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**Bachelor of
Social
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The pursuit of justice and healing:

How can the principles of Restorative Justice be used to improve organisational responses to historical and institutional survivors of child abuse?

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Who's Father?

Our Father

From all around

Your name is mud.

Your kingdom debased

Your wishes erased

All over the place.

Forget your bread

Stale and poison

Forgive your own shepherds

Those lecherous wolves

Beyond child's forgiveness.

Trespassing in-deed

Crush – we who need

You didn't deliver Father

You didn't deliver

Victorian Parliamentary Inquiry survivor submission – TH7

Portfolio introduction

The extent of historical and institutional child abuse is not known as no accurate data exists and survivors often take years or even decades to disclose the abuse. While nothing can repair the harm and life-long impact of child abuse and neglect, governments and organisations have a moral obligation to work towards improving institutional responses. Survivors and their supporters have continued to raise awareness of inappropriate or re-traumatising responses from organisations, such as the Catholic Church, which seem motivated by self-interest rather than offering sincere reparation.

The portfolio aims to answer the main research question, how can the principles of Restorative Justice be used to improve institutional responses to historical child abuse? The literature review outlines a brief history of institutional Out-of-Home Care in Australia, and describes some of the long-term impacts of child abuse. Current responses designed to address allegations of institutional child abuse are explained, and Restorative Justice is explored as a more therapeutic alternative to existing responses. The scoping study outlines the inadequacy of historical Australian policies and practices in protecting vulnerable children from abuse and neglect while they lived in institutional Out-of-Home Care. Statistics are then used to highlight what is known about the extent of the problem and the stakeholders are discussed with particular attention to the influences these groups have over responses. In order to bring to light survivor lived-experiences of current responses, a thematic content analysis is used to identify survivor perspectives, beliefs and perceptions. This research is underpinned by an interpretivist/constructivist epistemology. I conclude the portfolio with a practice intervention proposal, which explores the

principles of Restorative Justice and offers an outline of a model, which has the potential to meet survivors' expectations of justice and acknowledge their experiences in order to assist them to heal. A key objective for this study was to find a new and innovative alternative that has real potential to be implemented by organisations in order to improve institutional responses to historical child abuse. There is an opportunity for social workers to become more involved in advocating for and supporting institutional child abuse survivors. Social work is in a unique position to assist in developing new empowering, validating and respectful complaint processes, such as Restorative Justice, to ensure survivors' healing and justice needs are being met.

Portfolio Paper 1 – Literature review

Main Research question:

How can the principles of Restorative Justice be used to improve institutional responses to historical child abuse?

Sub-research question literature review is addressing:

What responses currently address allegations of institutional child abuse in Australia, and could a restorative justice model be an alternative means of providing justice, reparation and healing for survivors?

Portfolio paper 1 - Literature review

Introduction

The tragic reality for a large proportion of institutional child abuse survivors is that those exploitative and damaging childhood experiences have shaped their entire lives. While the extent of the problem is not known, it is estimated that between 1 in 10 and 1 in 7 males, and 1 in 8 and 1 in 3 females in Australia have experienced child sexual abuse (Child Family Community Australia 2013). Organisations and governments alike have implemented various strategies in response to an increasing public awareness of the prevalence of child abuse. These include; legislative reform, policy frameworks, carer accreditation schemes, police investigation taskforces, and parliamentary Inquiries to help ensure children at risk of abuse are better protected.

In response to mounting public pressure, the Federal Government established the Royal Commission into *Institutional Responses to Child Sexual Abuse* on 11 January 2013. The Royal Commission Terms of Reference provide an opportunity for people who were sexually abused as children while in institutional care to be able to share their experiences to assist with healing (Australia Parliament 2013, Royal Commission Terms of Reference section). The Royal Commission is also charged with devising recommendations on ways to “alleviate the impact of past and future child sexual abuse” in institutions, as well as “ensuring justice for victims through the provision of redress by institutions, processes for referral for investigation and prosecution and support services” (Royal Commission 2013, Terms of Reference section). Media reports and live-streaming from the Commission’s public hearings detail graphic testimony from survivors describing their childhood experiences of physical and sexual abuse of

the most heinous nature. Survivor testimonies have highlighted a range of unsatisfying responses institutions have provided when confronted with allegations of criminal child abuse, including denials, cover-ups and Church authorities moving offending priests to different dioceses in the event of a complaint (Oriti 2014).

This paper will explore a brief history of institutional Out-of-Home Care in Australia, identify what is known about the extent of the problem of historical and institutional child abuse and neglect, and briefly describe the impact these experiences can have. It will then outline current responses to allegations of this nature and the challenges survivors face in seeking justice and reparation, particularly through organisational processes or state government managed redress schemes. Finally, it will examine whether Restorative Justice could offer a more empowering solution for survivors than current legal or organisational processes, or redress schemes. For the purposes of this study, 'institutional care' refers to care and living arrangements provided within an environment with others, which is not owned by the individual or their relatives, and the control over space, structure and processes lie with members of staff (Penhale 1999). 'Institutional child abuse' is inclusive of sexual, physical, psychological, emotional and spiritual abuse. It also incorporates experiences of child labor and neglect as well as failings in duty of care in relation to the child's development, education and health outcomes.

Institutional child abuse

The institutionalisation of Out-of-Home Care for vulnerable children increased in Australia in the 1930's and continued to increase until the 1970's. In

Victoria, the number of children in institutional care peaked in the 1960's where 85% of all state wards lived in institutions, with the remaining 15% placed in foster care, largely due to a lack of available foster families. (Australia Parliament 2004, p.21). The Senate Committee report into *Forgotten Australians* estimated that approximately 500,000 people spent time in institutional care last century, and that those care arrangements consisted of "wide scale unsafe, improper and unlawful care of children, a failure of duty of care, and serious and repeated breaches of statutory obligations" (Australia Parliament 2004, Executive Summary section).

In many developed countries, the state funded organisations to provide institutional care for children who were found to be "destitute" or "delinquent" because their parents were either unable or unsuitable to care for them (Brennan 2010, p.246; Graycar & Wangmann 2007, p.9). In Australia, a range of religious organisations or secular welfare agencies, in addition to the state, managed and operated these institutions, with little accountability or oversight (Bergin 2010). Regardless of the country, religious, political or organisational contexts, experiences of institutional care have been "marked and sometimes defined by physical violence, emotional violation, sexual abuse, exploitation and neglect" (Penglase cited in Skold 2013, p.6 & 7). Since the 1990's, at least nine countries have initiated inquiries or truth commissions into child abuse and neglect in institutions: Australia, Canada, Norway, Iceland, Britain, Sweden, Denmark, and Germany (Skold 2013). This provides some indication of the global and systemic failures of organisations charged with providing care for children.

Impact of child abuse

The physical, psychological and emotional impacts of child abuse on an individual are often life-long and have consequences, not only for the individual, but also their families, friends and the community (Victoria, Parliament 2013, p.xxv & p.xxvii.). Herman (1992, p.33) posits that psychological trauma, such as experiences of child abuse “is an affliction of the powerless” as it “overwhelms the ordinary systems of care that give people a sense of control, connection and meaning”. Numerous studies (Arias & Johnson 2013, p.823; Penglase cited in Skold 2013, p.13) highlight consistent themes arising from childhood experiences of abuse, such as feelings of fear, guilt, humiliation, insignificance and helplessness. On the other hand, McCann and Pearlman (1990, p.12) argue that while trauma experiences can result in commonalities among survivors, they “emphasise the importance of individual differences”. This may be due to how experiences of abuse influence identity or “inner schemata of self in relation to the world” (Horowitz cited in Herman 1992, p.51).

Experiences of child abuse often result in significant mental health problems, substance abuse issues, relationship difficulties, issues with anger management, poor life skills and education attainment levels which lead to irregular employment (Victoria Parliament 2013, p.xxviii). Understanding these personal impacts are an important initial step in formulating an appropriate response from institutions or governments that seek to provide restitution for these harms. However, it is important to acknowledge that healing from child abuse is a long-term, non-linear process and even the development of a best practice in terms of “the process nor the package of benefits could ever undo what happened” (Graycar & Wangmann 2007, p.36).

Organisational responses to historical child abuse

The Victorian State Parliamentary *Inquiry into the Handling of Child Abuse by Religious and Other Non-Government Organisations* (hereafter referred to as ‘the Inquiry’) final report *Betrayal of Trust* was released in December 2013. The report outlined significant deficiencies in current responses by organisations, predominantly on the part of the Catholic Church. Key criticisms include:

- A lack of perceived or actual independence of the complaint process from the institution;
- No recognition of the impacts on secondary victims (such as children or partners);
- No explanation as to how financial compensation amounts were determined;
- Requests for complainants to sign confidentiality agreements; complainants were not encouraged to seek independent legal advice; apologies were generic and failed to acknowledge the specific circumstances of the individual;
- A lack of counselling or other professional support; and
- Some organisations were unwilling to discipline offenders or stand them down from duty after reports of abuse were made.

