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The Restorative Role of Apology in Resolving Medical Disputes: Lessons From Chinese Legal Culture©

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Abstract This article is the first exploration of the Chinese notion of apology from a comparative legal perspective. By reviewing the significance of apology in the context of Chinese culture, the article presents a three-dimensional structure of apology that, in contrast to the understanding the research community now has, defines acknowledgement of fault, admission of responsibility, and offer of reparation as three essential elements of an apology. It is the combination of these three elements that enables apology to serve as a form of reparation. The article further places the three-dimensional apology in the context of the Chinese concept of “the relations of humanity,” arguing that an apology accompanying admission of fault and responsibility may help to restore the harmony of relations and, by so doing, resolve medical disputes positively.

Keywords Apology law; Structure of apology; Restorative role of apology; Medical dispute

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INTRODUCTION

The role of apology and its significance in resolving disputes has attracted attention from the legal community since the 1980s (Taft 2013; Wagatsuma and Rosett 1986). This not only has produced a large number of research findings but also has laid the groundwork for the legislative movement in the United States and some other countries designed to protect some forms of apology from traditional evidentiary rules. So far, more than two-thirds of U.S. states have apology laws, among which eleven have laws of general applicability and twenty-five have laws specific to the medical context (Mastroianni et al. 2010; see also McDonnell 2008). In Australia, six states and two territories have developed legislation that generally makes the giving of an apology or expression of regret incapable of constituting an admission and inadmissible as evidence in civil proceedings (Madden and McIlwraith 2013; Vines 2005).

Advocates emphasize the function of apology in avoiding litigation, reducing legal costs, facilitating settlements, mitigating damages for intangible harm, encouraging disclosure of medical errors, and fulfilling many other utilitarian purposes (AHMAC 2002; Cohen 1999; Davenport 2006; Gallagher 2003, 2007; Kellett 1987; Latif 2001; Levi 1997; Robbennolt 2003, 2005, 2008; Runnels 2009; Shuman 2000). However, such a utilitarian interpretation of apology has been increasingly criticized in recent years. The most trenchant criticism has come from Lee Taft (Taft 2000, 2005a, 2005b, 2013). He emphasizes the moral nature of apology and holds the view that an authentic apology “demands great courage from the party who has erred because he must not only acknowledge wrongdoing, but also subject himself to the consequences that flow from the admission, including the risk of litigation” (Taft 2005b, 65). Australian researcher Prue Vines, writing from a legal rather than a moral perspective, points out that “most of the legislatures which have attempted to deal with apologies have failed to deal
coherently with the real nature of an effective apology in the context of personal injury litigation and are therefore unlikely to achieve the desired result” (Vines 2005, 485). Considerable controversy has arisen over the sincerity of offering an apology without admission of fault, as well as over the moral justifiability of using apology as a means of avoiding legal entanglements.

This debate is not merely being conducted within Western culture but has also been sparked by the exploration in the context of the legal culture of Japan and Korea (Bolstad 2000; Haley 1982, 1994; Lee 2005; Wagatsuma and Rosett 1986). However, conspicuously absent from the discussion has been the Chinese notion of apology and its practice. There has been a lack of explanation of the East Asian notion of apology from the perspective of Confucianism. This article seeks to fill this gap by exploring the structure of apology within the context of Chinese culture. In contrast to the one-dimensional apology that appears to be no more than an expression of sympathy, a three-dimensional structure of apology is presented in this article that defines acknowledgement of fault (e.g., “I’m sorry I gave the wrong dose of medication”), admission of responsibility (e.g., “I accept full responsibility for my mistake”), and offer of reparation (e.g., “I have learnt my lesson and am willing to assist you in helping to resolve the dispute”) as three essential elements of an apology. It is argued that the three-dimensional structure steers apology toward restoring the relationship harmed by wrongful conduct and, thereby, restoring the harmony of ethical relationships. This article has four sections. Following this introduction, section two outlines the Chinese notion of apology in which all three elements described above are essential for constituting a form of reparation. Section three places this three-dimensional apology in the context of the Chinese concept of “the relations of humanity” to explore its restorative role. It explains why and how an apology accompanying admission of fault and responsibility can bring its restorative power to the arena of medical disputes.
Section four concludes with some thoughts on how the three-dimensional apology might be recognized legally in the proposed Chinese apology law.

