

# NEVER BEING ABLE TO SAY YOU'RE SORRY: BARRIERS TO APOLOGY BY LEADERS IN GROUP CONFLICTS

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## I

### INTRODUCTION

A hopeful period in the Middle East conflict culminated in a formal peace accord between Jordan and Israel in 1994. Disputes over the implementation of this agreement arose, however, and by 1997, the positive feelings of the peace accord had given way to an escalating war of words between Israeli Prime Minister Benjamin Netanyahu and Jordan's King Hussein over Jewish settlements. In a letter dated March 9, Hussein warned Netanyahu of "inevitable violent resistance" unless Israel relented in its proposal to construct a new Jewish settlement in East Jerusalem.<sup>1</sup> Netanyahu defensively replied the next day that he had "inherited a [peace] process that was failing."<sup>2</sup> On March 13, a Jordanian soldier opened fire on Israeli girls on a school outing to a nature preserve along the Jordan River.<sup>3</sup> Seven of the girls were killed.<sup>4</sup> Yelling "madman," other Jordanian soldiers restrained the gunman.<sup>5</sup> Jordanian officials

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1. Serge Schmemann, *King Hussein Rebukes Netanyahu for "Intent to Destroy" Peace Plan*, N.Y. TIMES, Mar. 12, 1997, at A1.

2. *Id.*; see also Serge Schmemann, "Fed Up" with Criticism, Netanyahu Lashes Out, N.Y. TIMES, Mar. 13, 1997, at A10 ("I'm getting frankly fed up with the idea that everything we do is a violation of the agreement, and everything the Palestinians say is in compliance with the agreement.") (quoting Prime Minister Netanyahu).

3. Serge Schmemann, *Jordanian Soldier Kills 7 Israeli Schoolgirls*, N.Y. TIMES, Mar. 14, 1997, at A1.

4. *Id.*

5. *Id.*

condemned the shooting as “a murderous act carried out by a Jordanian soldier on his own,” and vowed to prosecute him “to the full extent of the law.”<sup>6</sup>

Israeli officials immediately blamed King Hussein for the attack, saying his words were “an invitation to murder.”<sup>7</sup> The King denied that the shooting was related to his letter, but he cut short a state visit to Spain and traveled to the victims’ hometown to meet the grieving parents.<sup>8</sup>

Wearing a red-checkered kaffiyeh with his dark suit and accompanied by two of his children . . . the King knelt before each of the families in their separate homes as they sat on the floor in the Jewish custom for the seven-day mourning period.<sup>9</sup>

“I feel that I’ve lost a child,” the King told the parents, promising to spend his life pursuing peace and security for all children.<sup>10</sup> “[King Hussein] was very human, very warm,” one of the parents said.<sup>11</sup> The King’s act struck “a deep emotional chord”<sup>12</sup> among Israelis who followed live broadcasts of the King’s visits.<sup>13</sup> Cries for revenge simply vanished.

Thus was the fragile peace agreement between Israel and Jordan protected at a moment of extreme peril. Hussein was a powerful leader on one side of a group conflict. He apologized to individuals from the opposing group for injuries caused by members of his own. The effect was to provide a measure of solace to the victims’ families,<sup>14</sup> to lessen the desire of the opposing group for revenge and retaliation, and to improve the relationship between the groups by increasing feelings of empathy.<sup>15</sup>

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6. Ann LoLordo, *Jordanian Soldier Kills Seven Israeli Schoolgirls; 6 More Are Wounded at Scenic Border Site Near Jordan River; Other Soldiers Subdue Him; King Hussein Assails Shooting; Abruptly Returns from Spain*, BALTIMORE SUN, Mar. 14, 1997, at 1A.

7. Liat Collins, *Tichon: The Pain is All of Ours*, JERUSALEM POST, Mar. 14, 1997, at 5 (quoting Michael Kleiner, head of the Land of Israel Front, describing the letter sent by King Hussein to Prime Minister Netanyahu). Another Labor party official said “words can cause madmen to carry out hideous crimes.” *Id.*; see also Ethan Bronner, *Jordanian Kills 7 Israeli Girls on Outing*, BOSTON GLOBE, Mar. 14, 1997, at A1 (“Recent declarations created a psychological atmosphere that could lead to such tragic acts.”) (quoting Israel’s foreign minister).

8. Schmemmann, *supra* note 3; Serge Schmemmann, *A Time to Mourn: King Hussein Comforts Israelis*, N.Y. TIMES, Mar. 17, 1997, at A1.

9. Schmemmann, *supra* note 8.

10. Joel Greenberg, *“I Feel I’ve Lost a Child,” King Says*, N.Y. TIMES, Mar. 16, 1997, at A6.

11. *Id.*

12. *Id.* For example, an Israeli watching King Hussein’s actions recounted, “[Y]ou could see the sadness in his eyes. He is simply human, a human being.” *Id.* Another Israeli acknowledged, “You see that he wants peace.” *Id.*

13. Schmemmann, *supra* note 8.

14. Greenberg, *supra* note 10 (“Ruhama Cohen, who lost her 13-year-old daughter, Keren, had been reluctant at first to receive the King, but after his visit she said it had helped her cope with the loss. ‘He gave us a good feeling and strengthened us,’ she said.”).

15. Greenberg, *supra* note 10; Schmemmann, *supra* note 8 (“As [Hussein] rose to leave, [the grandfather of one of the slain schoolgirls], Nisim Petihi, an immigrant from Yemen, blessed him in Arabic.”).

Group conflict frequently produces behavior by members of one side that is perceived as unjust by those who are harmed on the other side.<sup>16</sup> Unless the resulting retaliatory urge is blunted or defused in some way, distrust and a desire for revenge grow.<sup>17</sup> Eventually, some act of real or perceived retaliation occurs, and the cycle is repeated in the “cause-effect-effect-effect” pattern or the “inexorable chain of causality.”<sup>18</sup> This is perpetuated by Rothman’s four engines of permanent disputes:

- (1) *Blaming* the other side for the conflict;
- (2) *Polarizing* our side against theirs;
- (3) *Attributing* negative character and disposition to the opponents;
- (4) *Projecting* unacceptable traits from one’s own side onto another side.<sup>19</sup>

The success of King Hussein’s initiative suggests that apology is an instrument of leadership that can interrupt this pattern and advance the interests of the leader and his group, reducing the desire to retaliate and increasing the willingness to cooperate. Put another way, unlike dyadic disputes, in which the benefits of apology flow primarily to the *recipient*, in group conflicts the benefits flow equally to the *maker*. Still, apologies by powerful leaders for injuries to members of a competing group are extremely rare. The purpose of this article is to explore why this is so.

Section II describes what typically occurs in a long-standing conflict when one group is accused of unjustly harming people from the other side. Leaders respond with a standard script that minimizes their responsibility and calls attention to the other’s wrongdoing. An apology or even an acknowledgment of responsibility for the injury thus represents a significant change in well-settled patterns of behavior and attitudes.

Section III lays out a series of hurdles that stand between a leader and the decision to apologize *even if doing so would advance the group’s interests*. First, leaders do not think they *need* to apologize because their own psychological processes screen out or distort information conflicting with their belief that fault lies mostly on the other side. Second, even if leaders perceive that facts on the ground might call for apology, they find it difficult to get through the psychological transition required to change their public identity and behavior.

16. JAY ROTHMAN, *RESOLVING IDENTITY-BASED CONFLICT IN NATIONS, ORGANIZATIONS, AND COMMUNITIES* 23–28 (1997) (arguing that conflict between different groups is inevitable and that each side tends to see its own motives in a positive light but to be suspicious of the other’s intentions).

17. Tamra Pearson d’Estrée, *Dynamics*, in *CONFLICT: FROM ANALYSIS TO INTERVENTION* 68, 73 (Sandra I. Cheldelin et al. eds., 2003) (describing the spiral of escalation in which “[h]eavy tactics used by one party . . . produce certain psychological states in the other party . . . such as blame, anger, fear, and threats to image. These psychological states encourage the other party to respond harshly . . . which in turn produce[s] these same psychological states in the first party, leading to another harsh response.”).

18. Danielle Celermajer, *From the Levinasian Apology to the Political Apology: Reflections on Ethical Politics* 6, 12 (Sept. 25–27, 2006) (refereed paper presented to the Australasian Political Studies Association conference) (citing HANNAH ARENDT, *THE HUMAN CONDITION* 241 (1958)).

19. ROTHMAN, *supra* note 16, at 24 (numbers and internal punctuation added).

Third, the very forces that hold a group together deter its leader from taking the political risk of breaking from established patterns.

Section IV examines how the apology works if a leader can overcome these hurdles and apologize. Considering that the same attitudes, beliefs, and habitual patterns of response that prevent apology also prevent the receiving group from giving the opposing group a fair hearing, how does apology generate forbearance and forgiveness? We argue here that an apology bypasses these cognitive and social defenses to the extent that listeners perceive it as a reenactment of an “archetypal narrative.”

Section V discusses the implications of this analysis for leaders in group conflicts, and argues that three conditions appear to be necessary before an effective apology can be expected. First, a degree of ripeness—some considerable diminution in hostile attitudes and negative stereotypes sufficient to open communication—appears to be a necessary precondition for a leader to consider and make an apology. Second, apology is unrealistic without a window of opportunity—circumstances allowing the leader to limit the scope of the subject matter of the apology. Finally, words alone are not enough. Since a positive response requires victims to see a reenactment of an archetypal narrative, appropriate rituals and symbolic communication are as important to effective apologies as the text.

## II

### DENY AND DEFEND: STANDARD RESPONSES TO INJURY IN GROUP CONFLICTS

Whether the conflict is between Arabs and Israelis in the Middle East, Hutus and Tutsis in Africa, police officers and African American youth in Cincinnati, or environmentalists and property owners in California, group conflict is a repeat-play game. Over time, each group develops a narrative to explain the conflict, a lens through which every event, past and present, is interpreted. Each group places the stories of the most egregious behavior of the other at the center of the narrative, thereby laying claim to the emotional and political rewards that accrue to victims. Beliefs and attitudes are passed on regarding the cause of the conflict, who is to blame, and the defensive or retaliatory conduct needed for self-protection or to even the score.

Leaders from opposing groups also have a script to deal with demands for acknowledgment, compensation, or apology. For example, if someone from group B claims to have been injured by a member of group A, A's leader will respond along the following lines:

*Leader A:* The injury did not occur, or if it did occur the claims are exaggerated.

*Leader B:* A's refusal to acknowledge the injury fits the pattern of their past deceit.

*Leader A:* If the injury did occur, the member of our group cannot be blamed because it was an accident or the result of provocation.

*Leader B:* Claims of “accident” are deceitful and charges of provocation constitute “blaming the victim.”

*Leader A:* If the perpetrator is blameworthy, the actions cannot be laid to our group because he is not a full or legitimate member (for example, an “extremist.”).