(Victoria Parliament 2013, p.399)

These criticisms indicate that organisational responses are often designed with the organisations’ needs taking precedence over the victims’ needs. Gardner (2011, p.99) argues that when confronted with allegations of child abuse, Catholic Church authorities often exhibit “institutional narcissism” in denying the allegations, blaming victims and protecting perpetrators in order to maintain control over the Church or institution’s reputation. Justice Peter McClellan experienced this “institutional narcissism” first hand in response to requests to the Vatican to assist the Royal Commission in understanding the how the Catholic Church hierarchy in Australia, under direction from the Holy See,

responds to allegations of abuse. Despite the Royal Commission's far-reaching powers, the Vatican replied that "the Holy See maintains the confidentiality of internal church deliberations" and that it would be "inappropriate" to provide such documents to the Royal Commission (Gilmore 2014). Bergin (2010, p.478) asserts that the Church in these instances acts less like an institution and more like "an entity whose survival becomes an end in itself, regardless of the welfare of its members". These organisational approaches can exacerbate survivors' feelings of "shame, guilt and worthlessness" (Skold 2013, p.13).

Redress schemes

To date, Tasmania, Western Australia and Queensland state governments have instituted redress schemes to acknowledge institutional child abuse survivor's suffering. The schemes made provisions for survivors to apply (during a specific timeframe) for financial compensation in the form of ex-gratia payments within a limited monetary range i.e. eligible Queensland applicants received payments from \$7,000 up to \$40,000 (Queensland Government, Forde Inquiry and Redress of past abuse section). The definition of 'redress' is to "remedy or set right an undesirable situation" (Oxford Dictionaries online). Evaluations of redress schemes indicate that some of these remedies have been better than others.

The Law Commission of Canada (Institute for Human Resource Development cited in Graycar & Wangmann 2007, p.5) commissioned a report into redress schemes as an alternative dispute resolution process to civil court-based settlements and found that these settlement approaches appeal to governments because they limit "exposure to damages", as well as, allow

governments to maintain “control of the process of resolution and information about the abuse”. The State’s need for power and control are in direct conflict with survivors’ needs, particularly in instances where they may be exposed to “specific reminders of the trauma”, such as telling their story of abuse during a claim hearing (Herman 2005, p.574). Providing opportunities for survivors to actively participate and help determine what redress means to them may allow healing to take place *within* the survivor, not something that is done to them (Arias & Johnson 2013, p.823).

Alternative avenues for justice

The *Betrayal of Trust* report reflected on the meaning of ‘justice’ in relation to the testimony of 100 witnesses. It concluded that the meaning is unique to each victim, while also being multidimensional (Victoria Parliament 2013, p.89). The report recommended reforms to both the civil and criminal justice systems to better support victims, and outlined possible amendments to the Victims of Crime tribunal as an alternative avenue for justice (2013, p.xlvi). Victims of Crime tribunals are inquisitorial not adversarial, as opposed to civil and criminal justice processes, with a focus on financial compensation paid by the offender. While the inquisitorial nature of Victims of Crime tribunals is a more victim-centred approach, research affirms that “a compensation scheme that does not take reasonable steps to address the therapeutic needs of claimants is one that cannot achieve its professed restitutionary goals” and that “money alone cannot heal” (Feldthusen, Hankivsky and Greaves cited in Graycar & Wangman 2007, p.7). The Law Commission of Canada argued that alternative dispute resolution processes must be about “more than simply lowering

transaction costs, and should encompass relationship and shared decision making by groups with similar resources” (Institute for Human Resource Development cited in Graycar & Wangmann 2007, p.5). Other forms of redress, therefore, warrant investigation.

Restorative justice

Restorative Justice may offer a viable and innovative alternative to existing civil, criminal, organisational or redress approaches. The Restorative Justice Council in the United Kingdom offer this definition:

Restorative processes bring those harmed by crime or conflict, and those responsible for the harm, into communication, enabling everyone affected by a particular incident to play a part in repairing the harm and finding a positive way forward.

(Restorative Justice Council, What is Restorative Justice section)

Restorative Justice (RJ) offers a more victim-centred approach than the criminal justice system and the inclusion of family and community members to take part in the interaction also presents opportunities for holistic justice through “face-to-face communication, truth telling, personal empowerment and healing by all parties” (van Wormer cited in Rudolph 2006, p.69). With its roots in ancient indigenous societies (Rudolph 2006, p.69) and modern origins in dealing with minor offenses, such as theft, RJ initiatives have developed and expanded not only to address more serious crimes, such as homicide and rape, but it also encompasses a social movement (Beck et al. 2011).

Despite the rise in popularity of RJ over the past few decades, some fail to see the benefits of this approach. One of the main criticisms is a feminist perspective of applying RJ to gendered crimes such as domestic violence and sexual assault. Herman (2005, p.598) warns that these crimes “shame and stigmatise the victim” and that justice cannot be achieved using RJ due to the reliance on patriarchal community standards. Others argue that due to the key component of RJ, which aims to reform the offender, the process is in reality offender-centred, not victim-centred (Cunneen & Hoyle 2010, p.136; Mika et al. cited in Beck 2011). Furthermore, Pavlich (cited in Zernova 2007, p45) draws parallels between the medical model and RJ and questions the assumption that “crime is a form of disease that destroys.... healthy relationship(s) and generates trauma” for which Restorative Justice “offers a medicine”. Acknowledging that RJ is contested helps us to understand the challenges of providing restitution and accepting that despite the potential of RJ, a panacea does not exist.

Although there are multiple applications and definitions, many agree on the values and principles of RJ. Van Ness and Strong (2010, p.49) identify ten operational values: encounter, amends, reintegration, inclusion, assistance, collaboration, empowerment, moral education, protection and resolution. Many of these resonate with social work values and principles such as: a belief in the equal worth of all human beings, equality, acceptance, collaboration between individuals, families and communities, positive change, personal agency and choice (Constitution of the AASW cited in Australian Association of Social Work Code of Ethics 2010). To date there has been little opportunity for social workers to help support survivors of institutional abuse. Perhaps there is a role for the social work profession to become involved in developing new empowering,

validating and respectful approaches, to help ensure survivors' needs are being met.

Using a RJ model in response to adult survivors of institutional child abuse is beginning to emerge as an intervention in North America. In one example of its application to a clergy abuse case, Church officials (not the offender) participated in mediated discussions with 36 abuse survivors and community members, and were reported to show "compassion" and "empathy", and "sincere apologies" and financial compensation were offered (van Wormer 2004, p.114). While there have been no reported incidences of RJ being used in an Australian context to date, RJ has been adopted by the Australian Defence Abuse taskforce. These applications indicate that further exploration of RJ in response to institutional and historical child abuse is warranted.

Conclusion

The Victorian Parliamentary *Inquiry into the Handling of Child Abuse by Religious and Other Non-Government Organisations* and the *Royal Commission into Institutional Responses to Child Sexual Abuse* have begun to uncover the extent of institutional child abuse. The question remains, how best to respond to allegations of this nature, repair the harm and address the lifelong impacts of childhood trauma. Recommendations to improve reparation include civil and criminal law reform, expanding the Victims of Crime tribunal remit and overhauling existing organisational responses. The principles and values of Restorative Justice may offer a positive alternative to current responses.

This research will investigate survivor lived-experience of institutional responses to historical child abuse and examine whether a Restorative Justice

model could better support survivors and provide opportunities for them to heal from past wrongs.

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Portfolio Paper 2 – Scoping Study

Main Research question:

How can the principles of Restorative Justice be used to improve institutional responses to historical child abuse?

Sub-research questions the scoping study is addressing:

- What are the Australian policy and practice contexts in relation to institutional responses to historical child abuse?
 - What is the extent of the abuse?
- Who are the stakeholders and what influence do they have?

Portfolio paper 2 - Scoping study

Introduction

In 2003, the Commonwealth Government established a Senate Inquiry to investigate Australia's history of institutional or Out-of-Home Care. The Senate Committee published its final report in 2004. The cohort of people who spent time as children and young people in institutional care between 1920 and 1970 comprise some 500,000, and are now known as *Forgotten Australians* (Commonwealth of Australia 2004). Victoria's *Forgotten Australians* and the responses they receive in relation to their experiences of institutional child abuse are the focus of this study.

The scoping study will examine the national and state policy and practice context of responses to institutional child abuse, as well as attempting to establish the extent of the abuse and influence of stakeholders on current responses. The methodology for this scoping study involves a critical analysis in terms of ordering, reviewing, analysing and synthesising a range of data. Data sources include: media articles, ABS data, Government publications and legislation, and scholarly literature. These data sources were selected for two main reasons:

- a) To cover a broad range of perspectives; and
- b) Because very little research has been conducted, in Australia or internationally, on institutional responses to historical child abuse or the application of a Restorative Justice model to these crimes.

Extent of abuse and neglect in institutional care

Despite numerous Inquiries in Australia, instituted as a result of public pressure to investigate allegations of poor conditions, maltreatment and abuse,

the actual prevalence of these abuses is not known. The earliest, documented Inquiry into institutional care was the NSW Royal Commission (1874). In the mid-1900s, two Inquiries examined specific institutions: the *Inquiry into the Parramatta Girls Industrial School* (1945); and the *Schwarten Inquiry into Westbook farm home for boys in Queensland* (1961). The Queensland State Government was the first to institute state-wide investigation, now known as the *Forde Inquiry* (1998) (Commonwealth of Australia 2004).