**A THREE-DIMENSIONAL STRUCTURE OF APOLOGY**

The Western concept of apology, as defined by the *Oxford English Dictionary (OED)*, signifies “an explanation offered to a person affected by one’s action that no offence was intended, coupled with the expression of regret for any that may have been given; or, a frank acknowledgement of the offence with expression of regret for it, by way of reparation” (*OED 2015*). Researchers generally agree that an apology is structured around the element of expression of sympathy, regret, remorse, shame, forbearance, or humility. The main differences of opinion seem to be about whether (1) acknowledgement of fault, (2) admission of responsibility, and (3) offer of reparation should be identified as essential elements of the structure of apology.

Although the first two elements—i.e., admission of fault and responsibility—have been emphasized by many researchers as essential for an authentic apology (Lazare 1995; Levi 1997; Orenstein 1999; Shuman 2000; Taft 2005a; Vines 2005), the vast majority of the apology laws enacted in the United States suggest that portions of a statement that explain or acknowledge responsibility could be used as evidence of fault in litigation. Of the thirty-four states and the District of Columbia that have enacted apology laws, only six have sympathy-and-fault laws that protect both a provider’s expression of sympathy and any admissions of fault or responsibility (Mastroianni et al. 2010; see also McDonnell 2008; Cohen 2004). In Australia, most legislation (except that of New South Wales, the Australian Capital Territory, and Queensland) defines the protected apology as an expression of regret that does not contain an admission of fault or liability (Vines 2005, 2013). The Australian Commission on Safety and Quality in Health Care (ACSQHC) defines apology as including “an acknowledgment of
responsibility, which is not an admission of liability" (ACSQHC 2012, v). As for offers of reparation, although often referred to as a part of apology (Lazare 2006; Haley 2009), this element is generally regarded as an extra point for the fullest form of apology, rather than a necessary constitutive element of the structure of apology (Tavuchis 1991). Excluding the elements of acknowledgement of fault, admission of responsibility, and offer of reparation from the structure of apology leads to a one-dimensional apology that appears no more than an expression of sympathy or regret. Such a notion of apology has been criticized as subverting the moral ritual for strategic and instrumental purposes (Taft 2000). Some researchers suggest that an apology is not real unless it includes an acknowledgement of fault (Vines 2005, 2007). There are also researchers who criticize the “private, individualistic notion of apology” and, as an alternative approach, call for developing the “notion of apology as an act of restoring social solidarity” (Alberstein and Davidovitch 2011, 157).

In contrast to the one-dimensional apology described above, the Chinese notion of apology appears as a three-dimensional structure. The Chinese term pei li dao qian literally translates as apology (Gray and Zheng 1989; Jones 1989). This term is composed of four Chinese characters, each of which conveys a certain meaning. Pei means “to compensate, to repair, and to restore” (Zhang and Chen 2002, 1186). Li means “rituals” or “ritual principles,” which in Chinese traditional culture refer specifically to a hierarchical ethical relationship. Dao means “to account for, to discuss, and to express” (Zhang and Chen 2002, 1246). Qian means “incompleteness, inadequateness, and shortage” (Xu and Duan 1981, 413; Zhang and Chen 2002, 519). The combination pei li means to restore the ethical relationships. The combination dao
*qian* means to make an avowal\(^\circ\) of one’s wrongdoing and to express regret about bringing incompleteness to the existing ethical relationships. The combination of the four Chinese characters shows that the Chinese notion of apology is more akin to the concept of “collectivist apology,” which emphasizes “amendment of the social order and harmony” as the central values of apology (Alberstein and Davidovitch 2011, 158). Although the Chinese apology shares the common element of expression of sympathy, regret, or remorse with the one-dimensional apology, the three controversial elements—acknowledgement of fault, admission of responsibility, and offer of reparation—occupy a prominent place in the structure of apology. The three essential elements and their cultural implications are discussed in detail below.

