

Davis & Daly, From First Class to Outcast:
Slippage in Redress for Institutional Abuse,
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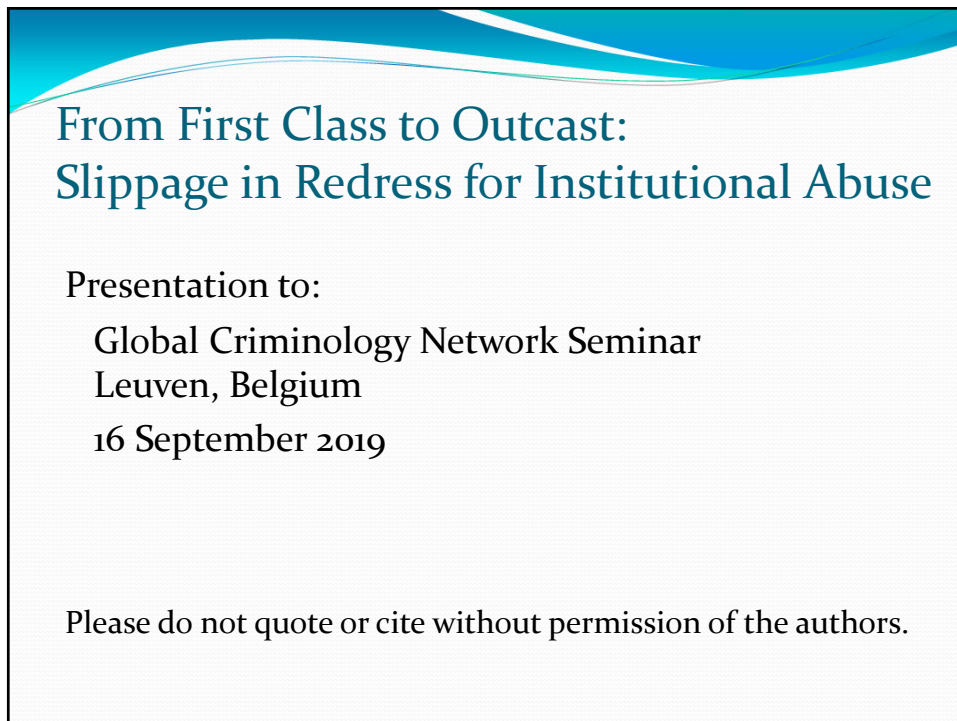


From First Class to Outcast:
Slippage in Redress for
Institutional Abuse

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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?

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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

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(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

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(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

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(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

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(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*)

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(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

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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

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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

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