No single Inquiry has set out to examine all forms of child abuse and neglect in all former institutions. In 2012, following on from the *Cummins Report of the Protecting Victoria's Vulnerable Children Inquiry*, the Victorian State Government ordered a Parliamentary *Inquiry into the Handling of Child Abuse by Religious and other Non-government Organisations*. Its final report *Betrayal of Trust* was published in November 2013. The Terms of Reference for this Inquiry included both the handling of historical abuse allegations as well as in-depth investigations of current Out-of-Home Care practices (Victoria Parliament 2013). The Government's decision not to include former government-run homes, of which there were reportedly 19 institutions, in its scope for examination was criticised by care leaver support and advocacy groups such as Care Leaver Australia Network (2012). Care Leavers Australia Network (CLAN) suggest that of the estimated 500,000 children placed in care as state wards or as voluntary placements in Australia, at least 100,000 spent time in one or many of the 132 homes in Victoria run by various religious, non-government and government organisations (2012). The Royal Commission into *Institutional Responses to Child Sexual Abuse*, established 11 January 2013, is not investigating allegations of physical, emotional or psychological child abuse or neglect, unless there has also

been sexual abuse. Herein lies the challenge of identifying the extent of child abuse and neglect in former institutions.

The *Betrayal of Trust* report (2013) asserts that estimating the extent of child abuse in religious and non-government organisations can only be speculated upon, as there is minimal data available regarding prevalence in the wider community, and even less in relation to incidences in institutions. Based on submissions, the report stated that almost 60% of the overall abuse took place between the 1950s and 1960s, which is consistent with accounts that institutional care peaked in Victoria during this period, with 85% of state wards living in institutional care (Victoria Parliament 2013; Commonwealth of Australia 2004, p.21).

The context of the abuse is important to note as it helps provide a picture of who was responsible, both for the care of the child and the management of the organisation. An expert witness testified that incidence of abuse in Catholic institutions would be six times the amount of all other churches combined in Australia, at a conservative estimate (Parkinson cited in Victoria Parliament 2013, p.155). One reason for this could be that by 1960, the Catholic Church, in addition to having the highest number of orphanages in Victoria compared with other denominations (CLAN 2012, p.8), was also responsible for educating about 22% of all Victorian school children (Sheehan 2004). The *Betrayal of Trust* outlines the following contexts:

- 37% in institutions
- 39% in schools
- 22% in parishes
- 2% did not specify

(Victoria Parliament 2013, p.54)

The age of the children ranged from under 4 – 17 years, with the majority being male. Of the submissions the Inquiry received, abuse was categorised into the following:

- Physical 23.6%
- Sexual 48.1%
- Combination of physical, sexual and emotional 27.4%
- Unspecified 0.9%

(Victoria Parliament 2013, p.51)

The Australian Bureau of Statistics estimates that, within the general population, 17% of all women and 4% of all men have experienced sexual assault from the age of 15 and that 12% of women and 4.5% of men experienced sexual assault before age 15 (ABS 2012 & 2005 cited in Centre for Innovative Justice 2014, p.14). Police data is unable to shed any light on the extent of child sexual abuse, as sexual assault is “the most under-reported form of personal violence and therefore, the true prevalence is unknown” with an estimated 17% of incidents being reported to police (Centre for Innovative Justice 2014, p.14). Only 10% of survivors who made submissions to the Victorian Inquiry had reported the abuse to police (Victoria Parliament 2013).

The Royal Commission has been holding private sessions in capital cities and regional centres for people to share their experiences. The Commission’s focus is sexual abuse of children in institutions, whereas this study includes all forms of historical and institutional child abuse. However, the Royal Commission is the most comprehensive investigation into institutional child abuse in Australia to date as it is also investigating government organisations, previously ignored by the State Parliamentary Inquiry. The Commission continues to receive approximately 40 requests for private sessions per week (McClellan 2014). The Commissioners have found that speaking about the abuse in a private

hearing is sometimes the first time a survivors have talked about it, as many delay disclosure for years even decades (Australia Parliament 2014, chapter 5). A two-year extension in order to hear an estimated 7,000 victims' stories has recently been granted by the Attorney General, George Brandis (Attorney General 2014). The final report is now due on 15 December 2017.

Tragically, many victims, unable to live with their experiences, have committed suicide. Broken Rites, an advocacy and advisory service for people who have experienced abuse by clergy or church employees, asserts that at least seven men have taken their own lives out of a total of 69 boys who were placed at the Cheltenham Home around 1960, due to the long-term effects of the abuse they suffered as children (Chamley 2012). Whilst we can surmise that some homes were worse than others, it is impossible to determine how many adults have taken their own lives for this reason. There is also an "incredible toll that victims' families have to pay, often unacknowledged and in complete silence" (Waks cited in Victoria Parliament 2013, p.78). These people are referred to as 'secondary victims'.

Overview of the history of Australian child welfare policy and legislation

The Commonwealth Inquiry into *Forgotten Australians* gathered information on historical state policy and legislative frameworks regarding the institutionalisation of children. The final report outlines some of challenges they faced in undertaking this task. One such challenge was that "no comprehensive histories about the States' establishment of separate social welfare departments are available, presumably because such issues have always been a State responsibility, with myriad arrangements to accommodate them" and have been

“largely ignored by historians and governments alike” (Commonwealth of Australia 2004, p.18).

It is clear, however, that prior to 1890, Church organisations generally provided alternative accommodation for children whose families were unable to do so (Commonwealth of Australia 2004). Government ambivalence towards providing care and running institutions was largely due to the fact that religious organisations could often take children at short notice and that this arrangement was more cost-effective (Commonwealth of Australia 2004, p.18). Over time, governments have slowly increased their involvement in the welfare of children with pieces of legislation being introduced in jurisdictions around the country such as the *State Children Act 1911* (Qld), *Child Welfare Act 1923* (NSW), *Children’s Welfare Act 1954* (Vic), and *Social Welfare Act 1970* (Vic). The first legislation regarding mandatory reporting of child abuse was not enacted in Australia until 1969 (Matthews & Walsh 2014).

Key stakeholders and their role and influence on responses

Past providers of Out-of-Home Care

Past providers of Out-of-Home Care have a moral obligation to provide full and fair reparation to survivors of historical and institutional child abuse, but the existence or adequacy of organisations’ complaint handling processes is determined by many factors. Julian Pocock, Director of Public Policy and Practice Development at Berry Street, one of Victoria’s largest secular community service organisations and a past provider of Out-of-Home Care asserts, “the adequacy of the current response to an adult who suffered abuse in care is an accident of history” (2012, p.13). Mr Pocock added that organisational responses that

include “full and fair reparations” would largely be influenced by the organisation’s financial position, resources to maintain historical client records and its capacity to investigate allegations (2012, p.13). However, the Victorian State Parliamentary Inquiry, which focused on the Catholic Church, the Salvation Army and the Anglican Church, found that the “seriously inadequate” handling of criminal child abuse was motivated by “self-interest and the protection of the organisation”, rather than being determined by the organisation’s size and financial position (Victoria Parliament 2013, p.121). The Catholic Church, for example, reportedly paid \$17 million in compensation payments to 326 victims since 1996 (Lee 2014). As Robinson (2010 cited in Gardner 2011) explains, the Catholic Church had no regard for its victims whose complaints were met “with denial, arrogance and cover-ups and with incompetence and incomprehension in some cases” (p.107).

Criminal and Civil Justice systems

Institutional child abuse survivors can seek justice and redress for their experiences through the criminal and/or civil justice systems, both of which have their own unique challenges. As mentioned previously, survivors are highly unlikely to report the abuse to police. This may be due to the historical nature of the abuse and the fact that the adult survivor may not know the identity of the perpetrator, they must rely on traumatic childhood memories. Another reason for survivor reticence to seek justice through the criminal justice system may be the inherent nature of the system, which is to punish offenders rather than give redress to victims. Recent research into the Victorian criminal justice system and its treatment of adult sexual assault survivors found that reforms designed to

address the needs of survivors have not gone far enough (Bluett-Boyd & Fileborn 2014). This is due to the foundations on which our legal system is built - the presumption of innocence until proven guilty. This presumption “creates a swathe of evidentiary hurdles that the prosecution must overcome to be successful” (Centre for Innovative Justice 2014, p.18). Most cases continue on a ‘my word against yours’ basis with guilty findings rarely occurring (Centre for Innovative Justice 2014). Therefore, the chances of a perpetrator of historical child abuse being incarcerated as punishment and to remove opportunities to reoffend are negligible.

Some survivors of institutional child abuse have sought justice and reparation through the civil justice system, which is seen as being more survivor-focused than the criminal justice system. The Royal Commission, in addition to conducting public and private hearings, is also conducting research. In a submission to an Issues Paper on Civil Litigation, the Centre for Excellence in Child and Family Welfare cited numerous barriers that may deter survivors from undertaking civil litigation against the former Out-of-Home Care provider.

These barriers include:

- Emotional cost due to the adversarial nature of the process such as examination and cross-examination;
- Financial cost in terms of the risk of paying the opponent’s legal fees if unsuccessful;
- Early dispute resolution resulting in small amounts of financial compensation; and
- The challenges of proving that the victim’s injuries and losses were caused by the abuse (as opposed to before they were placed in care) and the way damages are assessed.

(Centre for Excellence in Child and Family Welfare 2014)

The *Betrayal of Trust* recommendations included the elimination of two key obstacles in the pursuit of justice and redress through the civil justice system. These are that in order to be sued, non-government organisations (including churches) should be incorporated and adequately insured, and that the statute of limitations be amended to remove limitation periods in relation to criminal child abuse (Victoria Parliament 2013).