**Acknowledgement of Fault**

In the context of private, interpersonal interaction between parties, apology may be used as a social lubricant to alleviate tension and create a friendly atmosphere. A person may apologize not because he feels that he has done anything wrong, but because it is polite and tactful to express sympathy to those who are offended. In contrast to the individualistic or utilitarian notion, the Chinese notion of apology tends

\(^\circ\) The term “avowal” is understood here in the sense of Foucault’s definition of avowal as “something more than a simple declaration”. “What separates an avowal from a declaration”, said Foucault, “is not what separates the unknown from the known, the visible from the invisible, but what might be referred to as a certain cost of enunciation”. “One who avows a crime, in a sense, commits to being the author of the crime. By that I mean he not only accepts the responsibility, but he also establishes this acceptance on the fact that he did commit the crime. In an avowal, he who speaks obligates himself to being what he says he is.” (Foucault 2014, 15, 16)
to be more collectivist and moralistic in nature. As dao qian specifically signifies, those who offer an apology must recognize and publicly acknowledge that their wrongdoings threaten serious harm to the ethical relationships. The acknowledgment is considered as the very basic precondition of making apology. Because of the adverse influence on social harmony, the Chinese believe that apologies must be brought into the open with the acknowledgement of fault, so that a broad popular identification with the existing ethical relationships can be awakened and sustained.

The most typical example of this notion is an ancient Chinese emperor’s “Repenting Edict.”* There were approximately seventy-nine Chinese emperors who issued such kinds of edicts, which commonly attributed the cause of large-scale disasters to the emperors’ individual incompetence and fault. It was believed that Heaven’s forgiveness could be obtained only through a formal apology made by the emperor, the Son of Heaven, to all the people of the empire. A personal apology also needs to be made in public so as to express the acknowledgement of fault, as it did in about 279 B.C. in the case of Lian Po. The general trussed himself up, bared his back, offered himself for lashings, and knelt in front of his friend’s house to ask for forgiveness and reconciliation. The importance of the acknowledgement given to an apology can also be seen in the modern legislation of China. For example, article 46 of the Copyright Law provides that an apology must be made in public. The People’s Court may order a defendant to publish a statement of apology in mainstream newspapers and media (SPC 2014, see also “Cases A” listed below). The need for the acknowledgement is particularly

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* “Repenting Edict (zui ji zhao)” was an imperial proclamation by which the emperor publicly apologized to the whole nation about his past policy mistakes. The two well-known examples were the Repenting Edict of Luntai issued by the Emperor Wu of Han in 89 B.C. and the Repenting Edict issued by the Emperor Chongzhen in 1644.
necessary, as provided by article 50 of the Public Procurators Law (see “Statutes” listed below), when the apology is offered by a public servant on behalf of public power.

*Admission of Responsibility*

In contrast to the one-dimensional apology that is limited to expressing sympathy, the Chinese notion suggests that an apology amounts to an admission of responsibility. Within the framework of the understanding of apology, as discussed above, a person should not have to apologize if he feels that he has done nothing wrong. He may use the Chinese terms *yihan* (i.e., there remains a sense of incompletion) and *tongqing* (i.e., I have the same feelings) to express a deep sorrow and sympathy for the other’s suffering. But not *pei li dao qian* (apology) because, in the context of Chinese tradition, an apology is thought of as the result of self-reflection on one’s wrongful conduct. It shows moral courage to face up to the justifiability of an action and its moral permissibility. Once aware of the wrongful nature of the conduct, the wrongdoer must fulfil his moral obligation to accept responsibility for having done so and for mitigating the consequences that have ensued. The Chinese apology is thus always accompanied by the corresponding forms of self-punishment, ranging from fasting for several days to keeping vigil beside the tomb for several years.

In the year of the Emperor Chongzhen’s suicide in 1644, the last emperor of the Ming Dynasty left his “Repenting Edict.” The apology from the emperor not only contained an avowal of fault but also indicated a willingness to take responsibility for what occurred. He asked the rebels to mutilate his body but not to harm a single civilian. The emperor further made a request to take off his crown and cover his face with his hair because, as he said, he had neither the honour nor the dignity to face his ancestors. An apology without an acceptance of responsibility can be regarded as rather glib speech from the Confucian point of view. It is not only insincere but also immoral in
nature. As Confucius said, “Fine words and an insinuating appearance are seldom associated with true virtue” (Legge 1932, 4). On the basis of the significance of apology as an indication of a genuine desire for taking responsibility, offering an apology is stipulated as one of the principal forms of assuming civil liability in many Chinese laws and administrative rules (see “Statutes”). The fact that the defendant has assumed civil liability in the form of apology is to be stated in the judgement of the People’s Court (Wang 2003).

