

What is required for effective redress of historical institutional abuse?

Professor Kathleen Daly
School of Criminology and Criminal Justice
Griffith University, Brisbane
k.daly@griffith.edu.au

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Introduction

- Draw from *Redressing Institutional Abuse of Children* (2014)
- Major cases of institutional abuse in Canada (11) and Australia (8)
- Responses are criminal prosecution, public inquiries, civil litigation, redress schemes
- First scheme in 1993 (Canada); 10 countries and a self-governing territory have established them
- To make 9 points about redress and effective redress

Point 1: Effective redress requires three levels of analysis: societal, group, and individual

- Societal: social structure, inequalities, colonial and post-colonial histories; relationships of gov't to church, charitable, medical authorities; dynamic and temporal movement
- Group: all relevant groups
- Individual: all relevant individuals

Point 2: Effective redress requires understanding historical wrongs and their causes

- Different historical wrongs
core (all cases): failure of gov't or other authorities to protect and care for children
- core-plus* (5 cases): policy or practice wrongs against children (3); wrongs against children part of discrimination against a political minority group (2)

Point 3: Effective redress requires understanding how it all came to be

- People want 'the truth' to be known of what occurred and why

Point 4: Effective redress requires turning the tables on 'delay'

- Time 1: year of first complaint to authority
- Time 2: year of official sustained response
- Time to respond: (time 2) minus (time 1)

Of 19 cases: time 1 (avg) = 1959
time 2 (avg) = 1996
time to respond = 37 years

Point 5: Effective redress requires understanding bargaining power and modes of negotiation

- May explain why some schemes have higher money payments or a larger package of benefits, services, and other elements

Point 6: Redress moves slowly

Time to tangible result (the 'wait for justice')

Time 2 (year of official response) to
Time 3 (year of tangible result, when half of claimants rec'd decision on monetary payment)

- Canada and Australia (20 outcomes): 7 to 8 years (avg)
- Ireland (RIRB): 7 years (2000-2007)
- Royal Commission: estimate 2020-21 (2013 + 7 to 8)

Point 7: Effective redress requires clarity on subjects of redress, validation process, money logics, and purpose of payments

- Many areas to discuss and decide in the design and implementation of redress schemes

Point 8: Effective redress requires consideration of all models and their trade-offs

- Consideration of total expenditure and how to allocate funds across all the elements
- Trade-offs in individualised assessment and equality-based formulas

Point 9: Effective redress is a political process

- Address mistrust and suspicion when the '*author* of the wrong turns into the *master* of the compensation process' (Jacobs 2007)
- Human rights arguments can soften the ground, but more is required
