem.

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5. Integration as an ideal in Canadian political discourse

As a matter of history, the reasoning of state officials in the schools policy concerned acceptable ends that an official might pursue with respect to a non-state group, and whether the schools fit as means to the states' ends. The official apology repudiates past officials' reasoning regarding both the ends that may be adopted with respect to individuals and whether the schools fit as means to any end that can be attributed to a good state. Past officials' reasoning about the ends that an official may pursue with respect to non-state groups does not appear. What explains this silence? Why are ends with respect to communities left out? Why is the focus on ends with respect to individuals?

The answer to these questions lies in contemporary officials' theorizing of what states are supposed to do. Canadian conceptions of citizenship and democracy are based on integrationist theories of what it is for a state to be good. Integrationist theories posit integration into an overarching political community coextensive with the entire population of the state as an appropriate and necessary end of well functioning states. For example, David Miller argues that for a state to deliver what justice requires the population must see themselves as constituting a single political community with special ties to one another.²¹ Will Kymlicka characterises the function of shared identity as establishing a moral and symbolic foundation that enables people to demand and offer reasons across differences.²² For Thomas Christiano the requirement that states operate to the benefit of all those within their jurisdiction requires a unitary system of law, the creation of universally accessible public goods and a common system of education.²³ Elizabeth Anderson argues that a good democratic culture requires mutual adaptation and conciliation such that problems of public interest are addressed by society as a body.²⁴

If integrationist theories are correct, then developing institutions that encompass the entire population of the state and inculcating a shared identity are practical imperatives for state officials. Will Kymlicka notes that there is a tension between this practical imperative and another practical imperative for state officials: to respect and protect cultural, religious and linguistic affiliation.²⁵ For Kymlicka, and for many other theorists, this tension reflects a potential competition within and across individuals in the material and symbolic conditions necessary for equal moral standing and equal capacity for agency.²⁶

Integrationist theories are evident in Canadian conceptions of citizenship and of the proper relationship between citizen and state. Eva

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Mackey argues that Canadian national identity is constructed around a mythology of cultural pluralism, in which collaboration, tolerance and inclusion are identified as distinctively valuable features of Canadian state-building.²⁷ Communities built out of diversity, unification across territorially based difference and law-based social cohesion are common themes in Canadian debates about citizenship and play a central role in Canadian political narratives.²⁸ For example, Andrew Hughes and Alan Sears describe the Canadian government as sharing with the governments of other Western democracies a public commitment to citizenship education that promotes 'active engagement focused on seeking common goods and building a sense of community or social cohesion'.²⁹ Yvonne Hebert and Lori Wilkinson describe the challenge of developing a model of Canadian citizenship as the challenge of including people from across the country 'in such a way that their diversity contributes to the creation and sustenance of a cohesive democratic state'.³⁰

This emphasis on unification and shared adherence to law narrows the potential bases on which state officials may be criticised in relation to their treatment of non-state groups. For example, a state official may be criticised for failing to include or partner with non-state groups. And a state official may be criticised for including or partnering with the wrong groups or including or partnering in the wrong way. But a state official cannot be criticised for insisting that non-state groups participate in and partner with the state. For part of what it is for a state to be well functioning is that non-state groups complement the state and do not operate as competitors.

If non-state groups are operating as competitors state officials must be performing badly or simply failing to perform as state officials: they are either doing the things that state officials are supposed to do, but not doing these well; or they are not doing the things state officials are supposed to. Competition with the state indicates either that state officials have failed to establish institutions or an identity capable of encompassing the entire population, or state officials have failed to limit themselves to ends proper to a state and have invaded areas of life where state officials cannot act without stepping outside the bounds of what a good official does. A non-state group that appears to compete with the state thus represents a problem that must be resolved.