*Leader B:* The perpetrator is not only a member of A’s group, but the act complained of is a product of A’s policies, beliefs, and values.

*Leader A:* Even if the perpetrator is a member of our group, the actions were a regrettable but understandable consequence from being pushed beyond the breaking point by the accumulation of unresolved grievances and injustice from the past.

*Leader B:* As to the accumulation of grievances, our cumulative suffering vastly exceeds that of the other side.

*Leader A:* In any case, Group B is in no position to demand an apology since it has yet to apologize for its many past wrongs.

*Leader B:* Group A’s failure to apologize demonstrates anew their lack of decency and morality.

These scripts are familiar to leaders and members of both groups, and *even if a leader expresses some regret for the harm to a particular victim*, the message is clear: The events have confirmed, rather than altered, the speaker’s preexisting narrative.

This script is illustrated by city officials’ and African American leaders’ responses to a tragic episode in the long-simmering conflict between police officers and African Americans in Cincinnati, Ohio. On April 7, 2001, at about 2:15 a.m., Officer Stephen Roach joined pursuit of Timothy Thomas, a nineteen-year-old African American wanted by police on fourteen outstanding misdemeanor warrants.<sup>20</sup> Moments after Roach caught up with Thomas in a darkened alley, the youth lay, fatally wounded, the fifteenth person to die at the hands of a Cincinnati police officer in six years. All fifteen were African American.<sup>21</sup>

At first, the mayor and the chief of police stated that the officer had acted in self-defense; African American leaders denied the youth was armed. When no weapon was found, the officer’s defenders pointed out that it had been dark and the youth had reached inside his pocket when ordered to raise his hands. African American leaders cited this explanation as proof of the force’s utter disregard for the lives of black youth.<sup>22</sup>

Tensions mounted until a full-scale civil disturbance broke out in “Over-the-Rhine,” the predominantly African American, low-income community adjacent

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20. Jane Prendergast & Robert Anglen, *Hundreds Protest Police Shooting*, CINCINNATI ENQUIRER, Apr. 10, 2001, at 1A.

21. *Id.*

22. *Id.*; see also Dan Horn, *The Riots Explode: A City’s Darkest Week*, CINCINNATI ENQUIRER, Dec. 30, 2001, at 4G (describing the rioting, looting, and overall “urban unrest” that caused the mayor of Cincinnati to issue a state of emergency as well as a mandatory curfew in order to quell the tension and violence).

to the central business district.<sup>23</sup> Demonstrators threw rocks and set fires in trash cans; police officers responded with horses, tear gas, and rubber bullets to enforce the mayor's emergency twenty-four-hour curfew.<sup>24</sup>

Other officers expressed their own doubts about Officer Roach's version of events,<sup>25</sup> prompting Mayor Charlie Luken to retreat from his earlier defense. Thomas's mother announced that she had forgiven Officer Roach and pleaded for calm.<sup>26</sup> While the mayor expressed sorrow over the loss of life, he did not acknowledge any wrongdoing by the officer or the police department, and instead emphasized his desire to move on, for Thomas's death to "be a catalyst for a new Cincinnati."<sup>27</sup>

The "uprising," as African Americans called it,<sup>28</sup> produced a new group of victims: a predominantly white group of small-business owners and investors who had been working to create jobs, housing, and economic redevelopment in Over-the-Rhine. The script was followed again, this time with the roles reversed. African American leaders blamed the police for provoking demonstrators, insisted that the youth were pushed beyond the breaking point by an accumulation of insults and injustice, and argued that the business owners and investors were at fault for failing to put pressure on the mayor over police misconduct.<sup>29</sup>

The point of this example is not to place blame on Mayor Luken for the civil unrest, as others have done.<sup>30</sup> It is rather to illustrate the habitual response of leaders in group conflicts when a member of their own group is accused of wrongdoing. Leaders go through a routine script in which any regret is drowned out by defensive, qualified justifications based on preconceived assumptions,

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23. Horn, *supra* note 22; Francis X. Clines, *Appeals for Peace in Ohio After Two Days of Protests*, N.Y. TIMES, Apr. 12, 2001, at A18.

24. Clines, *supra* note 23.

25. *See id.* ("I have been told [ranking officers] are troubled by the story they are getting,' Mayor Luken said. 'The initial findings don't back [Officer Roach] up.'").

26. Gregory Flannery, *Mother of the City: Angela Leisure is CityBeat's 2001 Person of the Year*, CITYBEAT, Feb. 14, 2002, at 21 ("Without doubt, Mrs. Leisure's plea for peace and her statement of forgiveness for Roach are exemplary."); *The Early Show: Angela Leisure, Mother of Slain Teenager in Cincinnati, Talks About the Incident* (CBS television broadcast Apr. 13, 2001).

27. Doug Trapp, *Firing on Children: Now You Know Why People Run from Cincinnati Police*, CITYBEAT, Apr. 19, 2001, at 16.

28. Gregory Flannery, *Long Live the Rebellion: Five Years Later, We're Still Learning About Our 'Riot'*, CITYBEAT, Apr. 5, 2006, at 20–21, available at <http://www.citybeat.com/cincinnati/article-930-cover-story-long-live-the-rebellion.html> ("Politicians and church groups prefer to speak of 'civil unrest,' whereas African Americans and activists insist "[u]prising' is a much better name for it" because "[p]eople were rebelling against injustice.").

29. Trapp, *supra* note 27; *see also* Horn, *supra* note 22 ("Businesses suffered hundreds of thousands of dollars in damage. . . . 'Just when things are turning the corner—a lot of reinvestment occurring in the city—there is this destruction.'").

30. *See, e.g.*, Gregory Flannery, *Mayor Hunky Dory: Black Rage Seems a Mystery to White Leaders*, CITYBEAT, Apr. 19, 2001, at 14 ("Demonstrator Donald Warfield says he'll put it real simple for this white reporter. 'All the mayor's got to do is apologize to people for what the f\*\*k the police done,' Warfield says. 'He could have calmed this s\*\*t down.'").

even when an effective apology might advance the interests of their group. Assuming this is so, what prevents leaders from doing what is called for?

### III

#### SOURCES OF A GROUP-CONFLICT LEADER'S RESISTANCE TO CHANGE

To depart from the standard script and apologize requires a leader to break from habitual patterns of behavior and to change previously held beliefs and attitudes about her group, the opposing group, and the conflict. Seen in this light, apology is a subset of a much larger category: actions that require changes in entrenched attitudes, beliefs, or habits. The human tendency to resist change has been the subject of considerable academic study in many fields. This section will discuss insights from the fields of public health, social psychology, political psychology, public policy, and business management that are particularly helpful to explain why leaders in group conflicts might fail to seize or even to recognize an opportunity for the effective use of apology.

#### A. Behavioral Health and Psychological Resistance

Some of the most extensive scholarship on behavioral change comes from the world of public health. One widely used model for treatment of patients who *must* change their behavior in order to move toward a healthier lifestyle, for example, smoking or chemical-abuse cessation, arthritis self-management, or weight reduction, tracks a number of steps.<sup>31</sup> According to this model, individuals move through six stages to achieve sustainable change: (1) precontemplation, (2) contemplation, (3) preparation, (4) action, (5) maintenance, and (6) termination.<sup>32</sup> In the “precontemplation” period, the

31. James O. Prochaska & Carlo C. DiClemente, *Transtheoretical Therapy: Toward a More Integrative Model of Change*, 19 *PSYCHOTHERAPY: THEORY RES. & PRAC.* 276, 282–85 (1982) (identifying four stages of the process of change, as well as the preceding and following stages of precontemplation and termination). The main stages were initially identified as contemplation, determination, action, and maintenance. Later, the researchers renamed “determination” as “preparation.” See, e.g., James O. Prochaska et al., *Stages of Change and Decisional Balance for 12 Problem Behaviors*, 13 *HEALTH PSYCHOL.* 39, 40 (1994); see also James O. Prochaska & John C. Norcross, *Stages of Change*, 38 *PSYCHOTHERAPY: THEORY RES. PRAC. TRAINING* 443, 443–44 (2001) (defining all six stages).

32. *Id.* This model is known as the “transtheoretical” or “stages of change” model. See James O. Prochaska & Carlo C. DiClemente, *The Stages and Processes of Self-Change in Smoking: Towards an Integrative Model of Change*, 51 *J. CONSULTING & CLIN. PSYCHOL.* 390, 391, 393 (1983) (confirming that “[b]ecause precontemplators tend to be defensive and avoid changing their thinking and behavior,” those smokers placed in the precontemplation stage (no intention to quit smoking within one year) “used the processes of change . . . less than subjects in any other stage”). Not all public-health scholars accept the model proposed by Prochaska and others. See, e.g., Robert West, *Time for a Change: Putting the Transtheoretical (Stages of Change) Model to Rest*, 100 *ADDICTION* 1036, 1036–39 (2005) (arguing that the transtheoretical model arbitrarily classifies persons in particular stages of change, fails to account for many forces and motivations that generate different behaviors, especially addiction, as well as reward and punishment, and is unable to make substantial predictions “beyond those that could be made from common sense”); Robert West, *The Transtheoretical Model of Behaviour Change and the Scientific Method*, 101 *ADDICTION* 774, 774–78 (2006) (“There appears to be no evidence that tailoring brief opportunistic advice to stop smoking to stage of change is more effective than simply advising all-comers to stop and offering them treatment to help.”). *But see* James

person has formed no intention to change and either does not recognize or is in denial about the existence of a problem. In the “contemplation” phase, the person becomes aware of the problem and considers whether to attempt change. “Preparation” includes the person’s taking baby steps toward a change; “action” is her making substantial and overt behavioral changes. “Maintenance” is incorporating the new behavior and making efforts to prevent relapse. “Termination” signals the completed adoption of the change. In real life, unlike the model, the process is not necessarily linear, and frequent backsliding is the norm.

Applying this model to group conflict, a robust apology is an “action” that will not occur until a leader has moved from precontemplation through contemplation and preparation. In the Jordan–Israel example, King Hussein had been personally involved in negotiations with Israelis over several years,<sup>33</sup> and he had personal relationships with key Israeli leaders.<sup>34</sup> Indeed, the war-like rhetoric leading up to the border incident may actually have represented a relapse into old patterns. In contrast, in the months leading up to the Thomas incident in Cincinnati, Mayor Luken had been involved in a heated and highly personal dispute with civil-rights leaders over alleged racial profiling and misuse of force by the Cincinnati police.<sup>35</sup> Luken (and, it might be added, his critics) appeared to be stalled in the precontemplation stage.

## B. Cognitive and Emotional Resistance

Designating an apology an “action” preceded by many smaller steps does not explain why so few leaders make the effort to apologize. Adapting to new circumstances is one of the core skills of a political leader. Social psychology literature suggests a partial answer: leaders caught in group conflicts *unconsciously* screen out, invalidate, counterattack, or forget information inconsistent with their established attitudes<sup>36</sup> about the conflict and the other.

