SAVING FACE: THE BENEFITS OF NOT SAYING I'M SORRY

BRENT T. WHITE*

I

INTRODUCTION

Nearly every day some public figure—from Don Imus[1] to John McCain[2] to Miss America[3]—offers, or is called upon to offer, an apology. But it's not just in politics and Hollywood that apology reigns. Apology fever is everywhere. At your local bookstore, you can buy any number of recent self-help books espousing the benefits of apology and teaching you how to say the magic words.[4] Or, if you prefer, a number of new Internet ventures offer workshops designed to teach you, or your employees, to apologize.[5] If you haven't heard, it's good for warding off lawsuits.[6] It's good for business too. So good, in fact,

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This Comment is also available at http://www.law.duke.edu/journals/lcp.

* Associate Professor of Law, University of Arizona James E. Rogers College of Law.

1. *See Talk-Radio Host Don Imus Apologizes for On-Air Racial Slurs Against Rutgers Women's Basketball Team*, FOXNEWS.COM, Apr. 6, 2007, http://www.foxnews.com/story/0,2933,264646,00.html (discussing Imus's apology following his on-air use of racial slurs).

2. *See* M. Broder, *McCain Says He Erred on Iraq Security*, N.Y. TIMES, Apr. 7, 2007, http://www.nytimes.com/2007/04/07/washington/07mccain.html (discussing McCain's apology for saying that American lives had been "wasted" in Iraq).

3. *See US Beauty Queen to Keep Her Title*, BBC NEWS, Dec. 19, 2006, http://news.bbc.co.uk/1/hi/world/americas/6188537.stm (reporting that Donald Trump decided to allow Miss USA to keep her crown after she apologized for underage drinking).

4. *See, e.g.*, BEVERLY ENGEL, THE POWER OF APOLOGY: HEALING STEPS TO TRANSFORM ALL YOUR RELATIONSHIPS (2001) (examining the beneficial effects of giving and receiving apologies); GARY CHAPMAN & JENNIFER THOMAS, THE FIVE LANGUAGES OF APOLOGY: HOW TO EXPERIENCE HEALING IN ALL YOUR RELATIONSHIPS (2006) (describing five different kinds of apology and the people who use each one); KEN BLANCHARD & MARGRET MCBRIDE, THE ONE MINUTE APOLOGY: A POWERFUL WAY TO MAKE THINGS BETTER (2003) (examining apologies in a managerial or business context); MICHAEL S. WOODS, M.D., HEALING WORDS: THE POWER OF APOLOGY IN MEDICINE (2004) (examining apologies and their effects on medical doctors and patients).

5. Sorry Works!, http://www.sorryworks.net/about.phtml (last visited Oct. 4, 2008) (claiming that the "Sorry Works! Coalition" has quickly become the nation's leading advocacy organization for disclosure, apology (when appropriate), and upfront compensation (when necessary) after adverse medical events."); Partnerships for Patient Safety, http://www.p4ps.org/workshops.asp (last visited Oct. 4, 2008) (offering workshops to doctors on "Disclosure, Apology and Forgiveness"); World Health Organization, *Seeing Your Way Clear to Apology and Disclosure* (June 6, 2007), *available at* http://www.who.int/patientsafety/events/media/disclosure_brochure.pdf (offering a conference focused on making "blame, silence, and denial a thing of the past").

6. *See* Laura Landro, *The Informed Patient: Doctors Learn to Say "I'm Sorry"—Patients' Stories of Hospital Errors Serve to Teach Staff*, WALL ST. J., Jan. 24, 2007; at D5 (discussing a "When Things

that at least one commercial airline employs a full-time "apology officer" whose sole job is to craft apologies to deliver to disgruntled customers.[7]

Legal academia has caught the fever too. In a span of just a few years, law reviews have published a slew of articles extolling the value of apology as a means of resolving conflict and healing victims.[8] I've written one myself, arguing courts should order public officials to apologize as a civil-rights remedy.[9]

But I've grown uneasy that I, and others, have missed something in our praise of apology. And it's not, as some suggest, that the apparent spike in public acts of contrition cheapens apology[10]—though I do admit to a bit of apology fatigue. Nor is it that strategic apologies are insincere—as sometimes an insincere apology will do.[11] Rather, it's that inadequate attention has been paid to developing a nuanced understanding of resistance to apology and how such an understanding might caution against efforts to promote apology as *the* solution to individual and societal conflict.