Offer of Reparation

In contrast to a one-dimensional structure in which apology is conceptualized as an individual and private activity, this three-dimensional structure highlights the proper role of apology in the public sphere. As the first part of the Chinese apology, pei li, indicates, the telos of apology is to restore the relation harmed by wrongful conduct and, ultimately, to restore the harmony of ethical relationships. From the perspective of Chinese culture, a wrongdoing is not a private matter between an individual wrongdoer and an individual victim but a public issue of ethical concern. The moral work of responding to wrongdoing is thus not just to punish the individual wrongdoer and compensate the individual victim but to repair the damaged relationship and to restore the ethical relationships. This point will be discussed in more detail in the next section. Reparation is generally understood as “compensation, typically in money, for injuries or damage done to members of groups or their ancestors” (Roth 2005, 1260). Confucianism—a crystallization of Chinese culture—believes that a superior man should be concerned with righteousness rather than gain (Legge 1932). Reparation, therefore, may not necessarily take the form of financial compensation, but it must include a remorseful recognition of wrongdoing and efforts to reduce the negative consequences. An offer to compensate in money for damages without a clear understanding of right
and wrong is considered in the Chinese context to indicate no sense of shame. A sense of shame is very important in the Chinese ethical system because it is one of the four moral pillars—propriety, righteousness, honesty, and shame—that contribute to the maintenance of a nation. By offering a public apology with an acknowledgement of fault and an admission of responsibility, a wrongdoer articulates a sense of shame about violating social or legal norms. Having a sense of shame indicates the willingness to return to the ethical relationships, which may assist the wrongdoer to regain social acceptance. The Chinese notion of apology thus emphasizes the restoration of the wrongdoer's moral stature, the victim's moral dignity, and the community's moral harmony and therefore moves the damaged relations away from reaching breaking point. More detailed discussion will be given in section three below.

The Chinese notion of apology is very close to the Western concept of “full apology,” in which the party offering the apology not only “accepts legal responsibility for both the harm caused and the suffering tied to that harm” (Taft 2013, 185) but also “offer[s] some form of compensation and a commitment to change in the future” (Carroll 2014, 492). The importance of acknowledging harm, recognizing responsibility and accountability, and offering effective reparation is also emphasized by recent research in Western health services (Bisemark 2009). A sincere apology, especially formed with these elements, is argued to have a restorative power that, as Marie Bisemark remarks, “can bring comfort to the patient, forgiveness to the health practitioner, and restore trust to the relationship” (Bisemark 2009, 104; see also Bisemark and Paterson 2005; Bisemark and Dauer 2006; Iedema et al. 2008; Lazare 2004). Some forms of reparation have been developed in Western health systems—for example, New Zealand’s Accident Compensation Corporation (ACC) assists injured patients to obtain compensation and access rehabilitation services (Bisemark 2009). The three-dimensional structure of apology thus contains some ingredients of restorative
justice (Braithwaite 2002; Johnstone 2011), such as making wrongdoers aware of the nature of the harm, ensuring that they recognize responsibility, enabling them to be reintegrated into the community, empowering victims and others closely connected, promoting a return to certain principles or values, and strengthening or repairing relationships (Johnstone and Ness 2007). Comparative discussion of the different notions of apology in the Western and Chinese contexts shows that apology is not limited to an expression of sympathy. Apologies in China, on the contrary to what was observed by O’Hara (2004) in the United States, are neither too easy to be proffered nor too easy to be accepted. The role of apology in the legal setting cannot be limited to serving some definite utilitarian purpose such as promoting settlement, avoiding lawsuits, or reducing costs. The next section of this article will be devoted to placing the three-dimensional apology in the context of the relations of humanity in order to understand the restorative role of apology in resolving medical disputes.