Attempts to achieve justice, empower survivors and exercise personal agency have also taken the form of class actions, but studies have suggested that law suits often leave survivors feeling “at best underwhelmed, at worst, used or duped by lawyers in the quest for money (Balboni & Bishop 2010, p.151 cited in Keenan).

Governments

Care leaver groups, such as CLAN and past providers such Berry Street’s preference is for governments to introduce a comprehensive redress scheme, primarily because religious and non-government agencies were providing a service on behalf of the State (CLAN 2012; Pocock 2012). The Royal Commission is undertaking research into redress schemes and exploring answers to questions in relation to the legal or moral obligations of institutions that employed child abuse perpetrators (often referred to as ‘vicarious liability’), level of financial contribution to the scheme by past providers and whether the scheme should be national or state-based, voluntary or compulsory (McClelland 2014).

The state parliamentary Inquiry recommended that the Victims of Crime Assistance Tribunal (VOCAT) be used to provide justice for survivors of

institutional child abuse, as this would “enable the Victorian Government to respond to victims of criminal abuse in an integrated way” (Victoria Parliament 2013, p.571). There are considerable limitations by modifying an existing government body to facilitate justice and healing for a cohort with complex needs.

Survivors, families and the community

Survivors have played a significant role in bringing about the state parliamentary Inquiry and the Royal Commission. Their influence and ability to raise awareness has largely been through media coverage and direct action. At a protest staged outside St Paul’s Cathedral in Melbourne, Leonie Sheedy, Chief Executive of CLAN, welcomed the establishment of the Royal Commission but criticised its Terms of Reference. Ms Sheedy (2013, cited in Zielinski) argued that the “Victorian government, churches and charities [should] acknowledge the full extent of abuse, neglect and slave labour forced on thousands of orphaned children” and that many victims now live “in poverty and on disability pensions” due to their experiences of all forms of child abuse and neglect. In defence of the Terms of Reference, former Prime Minister, Julia Gillard (2013, cited in Hall and Lee) stated that the process needed to be “manageable and can be worked through in a time frame that gives the recommendations real meaning”.

The State Parliamentary Inquiry acknowledged that involving survivors and care leaver advocacy groups in the process of creating alternative justice pathways for criminal child abuse is vital (Victoria Parliament 2013). As an example, the *Grandview Agreement* (1998) was negotiated between the Canadian Government and elected members from the Grandview Survivors Support group

and resulted in three broad categories of reparation: group (removal of Grandview identification tattoos), general (legislative reform) and individual (counselling, training, apologies and financial compensation). In addition, the survivor group was empowered to help design the process for claims to be heard to ensure re-traumatising survivors was kept to a minimum (Graycar & Wangmann 2007). An evaluation of the *Grandview Agreement* found that of the women who participated in the evaluation, 70% agreed either 'somewhat' or 'a lot' that the Agreement had aided their healing (Graycar & Wangmann 2007, p.36). Further research in the form of a longitudinal study, which looked at long-term survivor satisfaction rates and self-reported healing after accessing collaboratively designed redress schemes, compared with little to no collaboration, would help inform future organisational and government responses.

Despite the *Betrayal of Trust's* respect for The *Grandview Agreement* as a model example of a survivor negotiated settlement package (Victoria Parliament 2013), it does not appear that survivors have been consulted in relation to amending the Victims of Crime Assistance Tribunal (VOCAT) to facilitate survivor abuse claims. A possible explanation for the minimal or tokenistic consultation between the Victorian State Government and survivors of institutional child abuse may be that once elected, political parties are motivated to stay in power. This can lead to a focus on short-term solutions to social problems in order to be able to show what has been achieved while in office. Using an existing body, such as the VOCAT rather than building a potentially costly redress scheme from the ground up, such as the *Grandview Agreement*, offers a potential quick fix to a major social issue facing thousands of Victorians.

In addition, VOCAT settlements are capped at \$50,000, which may be a more attractive compensation figure for governments who are vicariously liable for the abuse of children in state-run homes.

Conclusion

The extent of historical and institutional child abuse is unknown due to political and policy related constraints. In addition, child abuse survivors are unlikely to report to police and disclosing the abuse can take years, or even decades. Historical child welfare policies have been state-based and concerned with being cost-effective rather than comprehensively addressing the need to protect children in institutional care. Current legal, organisational and governmental responses consistently fail to meet survivors' needs. While some call for a government redress scheme to be developed, evidence would suggest that allowing survivors to participate and collaborate in creating a response could improve healing and justice for survivors.

Word Count: 3,030

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Portfolio Paper 3 – Content Analysis

Main Research question:

How can the principles of Restorative Justice be used to improve institutional responses to historical child abuse?

Sub-research questions the content analysis is addressing:

- What were the survivors' experiences of the organisational process of making a complaint?
- What were survivors' experiences of the civil and criminal justice systems in achieving justice for the harm caused?
- What forms of acknowledgement or reparation did survivors receive to assist them to heal, and was this a satisfactory outcome to the complaint?
- How did survivors feel about the treatment they received from the institution throughout the complaint process?

Portfolio paper 3 - Qualitative thematic content analysis

Background

The content analysis addresses sub-questions of the main research question, 'how can the principles of Restorative Justice be used to improve responses to survivors of historical and institutional child abuse?' In order to answer this question we must first determine what complainants think and feel about current responses. The following sub-questions will be addressed using a thematic qualitative content analysis methodology:

- What were the survivor's experiences of the organisational process of making a complaint?
- What were survivors' experiences of the civil and criminal justice systems in achieving justice for the harm caused?
- What forms of acknowledgement or reparation did survivors receive to assist them to heal, and was this a satisfactory outcome to the complaint?
- How did survivors feel about the treatment they received from the institution throughout the complaint process?

Methods

This research is underpinned by an interpretivist/constructionist epistemology, which asserts that the world is socially constructed; that "different people will construct meaning in different ways" (Crotty 1998, p.9). Consistent with this epistemology, a qualitative, thematic content analysis was selected as a means to highlight the survivors' perspectives, beliefs and perceptions (Luborsky cited in Tippens et al. 2013). Thematic analysis is a method for "identifying and analysing patterns of meaning in a data set" (Braun & Clarke, cited in Joffey 2011, p.209). The data set analysed was institutional child abuse survivor submissions to the Victorian State Parliamentary Inquiry into *Responses*

to Religious and Non-Government Organisation Institutional Child Abuse

(hereafter referred to as 'the Inquiry'). A sample of 13 institutional child abuse survivor submissions was selected. In order to highlight survivor lived-experiences, emic coding was applied to the data set because "it relates to the words and phrases used by ... participants" (Whittaker 2012, p.97).

Sample

The secondary data sources used in this research are publically available submissions located on the Inquiry webpage. The data was deemed current as the final report was tabled in the Victorian Parliament in November 2013. The Inquiry webpage included a total of 352 submissions. Inclusion criteria were developed in order to gather data from the survivors themselves, as opposed to relatives or victim support organisations.

The following inclusion criteria were applied:

- The submission was written by the institutional child abuse survivor describing their own experience of abuse; and
- The submission included information relating to the response they received from the institution when making a complaint as an adult.

Further, it was determined that:

- Submissions could include any gender, age at time of abuse, or denomination of past provider of institutional Out-of-Home Care; and
- Poems and other forms of artistic expression included within selected submissions were not included, as they would require interpretation by the researcher.

After application of the inclusion criteria, 13 submissions were selected, which ranged from 1 - 33 pages. The average submission size was four pages. A large percentage of the data fell outside the criteria as the submissions were

written on behalf of organisations. The selected data set for this research all relate to religious institutions. This is indicative of the total number of public submissions made to the Inquiry in which more than 80% related to abuse in Catholic institutions (Victoria Parliament, 2013, p.6). This research will, therefore, refer to the organisation as the 'Church'.

Data analysis

During the initial inductive phase of data analysis, the researcher wrote passages of data in a codebook, 'bracketing' prior knowledge of the topic and recorded emerging themes based on the frequency, direction and intensity of the data in each submission. Ashworth (cited in Finlay 2011, p.76) posits that there are limitations regarding what researchers can 'bracket' which include "the belief that the research participant is a competent human being whose life-world is open to empathic understanding since it shares at least certain baseline meanings with our own life-world as investigators". The first review of the data used emic or 'in vivo' coding in order to capture the survivors' lived-experiences of 'what happened' and 'how it was experienced' (Whittaker 2009, p.81). Patterns were identified using both explicit, or *manifest* coding and implicit, or *latent* coding (Joffey 2011). The codebook was transcribed into tables, then the data was analysed a second and third time for consistency. As thematic coding allows for text to refer to multiple topics, in some instances, text was allocated to multiple themes (Kuckartz 2014). Text that did not contain information relating to the Meta or sub-themes was discarded.

Ethics

Whilst the data sources were publically available with the survivor's name published on each selected submission, the data has been de-identified in accordance with the Social Work Code of Ethics, which stipulates, "informed consent to participation has been obtained" and the "privacy and dignity of research participants" will be protected (Australian Association of Social Workers 2010, p.36). De-identifying the data sources is also consistent with a rights-based approach to research, which asserts that researchers "owe a duty to avoid or minimise harm, provide informed consent, and protect confidentiality" (Bishop 2009, p.258). Coded text has been assigned a two-letter identifier followed by the relevant page number i.e. ED12.