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O. Prochaska, *Moving Beyond the Transtheoretical Mode*, 101 *ADDICTION* 768, 768–74 (2006) (responding to West’s principal criticisms and defending the transtheoretical model as applicable to entire populations and especially essential for studying and serving individuals who are unmotivated to change their behavior, which traditional models of behavior change avoided).

33. Deborah Sontag, *Death of a King: In Jerusalem*, N.Y. *TIMES*, Feb. 8, 1999, at A13 (recounting that prior to the 1994 peace treaty, King Hussein was involved in secret negotiations with Yitzhak Rabin and other Israeli leaders).

34. *The Rabin Funeral; Words of Respect, Love*, *NEWSDAY*, Nov. 7, 1995, at A21 (quoting excerpts from King Hussein’s eulogy at the funeral of Israeli Prime Minister Yitzhak Rabin, grieving “the loss of a brother, a colleague and a friend”).

35. Jane Prendergast, *ACLU Aids Protest of Profiling*, *CINCINNATI ENQUIRER*, Nov. 21, 2000, at 1B (noting that “trust is gone” for “many in the African-American community”); Jane Prendergast & Marie McCain, *ACLU Weighs Suit on Profiling*, *CINCINNATI ENQUIRER*, Jan. 31, 2001, at 2B (“[L]eaders of the community action group Cincinnati Black United Front said discussion with Cincinnati police had done little to solve the problem.”). Less than one month before the Timothy Thomas incident, a group of black civil-rights groups and ACLU attorneys filed a federal complaint that alleged racially discriminatory police practices by the Cincinnati police force. See *In re Cincinnati Policing*, 209 F.R.D. 395, 397 (S.D. Ohio 2002).

36. Attitude is defined in social psychology as “a psychological tendency that is expressed by evaluating a particular entity with some degree of favor or disfavor.” Alice H. Eagly & Shelly Chaiken,

An attitude is composed of an associative neural network among thoughts, images, and feelings associated with a person, place, group, issue, or idea, and a position of like–dislike, for–against.<sup>37</sup> These neural connections become stronger when continually reinforced by new encounters with information and other people.<sup>38</sup> Particularly strong and resistant to change are attitudes with ego involvement or linkage to self-defining reference groups,<sup>39</sup> as well as attitudes formed from salient or searing emotional experiences that have made us who we are.<sup>40</sup> Social psychologists agree that the stronger the attitude, the more it tends to resist change: “Both high theory and common sense converge to say that a strong attitude is one that will endure, *will resist attempts at persuasion in contrary directions*, will exert influence on the formation of related perceptions and beliefs, and—perhaps most important—will predict behavioral decisions with highest fidelity.”<sup>41</sup>

The annealing fire of conflict magnifies and strengthens the link between a group narrative and personal identity.<sup>42</sup> The narrative of a group regarding the

THE PSYCHOLOGY OF ATTITUDES 1 (1993); *see also* Dolores Albarracín et al., *Attitudes: Introduction and Scope*, in THE HANDBOOK OF ATTITUDES 3, 4 (Dolores Albarracín et al. eds., 2005) (referring to this definition of “attitude” as “the most conventional contemporary definition”). As a term of art in this field, the term “attitude” is distinct from “belief.” “Beliefs are cognitions [thoughts] about the probability that an object or event is associated with a given attribute.” *Id.* at 3. An attitude can be formed based upon a belief, an emotion, or a past behavior with regard to a particular person, group, idea, issue, or object. *See id.* at 3–5.

37. DREW WESTEN, THE POLITICAL BRAIN: THE ROLE OF EMOTION IN DECIDING THE FATE OF THE NATION 3, 52, 83–87, 264 (2007) (noting that the concept of frames used by political psychologists is similar); Dan Cassino et al., *Information and Public Opinion*, 48 POLITISCHE VIERTELJAHRESSCHRIFT 205, 207–09 (2007) (F.R.G.) (describing the associative-network model of understanding human memory of information, entities, emotions, and attitudes). Alternatively, social psychologists have envisioned a connectionist-network model, which can be analogized to a computer screen. A single pixel has no assigned meaning in and of itself; however, numerous pixels are activated in distinct patterns to represent an entity. *See, e.g.*, Frederica R. Conrey & Eliot R. Smith, *Attitude Representation: Attitudes as Patterns in a Distributed, Connectionist Representational System*, 25 SOC. COGNITION 718, 718–20 (2007) (“A distributed, connectionist network processes information in the form of flows of activation across the connections between the units. Each unit receives input over incoming connections from other units, and integrates those signals to determine its own activation at the next moment in time.”).

38. Cassino et al., *supra* note 37 at 208–09 (describing how the level of activation of nodes in tandem spreads “automatically and quickly” upon receiving new information from environmental stimulation, such as reading about a particular subject); *see also* Robert C. Malenka & Roger A. Nicoll, *Long-Term Potentiation—A Decade of Progress?*, 285 SCIENCE 1870, 1870 (1999) (“[R]epetitive activation of excitatory synapses in the hippocampus, a brain region long known to be essential for learning and memory, cause[s] an increase in synaptic strength . . . known as long-term potentiation. . . . [S]trong activation of one set of synapses can facilitate [long-term potentiation] at an independent set of adjacent synapses on the same cell if both sets of synapses are activated within a finite temporal window.”).

39. Alice H. Eagly & Shelly Chaiken, *Attitude Structure and Function*, in THE HANDBOOK OF SOCIAL PSYCHOLOGY 269, 289 (Daniel T. Gilbert et al., 4th ed. 1998).

40. Wendy Wood et al., *Working Knowledge and Attitude Strength: An Information-Processing Analysis*, in ATTITUDE STRENGTH: ANTECEDENTS AND CONSEQUENCES 283, 290–91 (Richard E. Petty & Jon A. Krosnick eds., 1995) (describing how attitude strength increases when a high degree of affect is associated with the attitude object, such as with “the highly pitched emotional arguments associated with abortion”).

41. Phillip E. Converse, *Foreword* to ATTITUDE STRENGTH, *supra* note 40, at xi.

42. ROTHMAN, *supra* note 16, at 5–8.

conflict, like other hierarchical belief structures or ideologies, triggers a “top-down” cognitive process in shaping the formation of related attitudes toward each *new* event, issue, or person.<sup>43</sup> These attitude structures become a part of the leader’s, as well as the group members’, self-concept. Leaders maintain and disseminate the group narrative among the members, and new members are socialized to the beliefs about the conflict and about the other side. The more embedded in an overarching belief structure an attitude is, the more deeply a person will resist a change in any position or attitude that might have a ripple effect of forcing a reassessment in one’s entire belief system.<sup>44</sup>

Powerful unconscious psychological mechanisms are at work to preserve the stability of the self-concept. Resistance to change of attitudes can take the form of selective cognitive processes such as selective exposure and attention, biased assimilation, and selective memory. First, people seek out and pay attention to information that supports attitudes to which they are strongly committed; and they screen out and ignore incongruent information. For example, despite the effort required to avoid the bombardment of news coverage on such an event as Watergate, Nixon supporters selectively avoided learning about the hearings that posed a powerful challenge to their beliefs about him.<sup>45</sup>

In a protracted conflict, each side develops its own channels for distribution of its own worldview, and members of a group do not seek out the other side’s sources.<sup>46</sup> The current media environment, where each side of the political divide has its own television channels, radio stations, and websites, has the effect of a *de facto* selective avoidance in that people are rarely exposed to both sides of the issue unless they actively seek out sources on both sides.

Once a person’s attention is engaged, the rational expectation is that a careful examination of conflicting evidence and arguments will result in the *weakening* of a polarized position. A person receiving information or data inconsistent with a strongly held attitude, however, will not process this incoming information impartially. Such biased assimilation, a second cognitive process contributing to one’s resistance to change, is illustrated in a classic study

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43. See Daniel Bar-Tal, *From Intractable Conflict Through Conflict Resolution to Reconciliation: Psychological Analysis*, 21 POL. PSYCHOL. 351, 354 (2000) (“Leaders and mass media form beliefs to explain the causes of the conflict, its nature, and its solution to group members. Cultural, educational, social, and political mechanisms are mobilized to impart these beliefs to society members and maintain them during the conflict.”).

44. Eagly & Chaiken, *supra* note 39, at 289.

45. Paul D. Sweeney & Kathy L. Gruber, *Selective Exposure: Voter Information Preferences and the Watergate Affair*, 46 J. PERSONALITY & SOC. PSYCHOL. 1208, 1208–16 (1984) (documenting how study participants identified as “Nixon supporters” reported less interest, attention, and knowledge regarding the Watergate affair and were more inclined to agree that Nixon had not lost credibility and should remain in office than those persons designated as “McGovern supporters” or “undecided” in the same study).

46. Charles S. Taber & Milton Lodge, *Motivated Skepticism in the Evaluation of Political Beliefs*, 50 AM. J. POL. SCI. 755, 763–764 (2006) (finding participants were more likely to search for and to read the arguments of a sympathetic issue group than to search out the arguments of the opposing groups).

performed at Stanford University in 1979.<sup>47</sup> When presented with purportedly equally valid empirical studies on the deterrent effect of the death penalty, students automatically accepted the validity of the study that favored their preexisting positions, while deconstructing and attacking the methods of the opposing study.<sup>48</sup> In fact, reading the opposing study not only failed to convince the students to moderate or to change their positions, but the students became even more convinced that their preexisting position was correct.<sup>49</sup> These effects of biased assimilation and increased polarization operate in group conflicts to aggravate antagonism because neither side can understand why the other refuses to see reality.<sup>50</sup>

Selective memory is yet another cognitive process occurring below the consciousness radar to resist change in an established attitude or opinion. A more recent study found that participants whose position on the issue of capital punishment was deeply embedded into their self-concept, value system, and knowledge structure tended to recall more of studies and newspaper articles supporting their position than of those in opposition.<sup>51</sup> This study and other progeny of the Stanford study, though, focus exclusively on the psychology of cognitive processes, presenting biased assimilation as a purely cognitive phenomenon, with little emphasis on the influences of emotions.<sup>52</sup>

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47. See Charles G. Lord et al., *Biased Assimilation and Attitude Polarization: The Effects of Prior Theories on Subsequently Considered Evidence*, 37 J. PERSONALITY & SOC. PSYCHOL. 2098, 2098 (1979) (“People who hold strong opinions on complex social issues are likely to examine relevant empirical evidence in a biased manner.”). Many researchers have confirmed the effect of biased assimilation with different forms of information presented on myriad issues. See, e.g., Geoffrey D. Munro et al., *Biased Assimilation of Sociopolitical Arguments: Evaluating the 1996 U.S. Presidential Debate*, 24 BASIC & APPLIED SOC. PSYCHOL. 15, 16 (2002) (collecting replications of the 1979 Lord et al. study). In addition, the Munro study found viewers of the first 1996 U.S. presidential debate rated the arguments made by their predebate favored candidates more highly than arguments disconfirming their predebate attitudes about their favored candidate. *Id.* at 24. However, social psychologists continue to debate the implications and validity of these studies. See, e.g., Eva M. Pomerantz et al., *Attitude Strength and Resistance Processes*, 69 J. PERSONALITY & SOC. PSYCHOL. 408, 408 n.1 (1995) (“[W]e prefer not to use this term [biased assimilation] as it implies biased cognitive-processing of attitude-relevant information, and such processing has heretofore never been empirically demonstrated to accompany the judgment effect.”).