6. Integration and the failure of the Canadian apology

This conception of what it is for the state to function well helps to explain the official apology's silence about state officials' ends with

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respect to indigenous communities, and the focus on ends with respect to individuals. In focusing on treatment of the children as individuals and conduct of and in the schools, the official apology repudiated previous officials' judgements that attempting to transform individuals was a fitting or appropriate means to any state end. In this, there was a repudiation of previous officials' conceptions of what it is for a state to be integrated: the

judgement that the schools were a fitting means is generated in part by repudiation of the theory of the characteristic properties of a well functioning state. The previous theory included homogeneity and exclusive attachment to the overarching identity as necessary conditions for democratic stability. The apology rejects this theory and repudiates the conception of citizenship it implies. In its place it asserts an alternative conception of citizenship, underwritten by an alternative theory of the state. In this alternative conception of citizenship, the antagonism to indigenous communities was irrational: state officials may have believed themselves to have a reason to seek the eradication of indigenous communities but in fact they did not have a reason to do so. The persistence of indigenous communities as sites of attachment, social organisation and economic activity need not have been in tension with the expansion and consolidation of a well functioning state.

In this respect, it is significant that the official apology did not reject integration or state regulation of indigenous children's education as appropriate ends for state officials to have adopted. This is why the apology emphasised the attempt to transform individuals and judgements regarding the level and type of care due to indigenous children. These judgements can be rejected. However, the judgement that indigenous children's education ought to be regulated by overarching institutions cannot be rejected without rejecting integration and the inculcation of a common identity as proper ends for state officials.

This inability to recognise the goals of imposing overarching institutions and inculcating a common identity as part of the problem in previous officials' reasoning is closely connected to the failure to address the relationship between the schools and the project of eradicating indigenous communities. To acknowledge the connection between the schools and state officials' ends with respect to indigenous communities it is necessary to recognise that indigenous communities exist alongside the state and operate as alternatives to it independently of how the state is structured. Insofar as indigenous communities have operated and continue to operate as alternatives to the state this is not because state structures make them alternatives, include them in state institutions or partner with them. Indigenous communities operate as alternatives

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because they are independent bases of social organisation and attachment. State officials in early 20th Century Canada recognised this; it was the basis for their conclusion that indigenous communities' persistence was incompatible with consolidating and extending the reach of overarching institutions that encompassed the population and territory as a whole.

For contemporary officials, previous officials' theory went wrong in assuming that integration required suppression of alternative attachments. This led early 20th Century officials to see a problem where in fact there was none. Past officials believed that the persistence of indigenous communities was a barrier to the effective integration of indigenous individuals because their (irrational) attachment to homogeneity prevented them from adopting policies and attitudes that would have permitted indigenous communities to operate as complements to the state.

But were early 20th century Canadian officials mistaken in their belief that indigenous communities would not operate as complements to overarching institutions

unless and until such a relationship was forced upon them? In this regard, it is worth recalling why early 20th Century officials rejected proposals that indigenous communities develop and run their own schools.³¹ The proposals were rejected because they would have left indigenous communities intact and this, the preservation of practices and relationships based on communal structures, was a practical barrier to consolidating and extending the reach of overarching institutions. The problem officials saw was that in many areas of the country indigenous individuals did not have to engage with the state's overarching institutions and state officials had limited means to compel engagement as long as the relationships and practices that indigenous communities established and sustained were viable.³² This is what made the schools necessary: many indigenous individuals treated the structures of Canadian society as situational facts to be engaged with strategically and this was facilitated by practices and relationships based on communal structures. State officials identified the elimination of such strategic engagement as a necessary condition of a well functioning state. And so they attempted to eliminate the material conditions that made it possible: indigenous communal structures.

7. Integration and limited regret

To fully recognise the wrong of the schools policy, contemporary officials must recognize the centrality of the project of communal

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eradication to decision-making about the schools; and they must repudiate the theory of the state that made the restructuring of indigenous communities an acceptable end for state officials to adopt. They must locate the problem in past officials' reasoning in their having adopted the end of regulating indigenous children's education. Fully recognising the wrong of the schools requires recognising that state officials ought not to have accepted indigenous communities as alternatives to overarching institutions. Officials ought to have tolerated strategic engagement; they ought to have tolerated incompletely integrated subjects.