Results

The thematic analysis resulted in four meta-themes and fourteen sub-themes, a sample of which is outlined in Figure 1. Survivor lived-experiences of both making a complaint as an adult, as well as the outcome were overwhelmingly negative.

A minute number of data referred to the benefit of making a complaint and going through the process; "the symbolism of the apology and money did alleviate some of the hurt and anger" (JD4). There was slightly more direction-neutral text where survivors asked rhetorical questions; "how are financial compensation amounts determined?" (BC2), and "how can victims recover knowing he admitted no responsibility, expressed no remorse and faced no consequences?" (ND10).

Meta-theme 1 Attitude of Church towards complainant	Meta-theme 2 Church processes	Meta-theme 3 Criminal and civil processes	Meta-theme 4 Reparation offered
JD4 – treatment from Church was harsh, cold and uncaring	HB1 – Church demanded the complaint be in writing	BC4 – expensive litigation process is prohibitive after everything we've been through	BG5 – compensation amount does not equate to my ruined life
TE1 – Church treated me with contempt, no compassion	JD4 – I was required to sign a confidentiality agreement at settlement	GC2 – organisations push survivors to pursue claims in court which are unlikely to result in a positive outcome due to a lack of financial resources and evidence	JD4 – the symbolism of the apology and money did alleviate some of the hurt and anger
ND20 – Church representative's body language indicated clearly that he had no desire to listen to anything we might say. His mind and heart were closed in advance	JF1 – four victims are still seeking compensation after three years	JF1 – the accused was legally assisted by the Church to dodge consequences for his actions	HB1 – I was not offered psychological support or counselling
TH5 – I was viewed by the Church, not as a person wronged,...just trouble. Someone who cost them their filial tranquillity.	TE1 – Church process lead to emotional exhaustion of going over the past	ND30 – police and court systems immensely biased towards protecting powerful male offenders and features innumerable loopholes	PB4 – they were not going to take my God away from me, too.
PB3 – Church really did not care	ND25 – mediation was adversarial, legalistic, insulting, intimidating, disempowering and traumatic	TH4 – I did not want to go through the criminal legal process as such a path would inflict more trauma upon myself and delay healing for years	WH1 – no support was offered to my family or parish community

Figure 1. Meta-themes and text samples

The frequency of text relating to the meta-themes, *Church representative attitude towards complainant*, *Church processes*, *civil or criminal processes*, and *reparation offered* is illustrated in figure 2. As illustrated in Figure 2, over 50% of data referred to Meta theme 2 -*Church processes* and Meta theme 3 - *Civil and Criminal processes*. These two meta-themes have been further analysed to determine sub-themes in relation to what the survivor thought and felt about process issues, as illustrated in Figure 3.

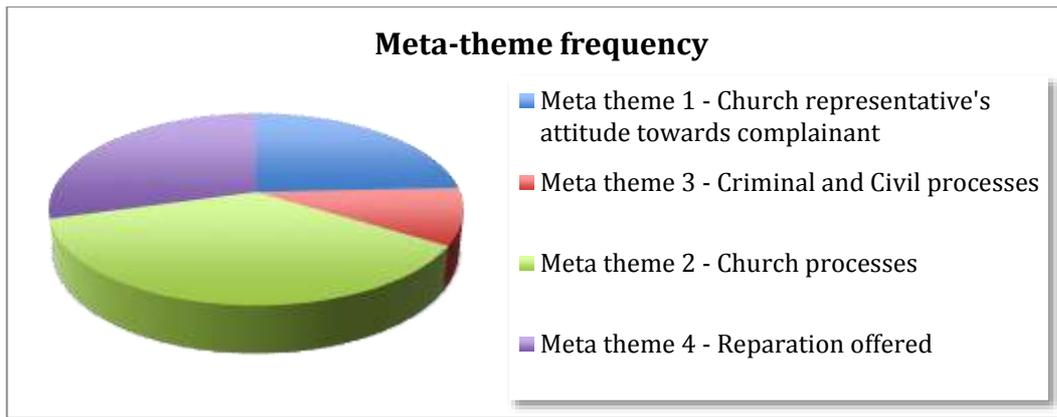


Figure 2. Meta-theme frequency

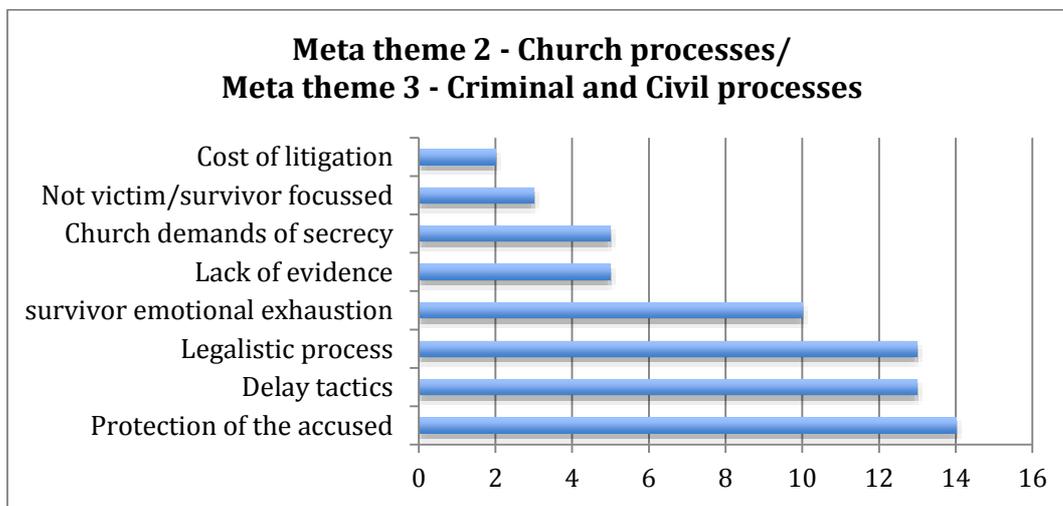


Figure 3. Church and legal process sub-themes

The remaining two meta-themes are Meta-theme 1 - the *attitude* of the Church representative/s and Meta-theme 4 - the *reparation* offered. These meta-themes have been further analysed into sub-themes to determine what the survivor thought and felt about those interpersonal, acknowledgement and reparation issues, as illustrated in figure 4.

Survivors were offered financial compensation, an apology and sometimes counselling. Some survivors mentioned a lack of acknowledgement of spiritual damage, “the biggest failure of current responses is that it fails to

address fractured spirituality and faith” (TH2). Others felt that secondary victims also need assistance, “no support was offered to my family or my parish community” (WH1).

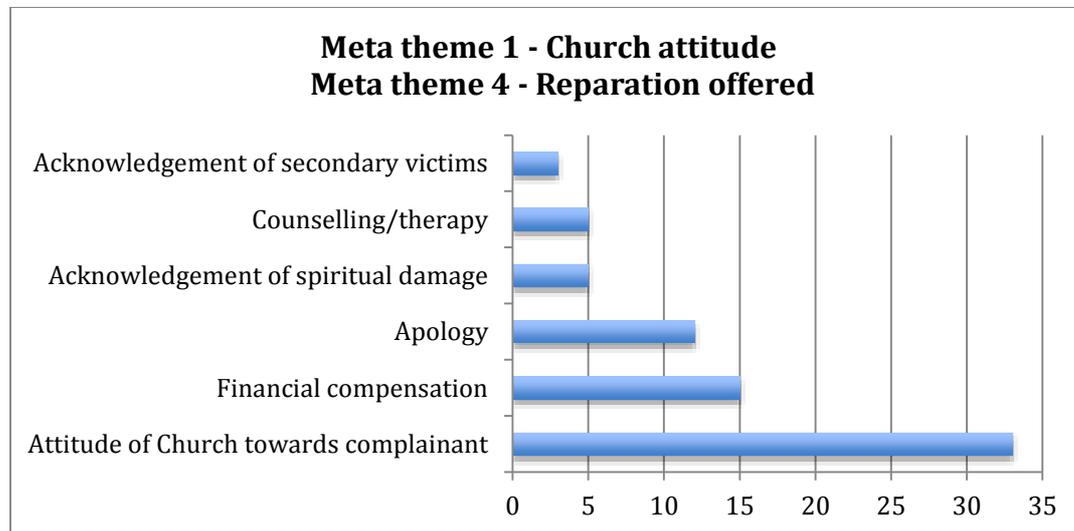


Figure 4. Attitude of Church and reparation offered sub-themes

Discussion

This discussion will address each sub-research question separately and draw some conclusions from the results using additional published materials. The first sub-research question asked, what is the survivor’s experience of the process of making a complaint to the institution responsible for their care during the time of the abuse? The data show that the most common criticism complainants had about the response was the Church’s *protection of the accused*. One survivor stated the “accused as been ‘shuffled’ to another parish, another state, even another country with blemish-free reputation and a fresh name to match” (ND24). These findings are consistent with a preliminary report commissioned by the UN Committee on the Rights of the Child, *Child Sexual Abuse and the Holy See: the need for justice, accountability and reform* (CRIN

2014). Child Rights International Network (CRIN) reported that the Catholic Church globally transfers priests accused of sexually abusing children in a practice “morbidly referred to as the ‘geographical cure’, [which] was meant to ‘relocate, forget, sweep under the rug’ cases of child abuse in order to protect the institution” (CRIN 2014, p.31).