Go Wrong: Voice of Patients and Families" training program financed in large part by Crico/RMF, a medical-malpractice company, which teaches doctors to apologize); *see also*, Peter Geier, *Emerging Med-Mal Strategy: "I'm Sorry,"* NAT'L L.J., July 14, 2006 (noting a drop in claims against the University of Michigan despite an increase in hospital activity every year after implementing the Sorry Works! Program).

7. Jeff Bailey, *Airlines Learn to Fly on a Wing and an Apology*, N.Y. TIMES, Mar. 18, 2007, *available at* http://www.nytimes.com/2007/03/18/business/18sorry.html.

8. *See, e.g.*, Jayne W. Barnard, *Reintegrative Shaming in Corporate Sentencing*, 72 S. CAL. L. REV. 959 (1999) (offering procedures that shame offenders to prevent future corporate- and white-collar crimes); Stephanos Bibas & Richard A. Bierschbach, *Integrating Remorse and Apology into Criminal Procedure*, 114 YALE L.J. 85 (2004) (describing the proper use of apology in everyday life and articulating reasons for including apology in criminal law); Max Bolstad, *Learning from Japan: The Case for Increased Use of Apology in Mediation*, 48 CLEV. ST. L. REV. 545 (2000) (contrasting the American and Japanese uses and effects of apologies); Elizabeth Latif, Note, *Apologetic Justice: Evaluating Apologies Tailored Toward Legal Solutions*, 81 B.U. L. REV. 289, 296–98 (2001) (noting several cases in which judges have ordered offenders to deliver public apologies); Deborah L. Levi, Note, *The Role of Apology in Mediation*, 72 N.Y.U. L. REV. 1165 (1997) (suggesting an apology during mediation might empower the injured party, and it might heal them as well); *see* Jeffrey Berryman, *Reconceptualizing Aggravated Damages: Recognizing the Dignitary Interest and Referential Loss*, 41 SAN DIEGO L. REV. 1521, 1549–50 (2004) (considering punitive damages as a means for compensating for lost or hurt dignity); Jonathan R. Cohen, *Legislating Apology: The Pros and Cons*, 70 U. CIN. L. REV. 819, 820 (2002) (listing states that have or are considering barring apology evidence); Aviva Orenstein, *Apology Excepted: Incorporating a Feminist Analysis into Evidence Policy Where You Would Least Expect It*, 28 SW. U. L. REV. 221 (1999) (supporting an apology exception for evidence that accounts for feminist views of apologies); Jennifer K. Robbennolt, *Apologies and Legal Settlement: An Empirical Examination*, 102 MICH. L. REV. 460, 463 (2003) (suggesting that apologies encourage legal settlement); Daniel W. Shuman, *The Role of Apology in Tort Law*, 83 JUDICATURE 180, 187 (2000) (telling of judges who shamed convicts as a means of deterrence by ordering them to publicly apologize).

9. Brent T. White, *Say You're Sorry: Court-Ordered Apologies as a Civil Rights Remedy*, 91 CORNELL L. REV. 1261, 1261 (2006).

10. *See* Lee Taft, *Apology Subverted: The Commodification of Apology*, 109 YALE L.J. 1135, 1138 (2000) (arguing the "strategic" use of apology to facilitate dispute resolution may undermine the moral quality of apology).

11. *See* White, *supra* note 9, at 1295.