However, Canadian conceptions of citizenship and democracy make it very difficult for contemporary officials to criticise refusal to accept incomplete integration. For if the establishment of overarching institutions and inculcation of a shared identity are necessary functions of a good state then encouraging integration and discouraging non-state groups from operating as alternatives is a practical imperative for state officials. As long as Canadian conceptions of citizenship and democracy reflect integrationist theories of the state, it will be difficult for Canadian officials to fully recognise what went wrong in previous officials' reasoning regarding indigenous children and communities, repudiate the conceptions of what a good official does that made the schools policy appear to be acceptable and lay the foundations for adequate redress. For as long as Canadian state officials act from a theory of the state that emphasizes the establishment of overarching institutions and inculcation of a common identity there will be an in-principle limit to what can be repudiated in the schools policy, and an in-principle limit to what can be recognised as outside the bounds of what good state

officials do.

This limit to what can be repudiated and what can be recognized as out of bounds explains how it has been possible for contemporary officials to be sincere in their repudiations of the gross human rights violations perpetrated in the residential schools yet continue to advance policies that systematically violate human rights to health, family, culture and land in indigenous communities. Officials' commitment to integration as a necessary and valuable function of the state makes it difficult to see imposition of national standards or other overarching institutions as rights-violating. If securing and promoting shared identity is a practical imperative, it becomes difficult to question decisions to subject local structures to state oversight without calling into question the justifiability of the state itself. How national standards are interpreted and how oversight is executed may be subject to criticism; but

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insistence on oversight and subjection to overarching institutions is simply what a good state official does.

This makes it very difficult for Canadian officials to recognise current policies with respect to indigenous peoples as rights-violating. For example, projects that aim at reorienting or reconstructing indigenous communities' internal structures to facilitate state oversight or congruence with overarching legal institutions will appear to be good governance, not a potential violation of human rights to culture and political participation. Violations of social and economic rights seem grounds for more extensive integration into overarching institutions and expanded oversight of local governance; that integration and oversight might be a contributing factor in the violations does not appear as a possibility. In this, the same factors that limit regret for past wrongs limit the capacity to recognise and redress wrongs in the present.

8. Limited state regret and respect for human rights

How state officials theorise the state matters. State officials' theories of what makes a state well functioning impacts on how they conceive of their positions and so what they accept as within the bounds of what they may and must do. A theory of the state that obscures or limits officials' abilities to fully recognise how a course of action violates human rights limits their abilities to see some human rights violations for what they are.

Official apologies are an opportunity for officials to explicitly address the theories of past officials, and to publicly assert alternatives. In doing so it is important to pay close attention to what, precisely, is repudiated and whether this repudiation is in fact adequate. In the Canadian case, officials were able to repudiate human rights violations of the past without repudiating the projects or ends that made the violations appear to be acceptable courses of action. This has contributed to the persistence of human rights violations within indigenous communities.

One lesson of the foregoing analysis is that Canadians must revisit their conceptions of citizenship and the state. A more general lesson is that effective apologies and redress require care and attention to what was done and also to the reasoning that made what was done seem acceptable. For example, to fully recognise and repudiate the wrongs of the schools policy, Canadian officials must adopt a conception of the

state that accepts that a state can and ought to operate to the benefit of its entire population even if, and perhaps especially when, that population does not constitute a single political community with a common

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identity. Adopting such a conception of the state requires officials to acknowledge that sharing a state is not the same as sharing a political community. This is not to say that the fact of sharing a state may not create ties between individuals and groups. But it does suggest that the particular ties that the state's existence creates and not the fact of sharing a state are what grounds obligations between individuals and groups within the population. Perhaps more importantly, a conception of the state that decouples being of benefit from being the basis of a shared identity suggests that the starting point for assessing whether a state operates to the benefit of all those within its population is not the functions that a state serves, but how the state engages individuals and groups and whether it treats itself as bound to operate to their benefit. Recognising and accepting that Canadians need not constitute a single political community for their state to be well functioning makes it possible to see that insisting on integration into state institutions and imposing state oversight were among the wrongs of the schools policy. And it makes it possible to conceive of remedies that strengthen indigenous communities and reinforce their capacities to operate as alternatives to the state.