48. Lord et al., *supra* note 47, at 2101–02. The researchers in this 1979 study controlled for potential differences arising from the order in which the competing empirical studies on deterrence were presented to proponents and opponents of the death penalty by giving half of each group of students the “prodeterrence” study first, while the other half of each student group received the “antideterrence” study first. *Id.* at 2100.

49. *Id.* at 2104–06.

50. See ROTHMAN, *supra* note 16, at 26 (“The self-perceptions and attributions of opponents are often diametrically opposed.”).

51. See Pomerantz et al., *supra* note 47, at 412 (“Embeddedness” was measured by “[p]articipants’ self-reports of how central their attitude [was] to their self-concept, . . . how representative of their values their attitude [was], and how knowledgeable they [were] on the topic.”).

52. See Munro et al., *supra* note 47, at 17 (stating that the 1979 study conducted by Lord et al., though consistent with the research of its time, overlooked the role of emotion by focusing only on the cognitive nature of biased assimilation). See generally Robert B. Zajonc, *Emotions*, in HANDBOOK OF SOCIAL PSYCHOLOGY, *supra* note 39, at 591, 594–96 (observing that this was the first time a chapter on emotions was included in the Handbook and that the topic of emotions was “neglected for decades”).

Yet recent research has found that these selective-processing processes are *driven* by emotions of which people are unaware.<sup>53</sup> Heightened emotional involvement with a position increases motivation for biased processing.<sup>54</sup> The more-informed or politically savvy person is actually *more* susceptible to the biases because he possesses a greater store of knowledge with which to attack the incoming challenge.<sup>55</sup> None of these selective processes is used intentionally to block out the viewpoint of the other side, even though people usually *attribute* intentionality to each other in a dispute.<sup>56</sup> Emotions run highest in protracted group conflicts. Each side believes it is right; each has invested much cognitive energy into developing and maintaining its perspective on the conflict, the needs it has, and the goals for which it strives.<sup>57</sup>

Advancements in neuroimaging technology now provide a window into the actual neural processes behind these screening phenomena. With this technology, Antonio Damasio discovered that emotional systems previously thought to be inoperative during “rational” thought have been shown to actively aid and participate in decisionmaking.<sup>58</sup> Using a neuroimaging study of neural processes, recent research has confirmed the underlying emotional involvement in judging political candidates’ inconsistent statements.<sup>59</sup> When politically active participants were confronted with a set of blatantly contradictory statements by their favored candidate in an election, the

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53. See Taber & Lodge, *supra* note 46, at 757 (“[P]eople are largely unaware of the power of their priors.”); Cassino et al., *supra* note 37, at 215 (discussing studies that found unconscious and automatic underpinnings of thought to be more indicative of physiological measures of racism than conscious and explicit attitudes).

54. See Munro et al., *supra* note 47, at 25 (noting that the participants’ analyses of debate arguments hinged on the participants’ affective responses to the presidential candidates).

55. See Taber & Lodge, *supra* note 46, at 763–65 (finding that students with more political-science knowledge chose to consider arguments on divisive political issues from sympathetic sources more than seventy percent of the time); Pomerantz et al., *supra* note 47, at 408 (collecting studies that show greater knowledge about an issue is correlated with greater attitude polarization and a greater resistance to change positions); see also Wood et al., *supra* note 40, at 283, 284 (“Knowledgeable people with strong attitudes are careful, expert processors of new information, but their processing is biased to bolster and protect their favored attitude position.”).

56. See ROTHMAN, *supra* note 16, at 26–27 (arguing that parties in conflict “perpetuate blame” by attributing the actions of their adversaries to “a “fundamental aspect of their character” so that the other side is seen as “innately hostile”).

57. Paul A. Sabatier, *Policy Change over a Decade or More*, in POLICY CHANGE AND LEARNING: AN ADVOCACY COALITION APPROACH 13, 33 (Paul Sabatier & Hank C. Jenkins-Smith eds., 1993).

58. See ANTONIO R. DAMASIO, DESCARTES’ ERROR: EMOTION, REASON, AND THE HUMAN BRAIN xvii (1994) (“[C]ertain aspects of the process of emotion and feeling are indispensable for rationality. . . . [H]uman reason depends on several brain systems, working in concert across many levels of neuronal organization, rather than on a single brain center. Both ‘high-level’ and ‘low-level’ brain regions, from the prefrontal cortices to the hypothalamus and brain stem, cooperate in the making of reason.”); Rose McDermott, *The Feeling of Rationality: The Meaning of Neuroscientific Advances for Political Science*, 2 PERSP. ON POL. 691, 693–94 (2004) (summarizing the Damasio study).

59. See Drew Westen et al., *Neural Bases of Motivated Reasoning: An fMRI Study of Emotional Constraints on Partisan Political Judgment in the 2004 U.S. Presidential Election*, 18 J. COGNITIVE NEUROSCIENCE 1947, 1947–55 (2006) (evaluating how people reason to political judgments by measuring the neural activity of strongly partisan supporters of presidential candidates when presented with statements appearing detrimental to their chosen candidate and then presented with corresponding and seemingly exculpatory statements that explain away the apparent inconsistency).

participants minimized their distress by quickly “rationalizing” away the inconsistencies, but *not* through the “rational” or “cold-reasoning” part of the brain (dorsolateral prefrontal cortex).<sup>60</sup> Active instead were areas of the brain devoted to emotional appraisal, suppression of negative emotional stimuli, judgments of forgivability, and emotionally laden moral judgments. This process took place so quickly that the participants were not even aware of it. And, not only did the participants minimize the obvious discrepancies, but their “reward circuits” became activated as they did so.<sup>61</sup> This study added the insight that defending against information that challenges people’s settled position actually makes them *feel good*.

This research helps to explain why leaders in group conflicts remain in a precontemplation phase. Even in the face of overwhelming evidence, leaders rarely apologize because their conception of “reality” is that they have done the lesser wrong and that it is the other side that should apologize. Assuming a leader is able to contemplate an apology, at least one further hurdle remains. Organizational-development specialist William Bridges argues that change is accompanied by a process of psychological “transition” that involves letting go of the familiar (“ending”) and enduring a period of ambiguity (“neutral zone”) before the person can comfortably behave in a different way (“new beginning”).<sup>62</sup> Even if change is plainly needed, endings generate sadness, resentment, anger, and anxiety, which combine to create a sort of emotional drag to delay or even sabotage the will to act.<sup>63</sup> The neutral-zone period holds both the potential for creative solutions and the danger of regression—even a bad situation can look better than an uncertain future.<sup>64</sup> In the new beginning, people are accustomed to the new reality, new habits, and changed attitudes.<sup>65</sup>

Bridges distinguishes between changes imposed by external forces, such as the loss of a loved one, and those authored by individuals on their own volition, such as acknowledging an addiction or changing careers. In the latter case he

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60. *Id.* at 1955.

61. *Id.* at 1956.

62. WILLIAM BRIDGES, *MANAGING TRANSITIONS: MAKING THE MOST OF CHANGE* 4–5 (2d ed. 2003). Bridges drew from Arnold van Gennep’s work on rites of passage in anthropology, *id.* at 56, as well as from Elisabeth Kübler-Ross’s grief-stages model in psychotherapy. See ARNOLD VAN GENNEP, *THE RITES OF PASSAGE* 10–11 (Monika B. Vizedom & Gabrielle L. Caffee trans., Univ. of Chi. Press 1960) (1909); ELISABETH KÜBLER-ROSS, *ON DEATH AND DYING* (1969) (identifying the five stages of handling grief as denial and isolation, anger, bargaining, depression, and acceptance). In his introduction to *The Rites of Passage*, Solon Kimball notes that “rites of passage” may have been more properly translated as “rites of transition.” Solon T. Kimball, *Introduction* to *THE RITES OF PASSAGE*, *supra*, at v, vii. Discussing territorial passages, van Gennep noted that European countries in the past were surrounded by a strip of neutral ground that he referred to as a “neutral zone.” Though such areas of “no man’s land” have gradually disappeared, the term “letter of marquee” retains the definition of “a permit to pass from one territory to another through a neutral zone.” VAN GENNEP, *supra*, at 17–18. Bridges adopted the term “neutral zone,” even though emotions during the time of transition are anything but neutral.

63. BRIDGES, *supra* note 62, at 28–30, 140.

64. *Id.* at 39–43.

65. *Id.* at 5, 58.

argues that a “developmental transition” precedes the changed behavior.<sup>66</sup> Applying this framework, an apology must be preceded by a developmental transition requiring the leader to relinquish, at least to some degree, a comfortable narrative that characterizes the conflict as good (us) versus evil (them). The Bridges framework helps to explain why people, leaders included, fail to act even after the logic of change becomes overwhelming.

Change can and does occur, of course, and people do move from contemplation and preparation to action. Social scientists hypothesize that upon the accumulation of numerous bits of disconfirming information over a period of time, an established attitude may be gradually undermined by the strength and volume of evidence to the contrary.<sup>67</sup> Or, in the alternative, an event or a reframing of the issue can trigger a shift to an entirely different neural associative network and cause a reevaluation of the attitude or belief.<sup>68</sup> In any event, a significant change of heart about the other side will require a leader to make a considerable effort to become aware of and to resist cognitive processes and emotional attachments that powerfully and persistently blind her from seeing their point of view.

### C. Influences from Within the Leader’s Group

Leaders are also subject to pressures from within their own groups, which compounds their propensity to resist change. Group norms prevent leaders, as well as group members, from considering or acting on ideas or information that contradict the group’s important beliefs. When there is strong social influence on a person regarding a particular group standard, she will resist change more strongly the further she is asked to depart from it; and only if the group standard is changed will this resistance be eliminated.<sup>69</sup>

The Bridges framework represents a modern application of one of the earliest social-psychological models of group change developed by Kurt Lewin in 1951 as part of his “field theory.”<sup>70</sup> Lewin argued that a group necessarily

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66. WILLIAM BRIDGES, *THE WAY OF TRANSITION* 4–5 (2001); see also Prochaska & DiClemente, *supra* note 31, at 282–84; Prochaska & DiClemente, *supra* note 32, at 393–94 (arguing that addicts must pass through precontemplation, contemplation, and preparation *before* an action can be expected).