Rather than reflecting on what may be contributing to systemic child sexual abuse, such as mandatory clerical celibacy, the Catholic Church’s response has focused on individual failing. Cowdell (2008, p.33) applied Family Systems Theory to the way the Church understands clergy sexual abuse, and suggests that the offending priest is the ‘designated patient’, or scapegoat, who acts-out the “abusive dynamics of a larger system in the Church”. This lack of accountability and refusal of Church leaders to address broader issues denies rational argument, justice for survivors and perpetuates the initial harms (Cowdell 2008; Keenan 2012).

The next most common sub-themes were *delay tactics* and *legalistic Church processes* both of which led to *survivor emotional exhaustion*. Survivors report that the Church implements strategies to deny responsibility; relies on complicated and legalistic processes, and applies intentional delaying tactics to deter claimants from pursuing their claims. Survivors stated that the Church “took three years to talk to me about the abuse, after I threatened to expose them publically” (TE1), and “the process had significant delays, which was re-traumatising” (WH1). These strategies have been confirmed by testimony at the Royal Commission where Cardinal George Pell confessed that when he was the Archbishop of Sydney, he instructed Church solicitors to “vigorously” and “strenuously” defend claims to discourage other claimants from making a claim

of clergy abuse (Armitage 2014, para 2).

The State Parliamentary Inquiry *Betrayal Of Trust* report identified the organisational responses lack of independence from the Church as problematic. While this research did not identify a lack of independence from the Church as an issue for survivors, many stated that the *Church demands for secrecy* was oppressive and controlling. The report recommended an independent body is established to “oversee the handling of allegations of child abuse” and “undertake independent investigations into systems and processes” (Victoria Parliament 2014, p.xlvi). Pope Francis has instituted some new measures within the Catholic Church to help protect children against clergy sexual abuse, but there is still “no transparent and decisive system with which to deal with the problem on a global scale” (CRIN 2014, p.39). Therefore, introducing a safeguard to ensure transparency and accountability to the Church could be highly advantageous for claimants.

The sub-theme of *Church demands for secrecy*, where the majority of claimants were required to sign a Deed of Release before a financial compensation payment was made, also illustrates the Church’s aim of containing the problem of clergy child abuse. Survivor TH5 was made to sign a Deed of Release at settlement to which he/she affirmed, “silence is one of the most insidious aspects of abuse and confidentiality perpetuates it”. Keenan (2012, p.206) found that Church leaders prioritised “preventing scandal”, both in terms of protecting the reputation of the Church, but also that “they believed it was better for everyone if this information did not reach the public realm”.

The next sub-research question asked about survivors’ experiences of the civil and criminal justice systems in achieving justice. This theme is less

prevalent for survivors compared to Church processes, which is unsurprising for reasons previously discussed in the scoping study. Sub-themes *survivor emotional exhaustion*, the *cost of litigation* and *lack of evidence* by which to prove historical abuse, highlight some of the challenges for survivors of navigating and sustaining a claim through the civil and criminal justice systems. Survivor BC7 asserted that, “justice needs to be done for all victims of institutional abuse. Not just for a few survivors who happen to have enough corroborating evidence and the resilience to go through a lengthy legal process”.

In recognition of the numerous barriers to justice and healing for survivors, the *Betrayal of Trust Report* made 15 recommendations. Three of these have been implemented to date (Lee, 2014). All three relate to strengthening protection for children today and in the future, such as the creation of new offences for grooming. None relate to improving outcomes for survivors of historical abuse. Reforms for a fourth recommendation, the introduction of Working with Children Checks for religious ministers, are in train. The Victorian Governor stated that the government were currently working on laws “particularly in relation to the civil redress, limitation of actions and civil liability provisions” (Lee 2014, Para 4). If these reforms are passed, this will be an important step forward for survivors. As one survivor stated, the police and court systems are “immensely biased towards protecting powerful male offenders” and feature “innumerable loopholes” (ND30).

As illustrated in figure 4, of the 13 submissions analysed, the *attitude* of the Church representative both when a report of abuse was made and during the complaint handling process was mentioned 33 times. This may be a surprising result as there is often a focus by organisations on financial compensation, which

was only mentioned 15 times. These findings are consistent with Strang and Sherman's (2003, p.22) study, which found that "victims see emotional reconciliation to be far more important than material or financial reparation". The frequency with which survivors mention the process, rather than the outcome helps us understand the answer to the next sub-research question, which examines how survivors felt about the treatment they received from the institution throughout the complaint process.

The Victorian Centre Against Sexual Assault's (CASA) philosophy when working with survivors is underpinned by the right of the victim/survivor to be believed and treated with respect, dignity and sensitivity (CASA Fact Sheet). Survivor reports indicate that Church representatives did not treat the survivor appropriately when allegations of abuse were reported. The consistent message from survivors is that the treatment they received was "harsh, cold and uncaring" (JD4), "contempt, no compassion" (TE1), or "not believed because when the offender admitted to abusing children it was only females" and the complainant was male (MB1). Should Church representatives adopt CASA's approach with complainants, it is likely that the survivor would have a more favourable experience.

The final sub-research question asks what forms of acknowledgement or reparation survivors received to acknowledge their experiences of institutional child abuse assist them heal, and was this a satisfactory outcome? Of the data set analysed, no survivors mentioned that they were satisfied with the outcome of their complaint. Most survivors had eventually been offered financial compensation, which was "insufficient" (JD4), "offensive" (JF1), or the very idea of money was "abhorrent" (ND31). Many survivors were provided with written

apologies, which survivor WD3 said, “did nothing to alleviate my pain and suffering, and seemed far from genuine”. Survivor BC2 felt that the “written apology wording insinuates abuse may not have happened”. A lack of genuineness or sincere acceptance that the abuse occurred cannot provide an opportunity for the survivor to forgive the transgressor. Strang and Sherman (2003, p.23) suggest that the very “experience of forgiveness” may be the core of recovery and healing.

While a small number of survivors also wanted an acknowledgement of secondary victims such as partners, of more importance was the spiritual abuse and loss of faith they suffered. For many survivors, the perpetrator was a priest whose role was to be God’s representative on earth. This adds an important layer to institutional child abuse. In addition to the range of impacts previously outlined in the literature review, Gavrielides (2013, p.625) found the following symptoms present in survivors of clergy abuse; “significant anxiety and stress in areas such as theological belief, crisis of faith, and fears about one’s own mortality”. Lothstein (cited in Gavrielides, 2013, p.625) argues that these experiences are “akin to the murder of a person’s soul”.

Limitations and further research

The use of secondary data for this research has the benefit of providing an unrestricted account of survivor lived-experiences, as they were free to write anything about their experiences. However, the submissions focussed on issues with current responses rather than asking survivors what would help them heal. Further research that examines the ways in which the Church can restore a survivor’s faith would help inform responses. Further research using primary

data collection specifically testing a Restorative Justice model would also assist the development of an intervention of this nature.

Conclusion

This research has provided an analysis of adult survivors of institutional child abuse lived-experiences of making a report of abuse to the institution charged with their care. The analysis shows the overall dissatisfaction for survivors in terms of the attitude of the Church representative, Church processes, issues with the civil and criminal justice system, and the final outcome or reparation they received. Survivors were emotionally exhausted by legalistic Church processes and delay tactics and were highly critical of the Church denying the abuse took place as well as the Church priority of protecting the accused.

Word Count: 2,751

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Portfolio Paper 4 – Practice Intervention

Main Research question:

How can the principles of Restorative Justice be used to improve institutional responses to historical child abuse?

Sub-research question the practice intervention is addressing:

Do the principles of Restorative Justice offer an alternative organisational response to survivors that meets their expectations of justice, and more appropriately acknowledges their experiences of historical child abuse?

Portfolio paper 4 - Practice intervention proposal

Background

The impact of historical and institutional child abuse is well documented. For some, the suffering has been insurmountable and intrinsically linked to poor development of interpersonal and life skills, education outcomes, identity, and ability to actively participate in their communities. Others have been unable to live with the memories and their repercussions and have chosen to suicide. As discussed in the literature review, while the impacts can have common themes among survivors such as powerlessness, guilt and shame, there are also individual differences as many other factors influence an individual's recovery, and resilience. As outlined in this study, survivors seeking justice for their experiences of institutional child abuse and neglect, are often re-traumatised by the organisational response they received.

The practice intervention proposal will respond to the sub-research question, 'do the principles of Restorative Justice offer an alternative organisational response to survivors, which meets their expectations of justice and more appropriately acknowledges their experiences of historical child abuse? It is beyond the scope of this paper to address reforms to the civil and criminal justice systems. Therefore, the Restorative Justice (RJ) proposal is designed for organisations, such as the Catholic Church, or past providers of institutional Out-of-Home Care as an alternative to current complaint handling processes. However, an RJ therapeutic dialogue also has the potential to be built into a government facilitated redress scheme.

What do survivors want in a response?

In developing an alternative to existing organisational responses, it is important to note that no response can fully repair the harm and life-long impact of child abuse and neglect. However, given survivors' criticisms of current responses, as discussed in the content analysis as well as findings from recent and ongoing Inquiries, there is considerable room for improvement (Victoria Parliament 2013; Australia Parliament 2013). A study of child sexual abuse survivors' needs in relation to justice processes found many elements parallel the principles of RJ (Gavrielides 2013, p.629). The findings of this study, outlined in Table 1, emphasise the importance of *empowerment and self-determination* to survivors, which are often interchangeable terms.