UNDERSTANDING APOLOGY IN THE CONTEXT OF THE RELATIONS OF HUMANITY

Apology as a form of social interaction may be better understood by placing it in the context of the Chinese concept of “the relations of humanity.” In contrast to the individual and private nature of the Western notion of apology (Wagatsuma and Rosett 1986; Alberstein and Davidovitch 2011), the Chinese notion of apology emphasizes the restoration of ethical relationships that are damaged by the harm of wrongdoing. The discussion below aims to illuminate why an instance of wrongdoing is considered a public issue of ethical concern in the context of Chinese culture and how a public apology accompanying admission of fault and responsibility helps to restore the harmony of relations.
The relations of humanity, also known as Five Relationships (*wu lun*), refers to “the proper ethical relationships defined in the *Book of Mencius*, namely affection between father and son, righteousness between ruler and subject, distinction between husband and wife, precedence of the old over the young, and faith between friends” (Taylor 2005, 695). The five relations generate different obligations, and intertwine with one another so as to weave the social network. If these obligations are met fully and the five relations are maintained, according to Mencius, the whole land will enjoy tranquillity (Legge 1932). Family is perceived as the basic social unit in the ethic of relations. Three of the five relations address family relations and the obligations associated therewith. In the relation of father (including mother, grandparents, and other elder members of a family) and son (including daughters and other junior members of a family), for example, filial piety is the primary virtue. There are three degrees of the obligation of filial piety, as Zengzi (505–436 B.C.) said: “The highest is the honouring of our parents; the second is not disgracing them; and the lowest is being able to support them” (Legge 1885, 226).

More specifically, when a parent is ill, the children have an obligation to choose a qualified doctor and ensure the safety of medication (Legge 1885); if a parent is killed by a known perpetrator, the children have an ethical obligation to take revenge (Xu 1994). Since eye-for-an-eye retribution was prohibited by ancient Chinese law, the

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* In the *Book of Mencius*, Mencius (372–289 B.C.) said: “This was a subject of anxious solicitude to the sage *Shun*, and he appointed *Se* to be the minister of instruction, to teach the relations of humanity: -- how, between father and son, there should be affection; between sovereign and minister, righteousness; between husband and wife, attention to their separate functions; between old and young, a proper order; and between friends, fidelity.” (Legge 1932, 630-631)
ethical obligation was transformed into a legal obligation that required the children to bring the injustice their parent suffered to the public eye and urge the magistrate to bring those responsible to justice. Failure to fulfil the obligation of filial piety may result in a criminal sanction. For example, if the children accepted financial compensation instead of insisting on legal retribution, they would incur criminal liability for the crime of larceny under the *Tang Code* (promulgated in 653 A.D.), the *Song Code* (promulgated in 962 A.D.), the *Great Ming Legal Code* (promulgated in 1397), and the *Great Qing Legal Code* (promulgated in 1646). The dynasties were different, but the principle was the same. The severity of the criminal penalty would be determined by the degrees of the relationship between victim and beneficiary and by the amount of compensation the beneficiary received. The more compensation the close relatives received, the more severe criminal penalties they faced. A significant breach of filial piety might result in the Imperial court's moral condemnation of the whole townspeople living in the place where the breach occurred. The townspeople would be ordered to suspend their participation in the imperial examination® or demolish a corner of the city walls to express their remorse and shame. Although traditional legal principles are no longer valid under the modern Chinese legal system, it is believed that they might still influence Chinese ethical awareness about relations.

The ethic of relations outlined above has largely shaped the Chinese understanding of medical adverse events. In contrast with the Western view of the medical relationship as being set between a medical provider and a patient, the Chinese view the relationship as a social network that is not limited to the two individuals. A medical adverse event is

® The imperial examination was a civil service examination system in Imperial China through which government officials were selected and appointed to different levels of bureaucracy. The system was established in 605 A.D. and officially abolished in 1905.
not only an injury adversely affecting the life and health of a patient and causing emotional harm to the patient's family members but also—based on Chinese ethics—a crisis that undermines the stability and hegemony of the existing relations of humanity. An adverse event imposes a series of moral dilemmas on the relationships established around the patient. All members of these relationships have an obligation to make their responses publicly. Each person's response to his or her ethical obligations may make the whole problem boil down to the issue of “how others are seeing me.” This point is typically illustrated by the dilemma that Shao Jie was confronted with in the incident of Changzhou No. 2 People's Hospital.