67. See Alice H. Eagly & Shelly Chaiken, *Attitude Strength, Attitude Structure, and Resistance to Change*, in *ATTITUDE STRENGTH*, *supra* note 40, at 413, 427 (“[M]assive inputs would be recommended to those interested in changing attitudes . . . especially inputs that span the range . . . from cognitive through affective through behavioral.”); Hank C. Jenkins-Smith & Paul A. Sabatier, *The Dynamics of Policy-Oriented Learning*, in *POLICY CHANGE AND LEARNING*, *supra* note 57, at 41–42 (stipulating that the accumulation of technical information over a long period of time may gradually change the central elements of an advocacy coalition’s belief system).

68. WESTEN, *supra* note 37, at 264.

69. KURT LEWIN, *FIELD THEORY IN SOCIAL SCIENCE: SELECTED THEORETICAL PAPERS* 225–28, 231, 234 (Dorwin Cartwright ed., 1951).

70. See generally Shelley E. Taylor, *The Social Being in Social Psychology*, in *HANDBOOK OF SOCIAL PSYCHOLOGY*, *supra* note 39, at 58, 60 (describing Lewin’s field theory as “a quasi-mathematical model of forces in the field designed to predict behavior and behavior change in response to changes in various environmental forces”). Lewin borrowed terminology from force-field physics to describe individual’s actions as well as group dynamics.

passes through three stages in order for a change to be sustained. The first stage he called “unfreezing”—overcoming inertia and dismantling the existing “mind set.”<sup>71</sup> Lewin observed that a catharsis might be needed to remove these prejudices: “To break open the shell of complacency and self-righteousness it is sometimes necessary to bring about deliberately an emotional stir-up.”<sup>72</sup> The second stage toward change is a period of confusion, a moving to a new level.<sup>73</sup> The third and final stage is “freezing group life on the new level.”<sup>74</sup> In the third stage, the new mindset stabilizes and the group’s comfort level returns to previous levels.<sup>75</sup> Lewin observes that a group’s reaching the next level is not as important as its staying there:

A change toward a higher level of group performance is frequently short-lived; after a “shot in the arm,” group life soon returns to the previous level. This indicates that it does not suffice to define the objective of a planned change in group performance as the reaching of a different level. Permanency of the new level, or permanency for a desired period, should be included in the objective. . . . Since any level is determined by a force field, permanency implies that the new force field is made relatively secure against change.<sup>76</sup>

Bridges would add to the Lewin framework the caveat that the individuals in the group will move through the stages of change at different speeds. His term for this phenomenon is the “marathon effect.”<sup>77</sup> Like the fastest runners in a marathon, the leaders are in the winners’ tent about the time the majority of the crowd is just getting started.<sup>78</sup>

It is easy for U.S. citizens to see and criticize the operation of group norms in distant conflicts between Arabs and Israelis, Turks and Armenians, or Shiites and Sunnis. Group dynamics also cause resistance to change closer to home. Political scientist Paul Sabatier has studied a number of U.S. policy disputes, including those over air pollution, water policy, and land use.<sup>79</sup> He found that sustained public-policy disputes spawn “advocacy coalitions,” nonhierarchical collections of individuals, informal groups, and organizations held together by a complex system of shared beliefs, values, and attitudes.<sup>80</sup> For example, the pro-choice and pro-life advocacy coalitions in the United States involve huge numbers of Americans who are tied together by nothing more formal than sharing values, perceptions of causal relationships, and world views on abortion.

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71. *Id.* at 229.

72. *Id.*

73. *Id.* at 228–29.

74. *Id.* at 228, 231.

75. *Id.* at 231.

76. *Id.* at 228–29.

77. BRIDGES, *supra* note 62, at 65.

78. *Id.* at 65–66.

79. See Jenkins-Smith & Sabatier, *supra* note 67, at 41–45; Paul A. Sabatier & Hank C. Jenkins-Smith, *The Advocacy Coalition Framework: An Assessment*, in THEORIES OF THE POLICY PROCESS 117, 126 (Paul A. Sabatier ed., 1999) (listing studies by researchers in the United States and other countries that tested the advocacy coalition framework in a variety of policy domains, including education, national defense, telecommunications, drugs, infrastructure, and gender discrimination).

80. Sabatier, *supra* note 57, at 25–27.

Members of advocacy coalitions strongly resist “information suggesting that their basic beliefs may be invalid or unattainable, and they will use formal policy analyses primarily to buttress and elaborate those beliefs (or attack their opponents’ views).”<sup>81</sup> Any proposition that challenges one of the core beliefs, values, or attitudes behind an advocacy coalition will be perceived as an existential threat of attack. Over time, the rhetorical exchanges in the media and in fundraising appeals “tend to transform opponents from responsible adversaries into people with extreme and dangerous views,”<sup>82</sup> a process Sabatier calls “the devil shift.”<sup>83</sup>

When a leader has moved beyond the devil shift and is able to humanize the other side, he may face strong resistance from the members of his group who have not been able to even begin to contemplate such a change. This “marathon effect” can have serious consequences. For example, the experience of the leader of the British group League Against Cruel Sports (LACS) is instructive. Executive Director Jim Barrington won media attention for LACS with clever and sometimes vicious attacks on prominent people—especially members of the Royal Family—for participating in “blood sports.” After engaging in dialogue and negotiations with leaders from the opposition, he conceded to a reporter that it was “worthwhile talking to the hunting fraternity,” many of whom were actually “respectable” people.<sup>84</sup> Regional and local LACS leaders—his natural competitors within the group—immediately assailed him for “bringing (the league) into disrepute, seriously disconcerting its friends [and] providing comfort to its enemies.”<sup>85</sup>

After Barrington was forced out, a thoughtful editorial in the *Times* of London opined that his fate was a warning of sorts to leaders who represent their members with “strident, uncompromising” tactics.<sup>86</sup> For leaders to publicly shift their view “inflicts . . . a mortal blow . . . to the morale of fellow campaigners. *They expect to change the minds and laws of society; they do not expect society to change their own views.*”<sup>87</sup> Interestingly, Barrington’s successor,

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81. *Id.* at 19.

82. Paul Sabatier et al., *The Devil Shift: Perceptions and Misperceptions of Opponents*, 40 W. POL. Q. 449, 452 (1987). One of the co-authors of this article argued that advocates who perceive themselves as dealing with enemies tend to over-utilize coercive “push” strategies and view cooperative “pull” strategies as naïve, useless or even dangerous. Roger L. Conner, *Strategy and Stance: A Framework for Understanding Public Advocacy* 8–13 (Vanderbilt Univ. Law Sch., Discussion Paper No. 110501, Nov. 20, 2005), available at <http://ssrn.com/abstract=862244>. He refers to this resulting cycle of attack and defense as the “Advocacy Trap.” *Id.* at 13.

83. Sabatier, *supra* note 82, at 450 (“[A]ctors perceive opponents to be stronger and more ‘evil’ than they actually are.”).

84. Michael Hornsby, *Anti-Hunt Chief Hails Sport’s Tradition*, TIMES (London), Nov. 3, 1995, at 5.

85. Michael Hornsby, *Wildlife Activists Step up Pressure on League Head*, TIMES (London), Nov. 22, 1995, at 7.

86. Lead Article, *No Blinkers; Praise for the Cruel Sports Man Who Changed His Mind*, TIMES (London), Nov. 22, 1995, at 19.

87. *Id.*

Graham Sirl, was also replaced after moderating his views,<sup>88</sup> leading to the installation of a new chair who describes her approach to advocacy as “impatient, intolerant, judgmental, tactless . . . [a]nd if you don’t do it my way, by God you’ll be sorry.”<sup>89</sup>

These examples of the marathon effect suggest that powerful group norms keep leaders in the precontemplation stage and make it risky to move through contemplation to planning and action. Assuming that a leader navigates these obstacles, a further hurdle remains: the same individual- and group processes are operating on the other side to prevent *them* from changing and offering forbearance or forgiveness in response.

#### IV

##### WHY AND HOW APOLOGY WORKS: THE POWER OF AN ARCHETYPAL NARRATIVE AND SYMBOLIC RITUALS

As several contributors to this symposium have noted, apology has unique, almost mystical power.<sup>90</sup> Notwithstanding all of the obstacles cited above, some apologies appear to cause a sudden and uncontrollable change in emotional states and attitudes toward the offender.

Human-rights theorist Danielle Celermajer suggests that apology works by triggering recognition of an “archetypal narrative,” which she calls the “redemptive sequence”: transgression, repentance or apology, forgiveness, reconciliation, redemption.<sup>91</sup> This archetypal narrative “has long functioned . . . in both religious and personal relationships.”<sup>92</sup> When properly reenacted, it lessens feelings of anger and desires for revenge, diminishes

88. Graham Sirl was forced out after concluding that hunting had a valid purpose in game management in limited circumstances, though he remained opposed to most hunting practices. David Hencke & Rob Evans, *Animal Welfare Groups Under Fire*, GUARDIAN (London), June 29, 2001, at 8.

89. David Edwards, *I’ll Be Victor in the Fight for Animal Rights and You’d Better Believe It*; Annette Crosbie in *Her Most Important Role*, MIRROR (London), Jan. 10, 2003, at 48.

90. See, e.g., Rev. Dr. Kenneth R. Downes, *A Reflection and Response to Using Criminal Punishment to Serve Both Victim and Social Needs*, 72 LAW & CONTEMP. PROBS. 227 (Spring 2009); E. Franklin Dukes, *Truth, Understanding, and Repair*, 72 LAW & CONTEMP. PROBS. 57 (Spring 2009); Alphonse A. Gerhardstein, *Can Effective Apology Emerge through Litigation?*, 72 LAW & CONTEMP. PROBS. 271 (Spring 2009); John O. Haley, *Comment on Using Criminal Punishment to Serve Both Victim and Social Needs*, 72 LAW & CONTEMP. PROBS. 219 (Spring 2009); Erin Ann O’Hara & Maria Mayo Robbins, *Using Criminal Punishment to Serve Both Victim and Social Needs*, 72 LAW & CONTEMP. PROBS. 199 (Spring 2009); Brent T. White, *Saving Face: The Benefits of Not Saying I’m Sorry*, 72 LAW & CONTEMP. PROBS. 261 (Spring 2009); Douglas H. Yarn & Gregory Todd Jones, *A Biological Approach to Understanding Resistance to Apology, Forgiveness, and Reconciliation in Group Conflict*, 72 LAW & CONTEMP. PROBS. 63 (Spring 2009); see also NICHOLAS TAVUCHIS, MEA CULPA: A SOCIOLOGY OF APOLOGY & RECONCILIATION 5 (1991) (“[A]n apology, no matter how sincere or effective, does not and cannot *undo* what has been done. And yet, in a mysterious way and according to its own logic, this is precisely what it manages to do.”).

