

What is owed and why? The role of money in redress for historical institutional abuse

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A. To address *what* is owed, we need to ask *why* it is owed

1. Justice is owed because a wrong was committed. What types of wrongs occur in historic abuse cases?

- Core wrong of the failure of authorities to care and protect children
- Core wrong plus policy wrong of targeting specific groups of children
- Core wrong plus policy wrong of targeting political minority groups (children and adults)

2. Over 50 cases of redress responses (public inquiry only, redress scheme only, both)

- 80% core wrong alone
- 20% core wrong and policy wrong (12% targeted groups of children; 8% targeted political minority groups)

3. Historic abuse (core wrong alone) has different history and logic of domination compared to historical injustice exemplars (slavery, colonial conquest, appropriation of lands and resources, mass atrocities, war crime, war-related civilian internment, state violence).

4. Recent and worrying development: scope of the *why*

B. What is owed?

1. We know types of responses, but ‘what is owed’ from a survivor’s perspective?

2. Victims’ justice interests: participation, voice, validation, vindication, and offender accountability-taking responsibility (Daly 2014, 2017).

3. Monetary payments: a symbolic expression of *validation* and *vindication* of survivors

4. How *much* money? Atiyah (1999) on types of ‘compensation’ systems: tort law and social welfare

C. Money logics: *how to decide* and *how much to pay*

1. *How to decide*

individualised: related to acts of abuse and impact

- *how much to pay* takes two forms: high caps aligned with tort cases and low caps aligned with social welfare

collective: equality or common experience formulas; unrelated to acts of abuse and impact

- *how much to pay* takes three forms: same payment (stipulated in advanced); same payment (divided equally among claimants from fixed pool of funds); and other formulas (time lived in institution, pension based on wage loss, pension ‘top ups’)

Note: Swedish scheme is a **hybrid** of individualised (assessment of severe abuse) and collective (same payment, which is stipulated in advance, if eligible).

2. Outcomes of individualised schemes

For 16 Canadian and Australian state and non-state schemes:¹

- AUD \$20,000 to \$50,000
- € 14,000 to 36,000 SEK 130,000 to 325,000
- £ 10,000 to 26,000 USD 16,000 to 40,000

Summary points

1. Redress for historic abuse a complex field

- three types of wrongs
- wrongdoers are state and non-state actors/organisations
- diverse survivor group

2. Core wrong differs from historic injustice exemplars. This should be taken into account when relating historic abuse to the larger literature.

3. Redress a political process. Expect redress scheme design and money logic to be based on

- *power* (bargaining power of protagonists)
- *precedent* (what is familiar or has been done before)
- *pragmatism* (economic and political concerns for cost containment; in state schemes, balancing costs of redress against other state expenditure)

4. Problems using individualised schemes for groups

¹ Daly (2016) for 16 schemes; excludes Indian Residential Schools IAP payment. Exchange rate, 2015 CY (€ = .7088 AUD; £ = .5125 AUD; USD = .7855 AUD; SEK = 6.5412 AUD)