From First Class to Outcast: Slippage in Redress for Institutional Abuse

Juliet Davis
Research Fellow, Griffith Criminology Institute
Griffith University
juliet.davis@griffith.edu.au

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

Presentation to:
Global Criminology Network Seminar
Leuven, Belgium
16 September 2019

Please do not quote or cite without permission of the authors.
Overview

Q1: How did Australia’s ‘first class’ redress scheme slip to a ‘low cost’ model with designated outcasts?

1.1 Australia’s legislative process

1.2 ‘Imagined community’ beliefs

Q2: What is the role of human rights?
Snapshot: National Redress Scheme for Institutional Child Sexual Abuse

- 9 jurisdictions (states, territories, federal)
- Monetary payment, counselling, direct personal response; individualised assessment
- Both ‘closed’ and ‘open’ institutional settings
- Sexual abuse of children
- Runs from 1 July 2018 – 30 June 2028

(Q1.1) Slippage from ‘first class’ to ‘low cost’

- Slippage away from survivors’ interests:
  - reduced monetary payment cap and counselling amounts
  - additional barriers to eligibility
  - reduced flexibility in making a claim

- Slippage towards participating institutions’ interests:
  - weakened institutional responsibilities
  - greater institutional powers
  - greater institutional protections
(1.1) Australia’s legislative process

• Shared political powers between federal and state governments
• Economic costs to governments as responsible entities and funders of last resort
• Time pressure to establish the scheme before July 2018 deadline

(Q1.2) Slippage from ‘first class’ to ‘outcast’

‘Designated outcasts’ excluded from the NRS:
• prisoner
• person with a ‘serious criminal history’
• non-citizen/non-permanent resident
(1.2) ‘Imagined community’ beliefs

- A nation is ‘an imagined political community’ (Benedict Anderson)
- Politicians’ imaginings about the Australian community justified creating ‘insiders’ and ‘outsiders’:
  - prisoner (*practicality*)
  - person with a ‘serious criminal history’ (*community standards*)
  - non-citizen/non-permanent resident (*risk of fraudulent claims*)

(Q2) Role of human rights

- Australia has a weak human rights framework
- No clear avenue for change by individual actors using a rights-based approach
- Any change to the NRS will likely result from community action
Slippage: Australia & Sweden

- Australia’s redress slippage is not an isolated case
- Australia: recommendations → legislation
- Sweden: legislation → implementation
- Role of human rights may vary between jurisdictions

Implications

- Australia’s redress scheme has slipped from ‘best practice’ to ‘low cost model’
- Australia’s legislative process may be unique but slippage is not
- Impact of ‘redress roller-coaster’ on survivors needs must be borne in mind when contemplating redress
References

- Daly, K. & J. Davis. Mapping the world of redress for institutional abuse, presented by K. Daly at the Society for the History of Children and Youth Conference in Sydney, Australia (26 June 2019).