91. Celermajer, *supra* note 18, at 2. Celermajer discusses the work of philosopher and Talmudic commentator Emmanuel Levinas (1906–1995) on apology and transformation, and extends it to the political apology, for example, that given by nations to an oppressed group.

92. *Id.*

motivation to remain estranged from the violator, and increases feelings of goodwill and desire for conciliation, notwithstanding the hurtful actions.<sup>93</sup>

Whence does this inchoate knowledge arise? Students of evolutionary biology point to the importance of intragroup cooperation in prehistory.<sup>94</sup> Developing the “emotional framework necessary for the effective use of apology and forgiveness” placed members of a group “at a competitive advantage” over individuals forced to “invest both material and psychological resources into non-productive activities” associated with retaliation and defense.<sup>95</sup> Theologians, in contrast, point to the divine and suggest that apology triggers forgiveness because it is a *reenactment* of the forgiveness represented by God’s grace in the face of our own misdeeds.<sup>96</sup> It is not necessary to choose among these explanations to acknowledge that, to paraphrase Justice Potter Stewart, “We know a good apology when we see it,”<sup>97</sup> and we respond unconsciously, almost against our will.

Celermajer describes the contours of this archetypal narrative by first explaining what it is *not*: an erasure of the history that aggravates the past injury by attempting to silence and oppress the victims. Instead, pointing to a metaphor utilized to encapsulate the South African Truth and Reconciliation process, Celermajer explains, “[W]e must read the page before we can turn it.”<sup>98</sup> Celermajer asks rhetorically,

When we turn the page do we take its contents with us as we proceed to write the rest of the book? Or do we dream of a virgin sheet, untainted by the violations of the past? [Are] . . . the words of an apology functioning like the final wax seal stamped with care to terminate any dialogue with the past?<sup>99</sup>

Rather than to erase the history, the effective apology acknowledges it and communicates that *the speaker has experienced a lasting change of heart*.

93. See Michael E. McCullough et al., *Interpersonal Forgiving in Close Relationships*, 73 J. PERSONALITY & SOC. PSYCHOL. 321, 321–22, 333–34 (1997). We are indebted to McCullough et al., for the understanding that forgiveness is not a step function, but movement in three dimensions—desire for retaliation, separation, and empathy—that are measurable, distinctive, and independent of one another. See also Michael E. McCullough et al., *Forgiveness, Forbearance, and Time: The Temporal Unfolding of Transgression-Related Interpersonal Motivations*, 84 J. PERSONALITY & SOC. PSYCHOL. 540, 540, 554 (2003) (finding that peoples’ desires for retaliation and separation decrease significantly over time even though their motivation for benevolence does not appear to increase significantly over that same time period).

94. See Erin O’Hara & Doug Yarn, *On Apology and Consilience*, 77 WASH. L. REV. 1121, 1153–59 (2002) (arguing that the capacity for cooperation among humans developed because those who worked well in groups survived at higher rates).

95. *Id.* at 1156–57.

96. For example, according to Christians, Jesus taught his disciples to ask God for forgiveness of their personal wrongdoing in these words: “Forgive us our trespasses, as we forgive those who trespass against us.” *Matthew* 6:12.

97. See *Jacobellis v. Ohio*, 378 U.S. 184, 197 (1964) (Stewart, J., concurring). In this concurrence, Justice Potter Stewart famously attempted to explain the meaning of “hard-core” pornography or obscenity by saying, “I shall not today attempt further to define the kinds of material I understand to be embraced . . . [b]ut I know it when I see it.” *Id.* at 197 (emphasis added).

98. Celermajer, *supra* note 18, at 4 (paraphrasing ALEX BORAINÉ, *A COUNTRY UNMASKED* 5 (2000)). Boraine was deputy chair of the South African Truth and Reconciliation Commission.

99. *Id.*

In the act of speaking the apology, the person is acknowledging that she is the (same) person who committed the wrong. . . . Yet her act of apology[,] . . . aligning herself with concern for and recognition of the experience of the wronged other[,] bespeaks *in the present* another identity, bringing into being a person who is no longer simply the one who committed the wrongful act.<sup>100</sup>

It is this expression of a change in the speaker's identity that provides the spiritual alchemy that breaks the chain of causation and allows a new relationship to come into being.<sup>101</sup>

One implication of Celermajer's work is the importance of ritual to effective apology. One way in which ritual is important is its potential effect on the apology-maker. The leader must undergo an internal developmental transition prior to changing, and so prior to making an apology. Bridges argues that developmental changes are necessarily preceded by "disidentification"—a loosening of the old identity, in part, to make way for the new.<sup>102</sup> Anthropologists have long known that "rites of passage" and other public rituals facilitate the multiple transitions needed when a person within a group sheds one identity for another.<sup>103</sup> Bridges agrees that culturally appropriate rituals can be transformative, dramatically accelerating an inner transition.<sup>104</sup> It may be that a ritualized reenactment of the redemptive narrative can generate the very change of heart within the speaker for which the listeners long.<sup>105</sup>

Whether or not ritual benefits the speaker, it is crucially important for the *listener*. To bypass such cognitive processes as selective exposure and attention, biased assimilation, and selective memory, and to trigger a shift to the associative neural network that holds the archetypal narrative plainly requires more than mere words. Traditional societies relied on rites. For example, a youth was separated from the tribe for a time in a puberty ritual, in part to accelerate the individual's change in identity and in part to create a void for the acceptance of the new creation *in the eyes of the community*.<sup>106</sup> Just as ancient

100. *Id.* at 7.

101. *Id.* at 7, 12. Benjamin Ho offers a more prosaic explanation—a mathematical formula suggesting that it is rational for an actor to accept an apology to the extent that it "acts as a signal of the apologizer's fitness for future interaction." Benjamin Ho, *Apologies as Signals: With Evidence from a Trust Game* 39 (Cornell Univ., Johnson Sch. Res. Paper Series 2007), *available at* <http://ssrn.com/abstract=944161>.

102. WILLIAM BRIDGES, *TRANSITIONS: MAKING SENSE OF LIFE'S CHANGES* 115–18 (2d ed. 2004); *see also* BRIDGES, *supra* note 66, at 7–8 (2001) ("[I]n rites of passage people were taught important elements of what the tribe viewed as 'reality,' but . . . this learning also required *unlearning* the 'realities' they had been taught at an earlier point in their lives.").

103. *See, e.g.*, VAN GENNEP, *supra* note 62.

104. BRIDGES, *supra* note 102, at 140 ("These 'tools' were once provided by the tribal elders in the form of instruction and ritual, but today we must fashion our own tools.").

105. Not all scholars who study apology accept the characterization of apologetic acts as "rites of passage." Nicholas Tavuchis, for example, agrees that apology is a "secular ritual," but he distinguishes apology from a rite of passage, in that "[t]he crucial concern of an apology is not with new rights and obligations associated with a change in social status," but with a restoration of the previolation status quo. Tavuchis, *supra* note 90, at viii, 31.

106. BRIDGES, *supra* note 102, at 102 (describing how the effort to erase the past identity was sometimes quite dramatic, such as a "mortuary ritual" in which the burning of the child's sleeping mat might be used to dramatize that "[t]he person he used to be is dead").

rituals separated the newly recognized adult from the child who had played in their midst, the proper symbolic acts may separate the apology-maker from the person who was previously despised for countenancing injurious and unjust acts.

The language of ritual and symbols is even more important in group conflicts than in dyadic disputes because most of the intended audience cannot be physically present to hear what is said.<sup>107</sup> For example, in 1970 German Chancellor Willy Brandt visited Poland to dedicate a memorial to thousands of Jews who had been slaughtered in the Warsaw Ghetto by German soldiers. On this occasion, with dignitaries and relatives of the lost looking on, Brandt walked up to the memorial alone and fell to his knees in silence.<sup>108</sup> “His actions . . . came more from the heart and the gut than from any studious intellectual conviction,”<sup>109</sup> one journalist wrote. As Brandt later explained, “On the abyss of German history and carrying the burden of the millions who were murdered, I did what people do when words fail them.”<sup>110</sup> The resulting image had an electrifying effect, assuring a war-weary world that the new government represented a fundamental break with Germany’s past.<sup>111</sup>

King Hussein’s apology to the families of the Israeli schoolgirls killed by the Jordanian gunman similarly reflects this element of ritual. King Hussein had a number of options for the appropriate ritual. He might have issued a statement to be read by a representative at a press conference or met the parents at some neutral setting. He might have invited them to his ornate throne room or perhaps to the more intimate setting of the private quarters of his official residence. Instead, he traveled to their small, politically conservative border town accompanied by his son, his daughter, Israeli Prime Minister Benjamin Netanyahu, and a bevy of reporters and television cameras, to visit the parents in their own homes. As he entered each dwelling, he *knelt* before the parents, he *extended his hand*, he offered *words of regret*, and he did so *without any effort at self-defense or justification*. Thanks to the accompanying television

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107. See Deborah L. Levi, Note, *The Role of Apology in Mediation*, 72 N.Y.U. L. REV. 1165, 1178 (1997) (arguing that the required gestures of an apology must be filled with meaning in order to be transformative).

108. See Facing History & Ourselves, Willy Brandt’s Silent Apology, available at <http://www.facinghistory.org/Campus/Memorials.nsf/0/DC396F572BD4D99F85256FA80055E9B1> (last visited Jan. 8, 2009) (images of Brandt kneeling before the Warsaw Ghetto Memorial).

109. Tyler Marshall, *Willy Brandt, Post WWII German Statesman, Dies*, L.A. TIMES, Oct. 9, 1992, at A1.

110. See John Borneman, *Can Apologies Contribute to the Peace? An Argument for Retribution*, 17 ANTHRO. E. EUR. REV. 7, 9 (1999) (quoting WILLY BRANDT, ERINNERUNGEN: MIT DEN NOTIZEN ZUM FALL G 214 (John Borneman trans. 1999) (1994)), available at <http://condor.depaul.edu/~rrotenbe/aeer/v17n1/Borneman.pdf>.