- | |
|---|
| <ul style="list-style-type: none">• Empowerment, a voice in the justice process, and the rebalancing of power• The offender or their religious community to know first-hand the impact the abuse has had on their lives• An open, quick, thorough, independent and fair investigation of the facts without any prejudgements or conclusions about the veracity of the complaint or the character of the offenders• Full disclosure; to confront and converse with Church authorities and hear them take responsibility for the wrong• The offender and offender's religious community to be accountable and remorseful• Restoration of their faith in the Church and God• Validation of their case and suffering and support by the state and the Church• Prevention and assurance that others will not be harmed and that there is appropriate treatment for the abuser• Reasonable monetary compensation and other assistance for healing |
|---|

Table 1. Victims needs of justice processes

In addition to empowerment and self-determination, research also suggests that *participation* during justice processes is crucial, but often overlooked or undervalued by current responses. Participation has been found to assist survivors in emotional healing and reduces the sense of alienation they

feel in terms of status or lack of control over the process (Strang 2003). Research by Clark (cited in Bluett-Boyd & Fileborn 2014, p.18) identified the following key justice needs of survivors of sexual assault:

1. **Information** about the system, players, implications for them and outcomes
2. **Validation** and acknowledgement, and to be believed
3. **Voice** in order to share their experiences and be heard
4. **Control** over the processes, which were transparent and accountable

These findings suggest that the principles of Restorative Justice offer a compelling alternative to current institutional responses.

What is Restorative Justice and how might it work?

Restorative Justice models take an holistic approach to healing the harms caused by crime in that they recognise that justice is a “multi-faceted concept that takes place at individual, community and societal level” (Bluett-Boyd & Fileborn 2014, p.17). The Restorative Justice Council (UK) defines the RJ process as one that “brings those harmed by crime or conflict, and those responsible for the harm, into communication, enabling everyone affected by a particular incident to play a part in repairing the harm and finding a positive way forward” (Restorative Justice Council 2014 What is Restorative Justice section). While many definitions of RJ exist, there is general agreement on the values of: non-domination, empowerment, respect for all stakeholders, and fundamental human rights (Beck et al. 2011).

This practice intervention proposes a victim-centred response to survivors and their families with the added advantage of being efficient and

economical. The process is designed to ensure survivors are fully supported from the point of disclosure to follow-up after the restorative dialogue between parties has taken place. The survivor would be allocated a qualified, skilled and experienced case co-ordinator, such as a social worker, to assist them throughout the process. Their responsibilities would include linking or referring survivors to other support services and being the main point of contact with the organisation, should survivors or their families have any questions or concerns. As many indigenous children were removed from their families and country and placed in institutions, provision in the RJ response would include engaging indigenous case co-ordinators and facilitators wherever possible. In order to ensure the survivor is able to make an informed decision in regards to whether to participate in a RJ process, they would also be provided with written material, such as policy and program information, as well as time to reflect on the RJ model as an option.

Eligibility to participate would aim to be uncomplicated and ensure the process would not place undue emotional demands on survivors. The abuse claims would only need to be deemed 'plausible'. This would ideally be determined by, but not dependent on, the survivor's name appearing in institutional records around the time the abuse took place, and a statutory declaration submitted by the survivor describing their experiences of abuse. The eligibility criteria and approach is founded on 'do no further harm'. This is based on the Australian Defence Abuse Response Taskforce framework, which has instituted an RJ model to handle both historical and recent abuse complaints (Australian Government 2014).

The Restorative Justice model would culminate in a facilitated, therapeutic dialogue between the survivor, their family or support persons, a representative from the organisation, and other affected or concerned community members. An accredited RJ facilitator would be located through the Victorian Association for Restorative Justice (VARJ). Considerable assessment and preparation of the parties would be required prior to the restorative dialogue, also referred to as 'the encounter'.

Some issues the facilitator would explore with participants in order to promote a therapeutic encounter include:

1. Providing clear and accurate information to all participants about the purpose, potential benefits and limitations of a Restorative Justice process, as well as the roles and responsibilities of those involved and links between Restorative Justice and other interventions.
2. Is the person responsible (the organisational representative in this instance) genuinely remorseful, willing to be accountable and make a full and free acknowledgement of, and reparation for, the harm caused by the abuse?
3. Are there any risks of emotional or physical harm that may be too great for an encounter to take place, or can identified risks be managed by careful selection of venue, or direct/indirect communication etc.?

(Victorian Association for Restorative Justice, Best Practice for facilitators 2009)

MS Polis, Manager Policy and Research at the Centre for Innovative Justice at RMIT (interviewed on 30 September 2014) warned that if a survivor had had a traumatic experience in seeking justice from an organisation previously, the organisational representative would need to acknowledge the additional trauma caused by the previous response, as well as the experiences of historical abuse. Otherwise trust cannot be established between the parties and the opportunity for healing is diminished.

Once the individual parties have been assessed and appropriately prepared, they would participate in the following elements of a Restorative Justice encounter:

- **Meeting** between parties
- **Narrative** where people talk about what happened, how it affected them and how to address the harm done
- **Emotion** sharing, which aids understanding
- **Understanding** where people come to better understand each other, the crime/s, the harm caused by the crime, and how to make things right
- **Agreement** where parties have been able to explore personal, material and moral/spiritual repercussions of the crime, they design an agreement, or 'amends', that is specific to their situation and is practical.

(Weitekamp & Kerner 2002, p.3)

Agreed *amends* would be specific benefits for an individual survivor, or take the form of more general or creative acknowledgements. Amends could include: a genuine, un-coerced written or verbal apology, changed behaviour which may involve describing organisational or legislative improvements to protections for vulnerable children, and generosity. Generosity relates to the offer of services, which do not necessarily benefit the survivor, such as the establishment of a plaque on the site of a former home to acknowledge the former residents.

Discussions regarding how the organisation can provide material restitution, such as financial compensation and counselling services to survivors and their families, would be reserved for a separate conversation. Survivors have consistently stated that they do not understand how financial compensation payment amounts are determined. Therefore, a scale based on the seriousness of

the abuse and neglect would be developed. Table 2 is example of a tiered compensation schedule from the *Grandview Agreement* redress package.

ACTS ALLEGED	HARM/INJURY	EVIDENCE/PROOF	AWARD RANGE
Repeated serious sexual abuse (sexual intercourse anal/oral) & physical beating and threats.	Continued harm resulting in serious dysfunction. Adjudicator applies standards set out in Agreement.	Plausible: Medical/psychological/police reports/direct evidence of victim/witnesses/documentary-conviction of perpetrator.	\$40,000.00 - \$60,000.
Physical abuse involving hospitalization with broken bones or serious internal injuries.	Harm sufficient to justify award must be demonstrated. Adjudicator applies standards set out in the Agreement.	Same as above	\$20,000.00 - 40,000.00 "mid range"
Isolated act of sexual intercourse/oral or anal sex or masturbation with threats or abuse of position of trust.	Harm sufficient to justify award must be demonstrated. Adjudicator applies standards set out in the Agreement.	Same as above	\$20,000.00 - \$40,000.00 "mid range"

Table 2. Compensation schedule in Canadian dollars (Kaufman 2002, p.338)

Another common criticism relates to organisations requiring survivors to sign a Deed of Release, which often contain clauses that deny any admission of liability, and releases the organisation from any further legal action. When interviewed on 30 September 2014 Mary Polis, Manager Policy and Research at the Centre for Innovative Justice at RMIT, confirmed that requesting survivors sign a Deed of this nature would deny them from pursuing further legal action through the civil justice system. The RJ model aims to provide the survivor with the choice to take the civil justice option in the event they feel the outcome from an RJ process has been unsatisfactory. Ms Polis further noted that Restorative Justice legal engagements should happen in a non-legalistic environment. Given releases have a certain legal status the survivor would need independent legal advice before signing one. The requirement for a Deed of Release could,

therefore, diminish the genuine and sincere apology and overall therapeutic nature of an encounter.

It is important to note that this practice intervention proposal is a preliminary exploration. Before implementation, a Restorative Justice intervention would require in-depth collaboration with survivors prior to implementation. In addition, accurate monitoring and evaluation of this practice intervention would benefit from the development of a Program Logic which links program outcomes (short, medium and long term) with program outputs and inputs.

Restorative Justice practice intervention goals and objectives

The objective of a Restorative Justice model is that the outcome is emotionally healing due to the very nature of the process. Weitekamp and Kerner (2002, p.23) describe the core trauma of victimisation as, “disorder, disempowerment and disconnection”. Whilst there is no antidote for the harms caused by child abuse, the goal of the Restorative Justice journey towards healing is fostered by the therapeutic nature of “empowerment, order and connection” (Weitekamp & Kerner 2002, p.23).

Strengths of the Restorative Justice model

While the application of Restorative Justice to this cohort is a new and innovative intervention, it is gaining attention from academics and legal professionals due to its many benefits over current responses. Gavrielides’ (2013) study of clergy abuse cases in North America and the Australian Defence

Force adoption of RJ for its abuse taskforce program (Australian Government 2014) illustrates its growing acceptance as an alternative to current responses. RJ offers a victim-centred, cost-effective and timely response. Furthermore, RJ privileges the survivor's story for which they are appropriately acknowledged. Importantly, survivors can have a voice or some level of control over the process. RJ requires no legislative framework, but would need engagement of the leadership group within organisations to drive change. In empowering survivors with opportunities for self-determination, RJ sits alongside the civil and criminal justice systems. Survivors may, therefore, choose to pursue justice through traditional avenues at any stage throughout, or at the conclusion of the Restorative Justice process. However, survivors may feel that participating in a successful RJ process is sufficient to meet their needs such that they have no interest in pursuing justice through the civil or criminal justice system.