Roger Conner and Patricia Jordan's account of resistance to apology in *Never Being Able to Say You're Sorry*[12] is thus refreshing and important. As they explain, people strongly resist apologizing when doing so would run counter to their deeply held beliefs. This resistance can be particularly evident in group conflicts in which the issues are often unbounded, the groups ill-defined, and both sides of a conflict often have a viable claim that they deserve the apology.[13] In such cases, Conner and Jordan rightly suggest that the best road to reconciliation may be to skip apology and forgiveness altogether, or to at least put them aside for awhile, and to focus instead on acknowledgment and cooperation.[14]

Conner and Jordan do not account, however, for those who refuse to apologize even when they have violated their own belief systems and who make no claim to deserve an apology from the other.[15] This situation has also received scant attention from other legal academics. Nevertheless, it has been suggested—without much empirical support—that many otherwise well-intentioned individuals do not apologize because they fear the apology will be used against them in a lawsuit.[16] In response, a number of states have in recent years adopted legislation intended to encourage apology by disallowing the use of apologies as evidence of wrongdoing.[17] Other scholars have viewed an individual's refusal to apologize as evidence of his or her faulty character and incapacity for remorse.[18] So, for example, judges tend to punish criminal

12. Roger Conner & Patricia Jordan, *Never Being Able to Say You're Sorry: Barriers to Apology by Leaders in Group Conflicts*, 72 LAW & CONTEMP. PROBS. 233 (Spring 2009).

13. Of course, apology is also elusive in many dyadic conflicts—where there can also be a multitude of issues, where each party has at one point or the other deeply injured the other (divorce cases for example) and where the attitude toward apology of each side might also be, "You First."

14. *See* Conner & Jordan, *supra* note 12, at 253 (explaining that apologies are not effective unless leaders work to soften negative attitudes and to create windows of opportunity to apologize). This suggestion seems a reasonable one in the types of group conflicts that Conner and Jordan describe. But often conflicts—both group and individual—are reasonably well-bounded and there is an identifiable offender and victim. In such cases, skipping the apology might not only be ill-advised, but might also make reconciliation impossible. Additionally, in a wide range of public conflicts, the goal of seeking an apology is not reconciliation at all, but rather setting the public record straight and thereby restoring the public face and dignity of the injured individual or group. In such cases, the demand for an apology defines the conflict, and skipping it is not an acceptable option. *See* White, *supra* note 9, at 1262–65, 1272–73, 1295.

15. To be fair, Conner and Jordan do not purport to offer an exhaustive account of resistance to apology.

16. *See* Orenstein, *supra* note 8, at 246 (noting people are afraid apologizing will qualify as an admission usable in court); Robbennolt, *supra* note 8, at 465 (noting that fears of apologies establishing legal liability discourage people from apologizing) .

17. *See* Cohen, *supra* note 8, at 820 (noting that, as of 2002, eight states were considering bills that would exclude from admissibility apologetic expressions of sympathy); Shuman, *supra* note 8, at 188 (discussing Massachusetts evidence rules rendering inadmissible evidence related to "benevolent gestures" to show liability in a civil action).

18. *See* Marti Hope Gonzales et al., *Pardon My Gaffe: Effects of Sex, Status, and Consequence Severity on Accounts*, 58 J. PERSONALITY & SOC. PSYCHOL. 611 (1990) ("[W]hen behaviors deviate significantly from witnesses' assumptions about what most people would do or should do, witnesses are more willing to make assumptions about the character or disposition of the actor.").

offenders who refuse to apologize with harsher sentences or, conversely, to reward offenders who do apologize with lesser ones.[19]

A body of experimental research by psychologists and sociologists suggests, however, that explanations for resistance to apology that focus on offender remorse and secondary material concerns, such as legal liability, are incomplete at best. This socio-psychological research suggests that humans invest significant emotional stake in "face"—or their "claimed identity as a competent, intelligent, or moral persons"[20]—and apologize only when they can do so without significant "face threat."[21]

This comment briefly considers this research—which seems to have been wholly neglected by legal scholars—and offers some *preliminary* conclusions as to what legal academics and practitioners might draw from it.