111. James O. Jackson, *A Bold Peacemaker: Willy Brandt: 1913–1992*, TIME, Oct. 19, 1992, at 55 (noting that the achievements of Brandt’s lifetime were “symbolized by the somber drama of a man on his knees . . . a gesture that electrified the world.”). Time had named Brandt “Man of the Year” in 1970, declaring Brandt’s act a “turning point in the history of Europe—and of the world.” *On the Road to a New Reality*, TIME, Jan. 4, 1971, available at <http://www.time.com/time/magazine/article/0,9171,942376,00.html>.

cameras, the visual image of a Jordanian King kneeling before an Israeli citizen created a narrative into which people far removed from the scene could project their deepest longings.<sup>112</sup>

## V

### IMPLICATIONS FOR ONGOING GROUP CONFLICTS

This article began with a question: If an effective apology is such a powerful tool for leaders involved in group conflicts, why does it happen so infrequently? It appears that an effective apology in a public dispute requires a leader to experience a change of heart toward the other side and the conflict and to perform a ritualized public-speech act which expresses this change with words and symbols. Yet leaders, like the rest of us, are prevented from perceiving the need to change by subconscious processes that screen out and discredit the needed information. Even if they can escape these forces, they are deterred from acting by internal psychological resistance and by external political threats to their survival.

This section discusses three implications of the foregoing analysis for leaders, peacemakers, and scholars interested in apology as an instrument to advance justice, prevent destructive conflict, and promote cooperation. First, an effective apology is likely to occur only after other changes have “softened up” negative attitudes between the groups—referred to here as “ripeness.” Second, even with a degree of ripeness, apology is unlikely without a “window of opportunity,” a confluence of circumstances that permits the leader to limit the scope of the apology so as not to concede too much. Third, even if these conditions are satisfied, words alone are not enough for an apology to be effective.

#### A. Ripeness

Scholars in the field of conflict resolution have long established that no single tool or strategy is appropriate to all conflicts all of the time.<sup>113</sup> In conflict resolution, “ripeness” denotes a situation that has evolved to the point that a particular intervention has a chance to work. For example, a conflict is said to be ripe for negotiation when the parties have reached a “mutually hurting stalemate.”<sup>114</sup>

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112. See Schmemmann, *supra* note 8 (“Israelis appeared to be deeply moved as they followed live broadcasts of the King’s visit.”).

113. See, e.g., GARY T. FURLONG, *THE CONFLICT RESOLUTION TOOLBOX, MODELS AND MAPS FOR DIAGNOSING AND RESOLVING CONFLICT* 11 (2005) (“There is no magic formula that resolves all disputes.”). Furlong, for example, identifies eight different conflict-resolution models that practitioners can use to diagnose and resolve a wide range of conflict situations that arise. *Id.* at 19–24 (providing an overview of these eight models).

114. See, e.g., I. WILLIAM ZARTMAN & MAUREEN R. BERMAN, *THE PRACTICAL NEGOTIATOR* 66–78 (1982) (labeling nuclear disarmament as a stalemate since it requires joint action and the parties repeatedly tell each other that the “situation will both voluntarily and automatically get worse for both” without mutual arms control); *INTERNATIONAL MEDIATION IN THEORY AND PRACTICE* 7, 13, 251,

Applying the concept of ripeness here, an individual leader cannot be expected to spring from precontemplation to action without many smaller steps in between. Unless a transition from hostile attitudes allows the leader to come to see the other group as something other than devils, external calls for apology have the same effect as demands for relinquishment of ill-gotten gains or compensation for the alleged wrongdoing. However frustrating it may be to those who see the need for an apology, so long as an individual leader or leadership group is caught up in precontemplation or denial, he cannot make the shift in perspective that is at the heart of an effective apology.

Furthermore, even if a leader on one side is able to contemplate a significant change, an apologetic act is unlikely to work absent some softening of attitudes from the other side. It is *not* necessary for adversaries to arrive at a complete and mutual understanding; however, it *is* necessary for them to achieve a certain “analytic empathy,” which recognizes that “our opponents may act out of motivations as complex and multidimensional as our own,” and that their behavior is “reactively motivated” rather than “due to innate character flaws.”<sup>115</sup> Conflict-resolution scholars and practitioners have developed a massive tool kit to help members of competing groups discover common ground while understanding their differences, believing that many small-scale, incremental steps prepare the way for more-dramatic changes at the right time.<sup>116</sup>

Sabatier argues that advocacy coalitions can absorb new information and learn but the process takes time.<sup>117</sup> One source of new information is “spillovers” from other arenas that can force reconsideration of well-settled assumptions. For example, the bipartisan support for energy independence in the 1970s forced considerable changes in the advocacy coalitions involved in clean-air policy and utilities regulation.<sup>118</sup> A second source of group learning is dramatic external events such as the Arab Oil Embargo of 1973–1974 or the September 11, 2001, attacks on the World Trade Center. Finally, unexpected

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258–60 (Saadia Touval & I. William Zartman eds., 1985) (“One of the most important sources of leverage is found in the ripe moment of intolerable stalemate weighing on each party, threatening a worse outcome in the future while offering no present way out of the deadlock.”).

115. ROTHMAN, *supra* note 16, at 44.

116. Search for Common Ground is an international, nonprofit organization dedicated to transforming “the way the world deals with conflict” by moving conflict situations “away from adversarial approaches, toward cooperative solutions.” Search for Common Ground, Our Mission & Vision, [http://www.sfcg.org/sfcg/sfcg\\_mission.html](http://www.sfcg.org/sfcg/sfcg_mission.html) (last visited Jan. 8, 2009). With a presence in seventeen countries, Common Ground has employed a variety of techniques and small-scale projects known as its “toolbox” (for example, deployed options range from radio soap operas and TV documentaries to athletic contests and musical productions) that can set the stage for leaders to depart from entrenched patterns in conflict resolution. Search for Common Ground, Our Toolbox, [http://www.sfcg.org/sfcg/sfcg\\_toolbox.html](http://www.sfcg.org/sfcg/sfcg_toolbox.html) (last visited Jan. 8, 2009). One of the coauthors of this article is the former Executive Director of U.S. Programs for Common Ground. *See also* WILLIAM URY, *THE THIRD SIDE: WHY WE FIGHT AND HOW WE CAN STOP* 115–206 (2000) (suggesting a myriad of techniques to prevent, resolve, and contain serious conflicts).

117. *See* Sabatier, *supra* note 57, at 19–20 (noting how changes in “socioeconomic conditions” or the “rise of a new systemic governing coalition” can affect an advocacy coalition’s belief system over time along with policy-oriented learning).

118. *Id.* at 23.

changes in governing elites or the leadership of the groups themselves can force changes in assumptions. The Republican takeover of the Presidency and the Senate in 1980, for example, triggered widespread adjustments by advocacy coalitions on many issues.

The examples of King Hussein and Mayor Luken illustrate the need for ripeness and the inadvisability of expecting benefits from premature apology. Hussein and other Jordanians had been in direct negotiations for years leading up to the Camp David Accords, and Israeli attitudes toward Hussein had been deeply affected by his emotional eulogy at the funeral of Prime Minister Yitzhak Rabin.<sup>119</sup> Hussein's apology and Israeli's acceptance built on the change already accomplished and under way.

In contrast, in the months leading up to the Timothy Thomas killing, Mayor Luken feuded publicly with civil-rights groups over alleged racism in the city as a whole and in the police department in particular.<sup>120</sup> A sudden change of heart on the part of Luken or his critics would have been tantamount to an alcoholic moving from denial to a lifetime of sobriety overnight. Even though the situation was not ripe for an apology, the plaintiffs in the lawsuit correctly predicted that negotiation was possible. After an elaborate process of public participation involving over 3500 residents, the feuding parties, including Mayor Luken, the president of the local police union, and local civil-rights leaders, signed what is known locally as the Collaborative Agreement—a comprehensive plan to change police practices and transform Cincinnati police–community relations—which became a federal-court-approved settlement to a pending, federal-civil-rights case against Cincinnati.<sup>121</sup> However, in subsequent years Mayor Luken and the president of the local police union sought unsuccessfully for the consent decree to be lifted.<sup>122</sup> Today, both officials have been replaced via elections with backers of the Collaborative Agreement and civic leaders from across the political spectrum agreeing that significant progress has been made in police practices and in neighborhood problem-solving.<sup>123</sup>

In contrast with dyadic disputes, in group conflicts, it may be that apology comes nearer the end of the process of reconciliation than the beginning. This is

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119. Schmemmann, *supra* note 8.

120. Prendergast, *supra* note 35 (Civil-rights leaders stated, “We need to really bring about some systemic change” due to “a pattern of fatal incidents involving officers and African-Americans.”).

121. For a full description of the data gathering, public participation, negotiation, and content regarding the Collaborative Agreement, see Jay Rothman, *Collaboratively Addressing Police–Community Conflict in Cincinnati, Ohio*, 22 OHIO J. ON DISP. RESOL. 105, 105–32 (2006). Rothman was assigned by a federal district judge to serve as special master in structuring, guiding, and overseeing the collaborative process that resulted in the signing of the Collaborative Agreement.

122. Gerhardstein, *supra* note 90, at 274–75 (referencing the denied motion for dismissal filed by the city and the police union).

123. See, e.g., Editorial, *Police Reforms, End or Beginning*, CINCINNATI ENQUIRER, Apr. 15, 2007, at 2E; Dan Horn, *Police Reform at 90%*, CINCINNATI ENQUIRER, Oct. 14, 2006, at 1B (“Saul Green, the court-appointed monitor who oversees the deal . . . declares the police department in compliance with 73 of the 81 provisions in the agreement.”).

not meant to discourage those who long for the transformative power of a robust apology. But acknowledging the need for ripeness before apology may be akin to accepting a pilot's decision to fly around a thunderhead even if it makes the plane "late."

### B. Windows of Opportunity

No leader can appear to confess error of his group's entire position and survive politically. Yet an apology for a specific act of wrongdoing can be perceived as such because group conflicts are unbounded tangles of interconnected grievances.<sup>124</sup> For this reason, ripeness alone is insufficient unless the leader can draw a boundary around a discrete piece of the broader conflict to limit the scope of the apology.

One way that a window of opportunity opens is an unexpected occurrence or event which captures public attention and creates a mini-drama. Natural disasters, serious confrontations, or extreme acts of violence often have this effect. Hussein was able to isolate the border incident from other areas of disagreement and to make an unqualified apology for the death of the Israeli schoolchildren without appearing to abandon or qualify his positions on Jewish settlements, the Palestinian "right of return," or the status of Jerusalem. Importantly, Israeli Prime Minister Benjamin Netanyahu apparently saw benefits from allowing Hussein to frame the event in this way.<sup>125</sup> In contrast, Mayor Luken's critics immediately argued that Timothy Thomas's death was part of a pattern of police misconduct, making it difficult for the mayor to apologize for police conduct in Thomas's case without conceding the entire argument to his critics.<sup>126</sup> Windows of opportunity created by events can be fleeting. Once a leader has asserted a defense or justification, apology requires a confession of error—something politicians are universally loath to do.<sup>127</sup>

A *leadership change* is another way to limit the scope of an apology. For example, a city manager settled a racial-profiling case by agreeing to a written,

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124. See ROTHMAN, *supra* note 16, at 10–11 (noting the distinctive characteristics of identity conflict as rooted in "existential and underlying psychocultural concerns" that make identity-based conflicts "very complex, relatively intangible, and often hard to define clearly").