On February 28, 2011, a seventy-two-year-old man diagnosed with gallstones and cholecystitis was hospitalized for surgery at the Changzhou No. 2 People's Hospital, Jiangsu Province, in China. The patient died on the fourth day after his admission. After repeatedly asking the hospital for an explanation, the family of the deceased patient filed a malpractice lawsuit against the hospital. The eldest daughter of the deceased patient, a doctor who had been working for the defendant's hospital for twenty-seven years, rejected mediation, saying that she “only requests the court to adjudicate on the claim” (Tian 2011, F5). When she was asked why she chose to resolve the dispute through litigation and adjudication rather than mediation, she, a doctor who was suing the hospital where she worked, replied that she was under great mental pressure both from her colleagues and her family. She then explained:

I originally thought that my hospital would give me as well as my family a reasonable explanation [for my father’s death]. ... I really hoped my hospital could give us a response, even if it is an oral apology, which would let my father go with dignity, but they did nothing. ... [My father died unaccountably in the hospital his daughter has been working in]: how are my brother and sister seeing me? ... [The hospital] may not need to
pay a penny of compensation, as long as they acknowledge fault and account for the death for my father (Tian 2011, F5).

As illustrated by Shao Jie, the eldest daughter of the deceased felt obligated to choose a qualified hospital with competent personnel and adequate equipment when her father was ill and to require the hospital to account for the death of her father when he died unaccountably. When the hospital refused to provide an explanation and apology following her father’s death, she felt obligated to bring the injustice to the public eye and urge the court to make a decision. She felt remorse and shame for not fulfilling the obligation of filial piety such as ensuring safe treatment for her father. She was tortured by the question of “how the others are seeing me,” which meant she feared losing her own dignity and honour, losing the trust of others, and even being excluded from important relationships with family and friends.

A public apology accompanying admission of fault and responsibility may help these patients’ family members to remove their moral burden, regain their dignity and honour, and restore their networks of trust and relations. The refusal of medical providers to give an apology is equivalent to pushing these families into a corner, as it did in the incident of Beijing Daxing District Maternal and Child Health Hospital in 2012, when the husband of a deceased patient rejected the hospital’s offer of compensation because, as he said, “the hospital must account for the death of my wife, otherwise I cannot account for [it] to my relatives” (He 2012, 33). From the families’ point of view, a medical dispute cannot be regarded as fully resolved if fault and responsibility are not acknowledged publicly.

It is the families’ ethical obligation to bring the injustice to the public eye and urge the authorities to bring those responsible to justice. In the absence of apology as well as its restorative power in such situations, publicity can only be gained through resorting
to litigation or, sometimes, violent confrontation. There are many instances of litigation in which claimants issued proceedings in the hope that defendant hospitals would provide public apologies to them (see “Cases B” listed below). In the incident of Qingyuan People’s Hospital in 2011, moreover, the deceased’s family asked the local health authority to report the medical accident to the Ministry of Health (Deng and Gao 2011). Ignoring these demands can ignite violent confrontations between medical providers and victims’ families and, sometimes, lead to what the Chinese government has called an “unexpected mass incident.” For example, on December 5, 2010, a crowd of more than one thousand gathered around the Zhangjiagang First People’s Hospital and refused to leave until the local government agreed to a full investigation of the medical accident at issue (XinhuaNews 2010). Additionally, in 2012 at the Fourth Outpatient Department of Dongguan Taiping People’s Hospital, more than sixty relatives and friends of the deceased gathered around the outpatient department, blocking the entrance, smashing windows, and damaging an iron door (Huang 2012). The local government calmed the situation by promising to carry out a full inspection of the local healthcare system so as to reduce medical errors (Humen Branch 2012). These incidents highlight the inherent connection between the restorative role of apology in repairing relations and the restorative role of apology in resolving medical disputes. The urgent need to develop legal remedies in response to the demands of patients for an apology is also highlighted.