II

OVERVIEW OF THE RESEARCH

When one social actor injures another, the offense potentially threatens the faces of both the offender and the victim.[22] First, the offense calls into question the offender's claim to a positive social identity, and, second, the offense suggests that the victim is a lesser human being somehow deserving of mistreatment.[23] Thus, both offender and victim feel lowered self-esteem and suffer "face damage."[24]

For this damage to be repaired, the offender must engage in "corrective facework," which typically takes the form of an "account"[25]— a verbal-remedial strategy explaining the victim's injury.[26] Accounts are generally mitigating or

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19. *See* Bibas & Bierschbach, *supra* note 8, at 93 n.19 (citing UNITED STATES SENTENCING COMMISSION, GUIDELINES MANUAL § 3E1.1, comment (n.3) (2003)) (authorizing judges to consider defendants' acceptance of responsibility when determining sentences); *see also* United States v. Fagan, 162 F.3d 1280, 1284 (10th Cir. 1998) ("The commentary to *Section 3E1.1 of the Sentencing Guidelines* also indicates the Commission intended remorse to be a component of acceptance of responsibility."); United States v. Hammick, 36 F.3d 594, 600 (7th Cir. 1994) (affirming a district-court decision to deny sentencing reduction because the defendant lacked genuine remorse, evidenced by her incomplete explanation of her offense).

20. Holley S. Hodgins and Elizabeth Liebeskind, *Apology Versus Defense: Antecedents and Consequences*, 39 J. EXPERIMENTAL SOC. PSYCHOL. 297, 297 (2003).

21. *See id.* at 297 (explaining that individuals apologize only when apologizing does not pose an intolerable face threat).

22. *See* Marti Hope Gonzales et al., *Explaining Our Sins: Factors Influencing Offender Accounts and Anticipated Victim Responses*, 62 J. PERSONALITY & SOC. PSYCHOL. 958, 958 (1992) (noting predicaments threaten the face of all interactants).

23. *See id.* (describing how accidents, negligence, and intentional acts affect victims' and offenders' faces).

24. *See* Holley S. Hodgins et al., *Getting Out of Hot Water: Facework in Social Predicaments*, 71 J. PERSONALITY & SOC. PSYCHOL. 300, 300 (1996) (noting all parties' faces are threatened when one party fails to observe accepted conventions).

25. *Id.*

26. Gonzales et al., *supra* note 18, at 610.

aggravating to victims. An account mitigates to the extent that it ameliorates the victim's face concerns; it aggravates to the extent that it further threatens the victim's face.[27] Accounts generally fit into a four-part typology: concessions (or apologies), excuses, justifications, or refusals.[28] This typology is a continuum, with concessions being the most mitigating to victims but the most threatening to offenders, and refusals being the most aggravating to victims but the most protective of the offender's own face.[29] Victims who receive concessions or valid excuses from offenders usually feel better, frequently forgive, and rarely file lawsuits. Victims given justifications or refusals often respond with anger. Some sue.[30]

Perhaps because offenders' failing to apologize carries a significant risk of future harm, studies have demonstrated a "vigorous human preference to apologize."[31] Such studies suggest a "shared norm of apologetic discourse as the appropriate response when another is harmed."[32]

But this preference for apology has important caveats. Much evidence, for example, suggests that "[f]ace needs for the self and others seem to compete, and when [one's] own face threat increases above some [tolerable] threshold . . . , [a] defensive motivation [dominates]."[33]

Although various factors may increase face threat above this threshold for all individuals, on a basic psychological level, individuals have different tolerances for face threats.[34] Some people "respond defensively at even the suggestion of their imperfection, whereas others remain calm" even under harsh criticism.[35] An individual's tolerance for face threat corresponds roughly with his or her level of inner-directed self-esteem. Individuals with high inner-directed self-esteem can more easily acknowledge their flaws because they believe fundamentally that they are reasonable and decent people.[36] When such people apologize, they are merely admitting, in their minds, that they made a mistake,