125. Schmemmann, *supra* note 8 ("At the news conference, Mr. Netanyahu argued against making [the border incident] or any one issue into a focus of confrontation. 'I think it's a mistake to try to create an end-all and be-all on one issue.'").

126. Luken had publicly pledged to correct problems with police use of force in 1999. Perry Brothers, *Mayor: Policies to Be Reviewed*, CINCINNATI ENQUIRER, Dec. 21, 1999, at 1A.

127. Recent research shows that political leaders who apologize and reverse their positions are seen as weak, even by voters who agree that the original position was wrong. See Larissa Z. Tiedens, *Anger and Advancement Versus Sadness and Subjugation: The Effect of Negative Emotion Expressions on Social Status Conferral*, 80 J. PERSONALITY & SOC. PSYCHOL. 86, 87–90 (2001) (finding that participants in a study conferred more power and status on President Clinton as a political leader when he responded to grand-jury testimony regarding the Monica Lewinsky affair with anger rather than sadness, even though the participants later believed Clinton would be "best served by expressing sadness rather than anger").

public apology to be disclosed in open court.<sup>128</sup> Because the city manager was relatively new, his apology amounted to a declaration about the future rather than a confession that *he* had condoned or overlooked racism in the police department in the past. Because of the lawsuit, the city manager could also defend against internal criticism as necessary to prevent an even heavier blow to the city's reputation and finances.

The *passage of time* is another way for a window of opportunity to develop. On issues such as slavery and segregation, in which responsibility for the wrong is widely shared, ascension to power by a new generation makes it safer for the new leaders to apologize without a revolt from line workers or key constituencies. For example, President Bill Clinton apologized for the National Health Service's notorious Tuskegee Syphilis experiment twenty-five years after it was concluded, well after the key figures associated with the project had retired or died.<sup>129</sup>

### C. The Symbolic Communication

Although ripeness and a window of opportunity are necessary preconditions for a leader to consider *making* an apology, *effectiveness* is measured by how others react. Much of the existing scholarship on apology focuses almost exclusively on language and logic,<sup>130</sup> but words alone are not enough if forbearance and forgiveness depend on recognition of an archetypal narrative. An *effective* apology appears to require some form of appropriate ritual through a symbolic, public-speech act that flies below the radar of the cognitive defenses sustaining bitter hostility.

This observation raises more questions than it answers. Different rituals signal that an apology is being delivered for different cultural groups.<sup>131</sup> In the United States, common rituals include televised statements by public officials as

128. Gerhardstein, *supra* note 90, at 274–76; see also Sue Kiesewetter, *Fairfield to Analyze One Year of Police Stops*, CINCINNATI ENQUIRER, May 1, 2007, at 1b.

129. Cesar Chelala, *Clinton Apologizes to the Survivors of Tuskegee*, 349 LANCET 1529, 1529 (1997) (“President Clinton’s apology, on May 16, for harm done to participants of the now infamous Tuskegee Study has been greeted with relief and gratitude by the experiment’s survivors and their families.”). Some scholars suggest that Clinton’s apology was insufficient to overcome African Americans’ mistrust of medical research. See, e.g., Heather J. Carmack et al., *Narrative Constructions of Health Care Issues and Policies: The Case of President Clinton’s Apology-by-Proxy for the Tuskegee Syphilis Experiment*, 29 J. MED. HUMAN. 89, 96–103 (2008) (deeming Clinton’s national apology an “incomplete rhetorical act” primarily because the public discourse following the speech focused on the nation’s guilt rather than policy proposals and actions that will generate a material change in “reconciling mainstream medicine and minority communities”).

130. See, e.g., AARON LAZARE, ON APOLOGY 303 (2004) (sole entry in index is to “ritual apologies,” which are sham apologies or ritualistic gestures devoid of sincere intentions); PINCHAS H. PELI, SOLOVEITCHIK ON REPENTANCE: THE THOUGHT AND ORAL DISCOURSES OF RABBI JOSEPH B. SOLOVEITCHIK 91–92 (1984) (“Feelings, emotions, thoughts and ideas become clear and are grasped *only* after they are expressed in sentences bearing a logical and grammatical structure. . . . Repentance contemplated, and not *verbalized*, is *valueless*.”) (emphasis added).

131. See KEVIN AVRUCH, CULTURE & CONFLICT RESOLUTION 57–72 (1998) (arguing that communication between groups in conflict is always distorted by cultural differences that cause different meanings to be attached to words and gestures).

well as public introspection involving the disclosure of extremely personal matters. In contrast, in Japan, specific rituals are required.<sup>132</sup> After a U.S. submarine collided with and sank a Japanese fishing boat, U.S. officials attempted multiple U.S.-style apologies to no avail. The Japanese were unmoved by a presidential letter, official visits from the U.S. Ambassador and the Admiral of the Fleet,<sup>133</sup> and an anguished editorial in *Time* by the submarine's commander, Scott Waddle.<sup>134</sup> Waddle "should get on his knees and bow his head to the floor," insisted one of the victims' fathers.<sup>135</sup> Not even Waddle's determination to take the witness stand in a military court of inquiry against the advice of counsel and tearfully accept sole responsibility for the accident was sufficient: "Kazuo Nakata, father of one of the Japanese lost on the sunken boat [,] sat each day at the inquiry filled with anger, until he met Waddle *face to face* and accepted his apologies . . . 'He bowed to me, and a tear fell to the floor. In that moment we were two human beings.'" <sup>136</sup>

The importance of ritual offers an explanation for the value victims sometimes attach to public apologies in civil-rights litigation.<sup>137</sup> Even when coerced, as by plaintiffs' insistence on public statements that acknowledge wrongdoing and express some form of regret, these statements are culturally appropriate rituals conveying a message that the future is expected to be different from the past, and that message can apparently be conveyed separately from the state of mind of the person who writes or recites the words.<sup>138</sup>

#### D. Remaining Questions and Future Directions

This article is largely conceptual. Because no effort has been made to test the analysis against a comprehensive list of historical events, an obvious question is whether the suggested conditions for an effective apology in group conflicts—ripeness, a window of opportunity, and appropriate ritual—are consistent with past experience. Even if so, is it useful only post hoc, or could it help people make better choices in active disputes? Does the suggested model explain the absence of apology in situations that leave outsiders shaking their heads in disbelief? (The Armenian genocide comes to mind.) How much "softening up" needs to occur for conditions to be ripe for an apology, and how

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132. See Haley, *supra* note 90; see also LAZARE, *supra* note 130, at 31–34, 210–13 (contrasting the American and Japanese approaches to "apology" as rooted in profound linguistic and cultural differences between the two societies); TAVUCHIS, *supra* note 90, 37–43 (referring to Japan as the "apologetic society par excellence").

133. David J. Jefferson, *Searching the Depths*, NEWSWEEK, Feb. 26, 2001, at 44; Rowan Scarborough, *Navy to Probe 4th Sub Officer*, WASH. TIMES, Feb. 24, 2001, at A1.

134. Scott Waddle & Terry McCarthy, *I Was Begging God*, TIME, Mar. 12, 2001, at 52 ("I will make apologies in person when the opportunity presents itself. If I have to get in a rowboat and row to Japan, that is what I will do.").

135. Jefferson, *supra* note 133, at 44.

136. Terry McCarthy, *The Right Thing to Do*, TIME, Apr. 2, 2001, at 29 (emphasis added).

137. See White, *supra* note 90; Gerhardstein, *supra* note 90.

138. Ho, *supra* note 101, at 22–24, 36–37, 39–41.

would advisors to a leader sense when the time was ripe? What factors open a window of opportunity, and what does it look like at the time? Can such a window be precipitated deliberately or must leaders await developments beyond their control? Finally, leaders and practitioners might benefit from more scholarly attention to symbols and rituals that allow an apology to be heard, especially when the different groups involved do not share the same cultural heritage.

## VI

### CONCLUSION

Articles on apology and forgiveness tend to be grounded in real disputes in which serious wrongs have been committed and the blameworthiness of the parties is not symmetrical. One implication of this article is the need for scholars to develop a more nuanced view of leaders whose groups are responsible for wrongful acts. An *effective* apology by a leader in a group conflict requires a personal, internal journey through loss and ambiguity (ambiguity enhanced, perhaps, through their followers' expectations of public displays of certainty) followed by a public act that can entail enormous personal and political risks.<sup>139</sup> No one, *scholars included*, is exempt from selective cognitive processing, groupthink, or resistance to transition. Perceiving that "everything bad they do against us is innate and characteristic; [but] everything we do against them is reactive and situational"<sup>140</sup> is as tempting for scholars as it is for people caught up in a conflict.

This is not to imply that opposing groups are always equally blameworthy (for they are not), nor to suggest the suspension of judgment regarding a particular conflict, whether it is slavery in the nineteenth century or ecosystem destruction in the twenty-first century. Rather, it is to argue that scholars need to practice "project[ing] [themselves] into the circumstances in which [leaders] operate,"<sup>141</sup> what Adam Smith calls "sympathy"<sup>142</sup> and what has more recently

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139. Willy Brandt was criticized by many Germans for his gesture at the Warsaw memorial. John Borneman, *Public Apologies as Performative Redress*, 25 SAIS REVIEW 53, 55 (2005) ("Back home in Bonn, some critics attacked Brandt's *Kniefall*, claiming it was exaggerated. . . . To some Germans, Brandt's apologetic gesture on behalf of all Germans recalled his wartime resistance and suggested disloyalty to the German cause."). Anwar Sadat's decision to go public with his shift away from total hostility to Israel cost him his life. See, e.g., Jonathan C. Randal, *Arabs Celebrating Sadat's Death Saw Him as a Double-Dealer*, WASH. POST, Oct. 8, 1981, at A25 (noting the "lack of a display of compassion for the fallen leader" and the "outpourings of hatred" from many in the Arab states who saw his willingness to negotiate as a "betrayal").

140. ROTHMAN, *supra* note 16, at 44.

141. Nir Eisikovits, *Forget Forgiveness: On the Benefits of Sympathy for Political Reconciliation*, 105 THEORIA 31, 39 (2004).

142. For an explanation of the importance of David Hume's differing concept of "sympathy" to apology and forgiveness (defined as "a 'principle of communication' which allows us to feel what those around us feel"), see *id.* at 40-41.

been termed “analytic empathy,”<sup>143</sup> especially as it applies to those who are powerful and wrong. Otherwise, scholars risk unwittingly violating a maxim that applies as much to scholarship as to medicine: First, do no harm.

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143. ROTHMAN, *supra* note 16, at 44. “Although we can never come to see the world as our adversaries do, nor necessarily accept their assertions as correct, we can begin to understand their viewpoints and assumptions as contextually legitimate.” *Id.* at 45.