Notes

1. The author thanks Mihaela Mihal, Mathias Thaler, Alice MacLachlan and Matt James for insights and comments on earlier drafts of this chapter.
2. On this, see Jean Hampton, 'Rethinking Reason', *American Philosophical Quarterly* 29, no. 3 (1992): 219-236; Jean Hampton, *The Authority of Reason* (Cambridge: Cambridge University Press, 1998); Christine Korsgaard, 'The Normativity of Instrumental Reason', in *Ethics and Practical Reason*, ed. Garrett Cullity and Berys Nigel Gaut (Oxford: Oxford University Press, 1997), 215-254; Christine Korsgaard, *The Constitution of Agency: Essays on Practical Reason and Moral Psychology* (Oxford: Oxford University Press, 2008).
3. Jean Hampton, 'Hobbes and Ethical Naturalism', *Philosophical Perspectives* 6 (1992): 343; Hampton, 'Rethinking Reason'.
4. Hampton, 'Hobbes and Ethical Naturalism'; Korsgaard, *The Constitution of Agency*.
5. Hampton, 'Rethinking Reason', 231-234.
6. For a discussion of this in the context of debates about public reason see Cindy Holder, 'Rethinking Political Justification', *Journal of Value Inquiry* 38 (2004): 511-529.
7. On this see Dennis Thompson, *Political Ethics and Public Office* (Cambridge: Harvard University Press, 1987); Andrew Sabl, *Ruling Passions: Political Offices and Democratic Ethics*, Princeton: Princeton University Press, 2009).

8. Canada, 'Official Report (Hansard) Wednesday 11 June 2008' *House of Commons Debates* 142: 110, 6849.

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9. Jennifer J. Llewellyn, 'Dealing with the Legacy of Native Residential School Abuse in Canada: Litigation, ADR, and Restorative Justice', *The University of Toronto Law Journal* 52, no. 3 (2002): 253-300.

10. Zia Akhtar, 'Canadian Genocide and Official Culpability', *International Criminal Law Review* 10 (2010): 115.

11. Bradford Morse, 'Government Responses to the Residential Schools Settlement In Canada: Implications for Australia', *Australian Indigenous Law Review* 12, no. 1 (2008): 44.

12. See, for example, James Matt, 'Wrestling with the Past: Apologies, QuasiApologies, and Non-Apologies in Canada', in *The Age of Apology: Facing Up to the Past*, ed. Mark Gibney et al., *Pennsylvania Studies In Human Rights* (Philadelphia: University of Pennsylvania Press, 2008), 137-153; Jeff Corntassel, Chaw-win-is, and T'lakwadzi, 'Indigenous Storytelling, Truthtelling, and Community Approaches to Reconciliation', *ESC: English Studies in Canada* 35, no. 1 (2009): 137-159; Matthew Dorrell, 'From Reconciliation to Reconciling: Reading What "We Now Recognize" in the Government of Canada's 2008 Residential Schools Apology', *ESC: English Studies in Canada* 35, no. 1 (2009): 27-45.

13. First Nations Child and Family Caring Society, 'Human Rights Complaint' submitted to Canadian Human Rights Commission 23 February 2007, accessed 28 June 2013 <http://www.fncaringsociety.com/i-am-witness>; Jennifer Henderson and Pauline Wakeham, 'Colonial Reckoning, National Reconciliation?: Aboriginal Peoples and the Culture of Redress in Canada', *ESC: English Studies in Canada* 35, no. 1 (2009): 1-26, Committee on the Rights of the Child. 'Consideration of Reports Submitted by States Parties under Article 44 of the Convention. Concluding Observations: Canada.' U.N. Doc CRC/C/CAN/C0/3-4, 5 October 2012, p. 7.

14. First Nations Child and family Caring Sodety, 'Human Rights Complaint', Cindy Blackstock, 'The Canadian Human Rights Tribunal on First Nations Child Welfare: Why If Canada Wins, Equality and Justice Lose', *Children and Youth Services Review* 33, no. 1 (2011): 187-194; Committee on the Rights of the Child, 'Consideration of reports', 7.

15. Llewellyn, 'Dealing With the Legacy'; Morse, 'Government Responses'.

16. Morse, 'Government Responses', 44.

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