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27. *Id.*

28. "*Concessions* take full responsibility without offering extenuating circumstances." *Excuses* acknowledge harm but "offer qualifying factors that reduce responsibility." *Justifications* admit the behavior "but seek to redefine the behavior as legitimate." *Refusals* deny any responsibility. *Id.*

29. *Id.*; Gonzales et al., *supra* note 22, at 959.

30. *See* Shuman, note 8, at 184 (offering empirical evidence that injured patients are dramatically less likely to sue when their doctors sincerely apologize).

31. Hodgins et al., *supra* note 24, at 312.

32. *Id.*

33. Hodgins & Liebeskind, *supra* note 20, at 298.

34. *See* C. Raymond Knee & Miron Zuckerman, *A Nondefensive Personality: Autonomy and Control as Moderators of Defensive Coping and Self-Handicapping*, 32 J. RES. PERSONALITY 115, 125 (1998) (noting persons with high autonomy-motivation- and low control-motivation orientation engaged in less-defensive coping than everyone else).

35. Hodgins & Liebeskind, *supra* note 20, at 298.

36. *See* Knee & Zuckerman, *supra* note 34, at 118 (citing research that shows people who are self-determined do not tend to employ avoidant strategies when confronting negative events).

which does not threaten their identity.[37] In psychological jargon, such nondefensive individuals are highly self-determined—or are high on autonomy-motivation orientation and low on control-motivation orientation.[38]

In contrast, some individuals find it nearly impossible to apologize—even when they feel terrible about their actions. For these individuals, verbally acknowledging they behaved in a hurtful manner makes them hurtful people.[39] Concerned about "feeling weak, incompetent, defeated, guilty, ashamed, emotional, [or] like a loser,"[40] they use such defensive and self-protective "avoidant strategies" as denial or disengagement to "defend the[ir] fragmented sel[ves] from personal awareness."[41] Such actions often make them appear unremorseful.[42] In actuality, however, such individuals are low in self-determination, or low on autonomy-motivation orientation and high on control-motivation orientation, which makes apologizing especially difficult—even, and especially, when they feel great shame about their actions.[43]

Apart from personality differences, however, certain socio-psychological factors increase face threat for all individuals, thereby making them less likely to apologize. These factors include blameworthiness, reproach-severity, public exposure, and relative offender–victim status.

First, all offenders are less likely to apologize when they are especially blameworthy. Some offenses—such as unavoidable accidents—"reveal nothing noteworthy about the offenders."[44] In contrast, other offenses—such as sexual assault—are "highly diagnostic of the offenders' defective character."[45] Individuals who intentionally wrong others are much less likely to apologize than those who negligently do so because "undeniably guilty perpetrators [of intentional wrongful acts] cannot claim positive social identity."[46] Thus, they

37. *See* ENGEL, *supra* note 4, at 48 (noting those with healthy self-esteem bounce back quickly from remorse or shame).

38. *See* Knee & Zuckerman, *supra* note 34, at 116. *Autonomy orientation* refers to the tendency to initiate behavior out of choices based on an awareness of one's needs, feelings, and integrated goals." Hodgins et al., *supra* note 24, at 301. "[*C*]*ontrol orientation* describes the tendency to seek out external controls and experience events as pressures that determine behavior and feelings." *Id.*

39. AARON LAZARE, ON APOLOGY 163 (2004).

40. *Id.*

41. Knee & Zuckerman, *supra* note 34, at 118 "*Denial* involves denying that the event is occurring, *behavioral disengagement* involves ceasing to try to deal with the event, and *mental disengagement* involves immersing oneself in other activities to avoid thinking about the event." *Id.* at 119.