CONCLUSION

This article presents a three-dimensional structure of apology that defines acknowledgement of fault, admission of responsibility, and offer of reparation as the three essential elements of an apology. The three-dimensional structure stems from the inherent requirement of apology to repair relations so as to restore the harmony of
ethical relationships, rather than from emotional needs or as a coping strategy. This finding may enrich the discussion about what an apology involves, what makes an apology meaningful, and what constitutes a sincere or authentic apology (Carroll 2013). The analysis of why an acknowledgement of fault and an admission of responsibility are defined as two indispensable elements of apology may facilitate reflection on the prevailing “partial apology” that excludes acceptance of fault and responsibility. The discussion of why reparation is not limited to financial compensation may lead to more insights into achieving reconciliation.

The exploration of the three-dimensional apology opens up a new avenue that calls for apology to be contextualized within the social structure, rather than the relationships between two individuals, to understand its role and value. This new approach shows that an apology is not necessarily a private or subjective act. As can be seen from many medical disputes in China in recent years, some claimants filed lawsuits asking the People’s Courts to order the defendant hospitals to apologize publicly, and some even resorted to violence to force medical staff to apologize publicly. A public apology accompanying admission of fault and responsibility is so essential in restoring the harmony of relations that the creation of an apology law in China could be considered a response to the adversarial relationship between medical providers and patients. The proposed Chinese apology law would differ from the existing apology laws enacted by U.S. states and other jurisdictions in the following three points. First, the focus would shift from protecting practitioners from litigation to a focus on better promoting real apologies. Second, apologies would be encouraged not by excluding its admission on the issue of liability, but instead by permitting its admission to mitigate damages for non-economic loss. Third, the law would establish apologies as a mitigating factor, not because apology is exculpatory on the issue of liability, but instead because a three-dimensional apology constitutes assumption of liability.
The author's forthcoming work on apology will explain the necessity of apology legislation in China and explore in detail how the three-dimensional apology might be recognized legally in the proposed Chinese apology law. It will be argued that the three-dimensional apology should be recognized as a legal form of assuming civil liability. When the portions of an apology that acknowledge fault and responsibility are admissible in litigation, they might also be considered by the courts as an important mitigating factor in assessing compensation liability.

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**Cases A**

《北京金山安全软件有限公司与周鸿祎侵害名誉权纠纷案》 [Beijing Kingsoft Security Software Co Ltd v Zhou Hongyi–Dispute over the Infringement of the Right of Reputation], 北京市第一中级人民法院 [First Intermediate People’s Court of Beijing Municipality, People’s Republic of China], 一中民终字第09328号 [Civil Appeal No 09328], 25 August 2011.

《徐大斐诉宋祖德、刘信达名誉纠纷案》 [Xu Dawen v Song Zude & Liu Xinda–Dispute over the Infringement of the Right of Reputation], 上海市静安区人民法院 [Jing’an District People’s Court of Shanghai Municipality, People’s Republic of China], 静民一（民）初字第779号 [Civil First Trial No 779], 25 December 2009.

《赵雅芝与上海琪姿贸易有限公司、上海诸宝丝化妆品有限公司侵害姓名权纠纷、肖像权纠纷案》 [Zhao Yazi v Shanghai Qizi Trading Co Ltd & Shanghai Nuobaosi Cosmetics Co Ltd–Dispute
over the Right of Infringement of the Right of Name and the Right of Portrait, Shanghai Municipal Intermediate People’s Court [Civil Trial No. 17767, 23 November 2012].

Cases B

The following cases were presented in support of the argument:

1. 寇佳怡与复旦大学附属华东医院医疗损害赔偿纠纷案 [Chen v. Huadong Hospital Affiliated to Fudan University—Medical Injury Compensation Dispute Case], Shanghai Municipal Intermediate People’s Court [Civil Appeal No. 130, 21 January 2013].

2. 陈某某与广州市第一附属医院医疗损害赔偿纠纷案 [Chen Weilun & Zhang Xiulian v. First Affiliated Hospital of Guangzhou Medical University—Medical Injury Compensation Dispute Case], Guangdong Provincial Intermediate People’s Court [Civil Appeal No. 6020, 2010].

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