42. *See* ENGEL, *supra* note 4, at 48 (noting that people with low self-esteem may rapidly put up emotional walls "of steel" that make them appear unaffected by the pain of those they hurt).

43. *See* Knee & Zuckerman, *supra* note 34, at 117–19 (noting that self-determined individuals will stray away from using strategies that deny negative, self-actualization events). Every human has "both autonomy and control motivation orientations." Hodgins & Liebeskind, *supra* note 20, at 299. Individual differences in defensiveness "are a function of differing strengths of these two orientations." *Id.* But the "use of defensive attributions" to some degree characterizes *everyone*, except perhaps those few with "optimal psychological development." Knee & Zuckerman, *supra* note 34, at 117.

44. Gonzales et al., *supra* note 22, at 958.

45. *Id.*

46. Hodgins et al., *supra* note 24, at 301.

often "feel especially threatened and provide defensive, self-protective accounts" rather than suffer further loss of face by apologizing.[47]

Additionally, offenders who are harshly reproached, whether by victims or others, are less likely to acknowledge wrongdoing than those given the opportunity to apologize of their own accord. This is because severe reproach directly challenges the offender's behavior and squarely calls into question the offender's social identity.[48] "When victims deliver scathing reproaches, perpetrators may experience face threat beyond the taint of their own ill behavior. An apology that might have been given freely by a perpetrator willing to acknowledge ineptitude comes more difficult after being labeled a cad or a louse."[49] Alternatively, a gentle rebuke that conveys belief in the offender's inherent goodness may enable him "to respond from the protective orientation, offer mitigation for the victim's face threat, and provide the best hope for reconciliation."[50]

Under this "symbolic interactions" framework, a victim who severely reproaches an offender and so ignores her "face needs" will likely receive "an aggravating account." This will lead to the victim's own "harsh evaluation" and further reproach.[51] "[A]t each phase, one person's lack of facework for the other escalates conflict and decreases the likelihood of [apology and] forgiveness."[52] Paradoxically, though apologies are especially critical for victims of intentionally grievous acts, offenders who commit such acts are the least likely to willingly express contrition—leading to severe victim reproach, further defensiveness, and further escalation of the conflict.[53]

Relatedly, when grievous acts unfold in the public domain, victims often feel they *need* an apology to restore their public face and are thus more likely to issue a severe public reproach.[54] Yet a transgressor who is publically reproached suffers collective judgment, and a public apology risks leaving them naked, defenseless, and open to the multitude's scrutiny.[55] The "movement from

47. *Id.* Offenders who are highly culpable often resort instead to "extreme" accounting strategies. *Id.* One study found that in the face of having committed blameworthy acts, approximately one-third of individuals told "outright fabrications." *Id.* at 308. However, despite its prevalence, lying is a particularly hazardous strategy for refusing responsibility because if exposed it becomes "extremely difficult for liars to restore face." *Id.* Thus, having lied, offenders become even less likely to come clean and apologize. *Id.*

48. *See id.* (noting that an apology is harder to give after the offender has been negatively labeled).

49. *Id.*

50. *Id.*

51. Hodgins & Liebeskind, *supra* note 20, at 313.

52. *Id.*

53. Hodgins et al., *supra* note 24, at 311 (noting that high-blame offenders took defensive postures because they "envisioned negative repercussions of predicaments for future relationships with victims").

54. *Id.*

55. NICHOLAS TAVUCHIS, MEA CULPA: A SOCIOLOGY OF APOLOGY AND RECONCILIATION 70 (1991).

private to public thus radically alters the interaction," increases the offender's face threat, and leaves less "discursive space" for apology or forgiveness.[56]

Finally, whether the offense is public or private, offenders are more likely to apologize to high-status victims than to low-status ones.[57] Offenders "expend more effort to preserve relationships with high-status victims" because high-status victims "have social power and control potentially important outcomes."[58] On the other hand, high-status offenders have little incentive to attend to low-status victims' face needs. Indeed, a victim's low status likely played a role in an offender's decision to inflict harm in the first place. In such situations, the victim's and offender's relative social status may be *the* decisive factor in whether the offender apologizes.[59]

III

CONCLUSIONS

The above research on the role of face concern in offender willingness to apologize offers several lessons to legal scholars and practitioners.

First, criminal offenders, many of whom are likely to be low on self-determination, may resist apology to victims out of psychological fragility and the psychological need to preserve face rather than lack of remorse. Thus, the criminal-justice system should be cautious about punishing offenders more harshly because they fail to show external remorse—or even when they are openly defiant. This caution should be exercised whether the system explicitly punishes offenders more harshly—for example, as Professor O'Hara advocates, by giving victims power to extend offender's sentences for not apologizing[60]—or implicitly, by giving lighter sentences to those who publicly apologize. Such practices not only risk unfairness in the treatment of equally remorseful offenders but also effectively coerce apologies—which, because they are involuntary, are unlikely to promote healthy psychological growth among offenders and may instead elevate an offender's psychological resistance toward accepting responsibility.

Second, because highly blameworthy offenders resist apologizing primarily to preserve face, statutes excluding apologies from evidence in order to encourage private apologies are unlikely to increase the incidence of apology when offenders are grossly negligent or reckless or intentionally harm another. For example, although statutes excluding apologies from evidence may

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56. *Id.* at 70.

57. *See* Gonzales et al., *supra* note 18, at 619 (noting offenders are less concerned with the faces of low-status victims); Hodgins et al., *supra* note 24, at 303 (noting offenders should expend more effort to preserve relationships with high-status victims).

58. Hodgins et al., *supra* note 24, at 302–03.

59. *Id.* at 313.

60. *See* Erin Ann O'Hara & Maria Mayo Robbins, *Using Criminal Punishment to Serve Both Victim and Social Needs*, 72 LAW & CONTEMP. PROBS. 199, 208 (Spring 2009) (proposing portions of sentence terms be enforced at the victim's option).

encourage doctors to apologize when negative medical outcomes were beyond their control, these statutes may have little effect when the doctor was grossly incompetent or reckless or provided care below widely accepted standards. In such cases, apologizing would call into question the doctor's identity as a competent and caring professional—a claimed identity that is likely central to his sense of self and also to his standing in the medical community. From a socio-psychological standpoint, denial rather than apology may be the better strategy.[61] In other words, most doctors will find it more beneficial to claim a valid lawsuit is groundless (thereby benefiting from the popular animosity toward "frivolous" lawsuits), than to lose face by admitting to medical malpractice.

Third, because harsh reproach increases offender face threat and thus decreases the likelihood that the offender will apologize, legal practitioners who represent victims who ultimately desire a sincere apology and reconciliation should reproach offenders in a manner that conveys an underlying belief in the offender's inherent goodness. It is also preferable, when possible, to issue reproach in private rather than in public.

Finally, because high-status offenders are unlikely to apologize to low-status victims, particularly when reproached publically, government officials are unlikely to voluntarily apologize when they injure marginalized groups or individuals. Thus, although forced apology may be ineffective in changing individual behavior, courts should consider ordering government officials to apologize when a public apology is necessary to set the public record straight or to restore the dignity of the injured person or group.[62]

61. *See* Gonzales et al., *supra* note 18, at 619 ("[T]ransgressors who knowingly and willingly violate widely held norms . . . have relatively more to lose by accepting full or partial responsibility for a predicament and acknowledging the accuracy of victims' interpretations and their right to issue reproaches.").

62. Public apologies, unlike private interpersonal apologies, serve an essential function in defining both social reality and official truth. *See* TAVUCHIS, *supra* note 55, at 71 (noting that the overriding interest in public apology is, "to put the apology 'on record,' that is, to extract a public, chronicled recantation that restores those aspects of the collectivity's [or individual's] integrity and honor called into question by the offense.").