Limitations of the Restorative Justice model

The effectiveness of a Restorative Justice intervention to provide healing and justice to survivors depends largely on the individuals involved, the survivor's needs, psychological state and intellectual capacity, and the quality of the preparation of parties prior to the encounter. This voluntary process will not be an attractive alternative for all survivors.

While a Restorative Justice model does not prevent survivors from pursuing justice through the civil and criminal justice system, choosing these legal options may still expose them to the emotional, psychological and financial challenges these avenues present.

Risks and key assumptions

A major risk in any intervention with child abuse survivors is causing further psychological or emotional harm to all parties. Re-traumatising survivors can also impact family members, friends and their communities. The organisation representative and case co-coordinator will require structured supports such regular supervision to ensure their roles and responsibilities do not cause vicarious trauma.

This Restorative Justice model assumes that survivors would prefer to engage in a facilitated dialogue with an organisation representative rather than the perpetrator of the abuse. Notwithstanding the fact that the perpetrator's identity may be unknown or they may be deceased, some survivors may not find talking with a 'surrogate' perpetrator a healing proposition or experience. For some survivors, particularly those who have been re-traumatised by their experience of seeking justice through the institution, trust may be unable to be re-established and therefore the relationship between the survivor and organisation would be too damaged for a therapeutic dialogue to be effective.

Future research

The application of a Restorative Justice model to allegations of institutional child abuse is a new and innovative intervention; it is also untested. A full and robust practice intervention would benefit from collaboration with survivors to explore their thoughts or feelings on this model as a therapeutic means of seeking justice and healing.

Conclusion

Research suggests that Restorative Justice could provide a practical, victim-centred alternative to institutional responses to historical child abuse. While it is understood that the application of Restorative Justice to this cohort is yet to be implemented in Australia, the values and principles align well with survivors' justice needs and efforts to heal.

Word count: 2,299

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Portfolio Paper 5 – Portfolio Reflection

Areas the portfolio reflection is addressing:

- Objectives/Learning outcomes/Capability development
- Connections between the narrative and professional social work practice
- Limitations of the work
- Challenges and successes
- Implications for the field
- Implications for my personal and professional development

Portfolio paper 5 – Portfolio reflection

“There's really no such thing as the 'voiceless'. There are only the deliberately silenced, or the preferably unheard.”

Arundhati Roy, *The God of small things*

Introduction

In many ways, the honours research project has had profound implications for me, both personally and for my social work practice. Undertaking research with no prior experience of the meaning of ontology or epistemology, or how to conduct research was a challenging enterprise, but one not without its rewards. In my role as the Heritage Client Liaison Officer for Anglicare Victoria, I have heard many stories from former clients of how they were abused by those responsible for their safety and wellbeing, while living in institutions run by the former mission. It was important for me to use this research opportunity to explore alternative ways for survivors to heal and achieve justice. The research has enhanced my understanding of the life-long impact of childhood trauma, and the importance of survivor self-determination to assist with overcoming feelings of disempowerment. It has also emphasised that social workers, the welfare sector and funding bodies still face significant challenges in ensuring children are kept safe and well cared for.

Objectives and key learnings

A key objective for this study was to influence the conversation of how to improve current institutional responses to historical child abuse. Initially (and naively) I had hoped the work might be worthy of publication in order to be part of the conversation surrounding the Royal Commission into *Institutional Responses to Child Sexual Abuse*. This aspiration quickly diminished as I began to

grasp the level of research knowledge and expertise being published would require. My revised goal was to find a compelling and innovative solution to the problem, and produce a high quality piece of work, commensurate with a 4th year Social Work student.

Privileging the survivor's voice was paramount due to the emancipatory aims of the study, but challenging given the restriction on primary data collection. However, using the guiding principles of an interpretivist/constructionist epistemology and engaging in a qualitative research design, the study was able to highlight survivors' perspectives, beliefs and perceptions. Whilst initially difficult to grasp, understanding the concepts and terminology of research has demonstrated how the researcher's participation in formulating the research design impacts the validity and construction of new knowledge (D'Cruz et al. 2007).

The rise of neoliberalism in Australia's economic policies has also advanced the use of evidence-based practice. The research experience has deepened my awareness of and appreciation for how the political and economic landscape has led to an increasing focus on 'intervention research' using positivist, quantitative methodologies. This approach is effectively evaluating interventions and implies that "problems are conditions to be managed rather than eliminated" (Thyer 2007 & Littell 2008 cited in Reisch et al. 2012, p.1144), as opposed to using research to understand social problems from a structural perspective, which social workers have done in the past. The experience of creating research has assisted me to think critically about the evidence I am presented with in terms of research claims, any ambiguities or assumptions upon which the research is founded, the validity of the evidence presented, the

impact on client outcomes, and applicability for practice settings (Wodarski & Hopson 2011).

Connecting the research narrative with professional social work practice

My professional experiences with *Forgotten Australians*, social work education and commitment to the social work values of “respect for persons, social justice and professional integrity” came together to form the narrative of the research project. The social work profession “promotes social change, problem solving in human relationships and the empowerment and liberation of people to enhance wellbeing”, with one of its primary aims being “working to achieve human rights and social justice” through the “ethical conduct of research” (Australian Association of Social Work 2010, p.7). There is a genuine synergy between the anti-oppressive principles of Restorative Justice (RJ) and the Social Work Code of Ethics. This is evidenced by the Australian Association of Social Workers (AASW) in its submission to the Royal Commission issues paper on redress which highlights the following themes as being paramount to an ethical response to survivors: validation, voice, control, information, and safety (AASW 2014, p.5). These themes are consistent with key social work and RJ values, as outlined in Table 1.

Social Work values	Restorative Justice values
<ul style="list-style-type: none"> • Respecting the inherent dignity, worth and autonomy of every person • Promoting justice and social fairness • Promoting community participation in societal processes and decisions and in the development and implementation of social policies and services. • Engaging in participative, collaborative, open and empowering processes to enable clients to further their desires and interests. 	<ul style="list-style-type: none"> • Respect • Solidarity • Active responsibility • Peaceful social life • Assistance • Inclusion • Empowerment • Collaboration • Encounter • Moral education • Protection • Amends

	<ul style="list-style-type: none"> • Reintegration • Resolution
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Table 1. (Australian Association of Social Work 2010; van ness & Strong 2010, p.48-49)

Applying an RJ model to institutional responses to historical child abuse is also consistent with strengths-based and solution-focussed social work practice. Particularly in instances where the RJ model is applied to perpetrators, rather than an organisational representative, as proposed in the practice intervention. Van Wormer (cited in Beck et al. 2011, p.294) believes that “restorative justice is a process designed to bring out the best in people, regardless of what they have done, and so is social work’s strengths perspective”. Table 2 provides some examples of how a facilitated RJ encounter illustrates a strengths approach to the power dynamics between the participants and solution-focussed outcomes.

Strengths-based	Solution-focussed	Restorative Justice
<ul style="list-style-type: none"> • Avoids imposition of dominant knowledge, stories and labels • Validates people’s unique experience and respects the meaning they give to their experience • Seeks to recognise and mobilise people’s strengths and capacities as a central focus in change efforts 	<ul style="list-style-type: none"> • Asks what the client wants to change and how • Opens space for future possibilities through a focus on exceptions and resources • Assumes client is competent, resilient and resourceful • Focuses on a process of collaborative inquiry • Privileges clients voice and expertise 	<ul style="list-style-type: none"> • Narrative where people talk about what happened, how it affected them, and how to address the harm done • Emotion sharing, which aids understanding • Understanding where people come to better understand each other, the harm caused by the crime, and how to make things right • Agreement where parties have been able to explore repercussions of the crime, they design an agreement, or ‘amends’, that is specific to their situation and is practical

Table 2. (Maidment & Egan 2009, p.37-40; Weitekamp & Kerner 2002, p.3)

Limitations of the research

The *Forgotten Australians*, seem also to have been largely forgotten by academia. While there is a plethora of academic research on trauma, neglect and child sexual abuse, the specific experiences of child abuse and neglect in institutional Out-of-Home Care or clergy abuse is yet to draw the attention of many academics. As there are major gaps in relevant research it was difficult to identify a manageable gap in the body of knowledge within which to focus my study. The literature review and scoping study provide some indication of the myriad of related social research that could benefit adult survivors of institutional and historical child abuse and neglect.

Research projects are generally limited by timeframes and funding and this study is no exception. This research project required honing the topic to a set of sub-questions that could be explored within the allocated timeframe using secondary data sets for analysis. The work does slightly exceed the stipulated word limit, but I believe I have exhausted all avenues to reduce it. Its length is a consequence of the extensiveness of the subject matter, and the numerous tasks of qualitative research.

In addition to privileging survivors' knowledge, the research also privileges formal theoretical knowledge. As an undergraduate student, the study has not been informed by significant practice wisdom, both in terms of research skills or acumen and how Restorative Justice works in practice. Embarking on a social work career as a graduate of RMIT, my professional development will require ongoing reflectivity in my practice in order to synthesise, rather than

dichotomize the value of knowledge as well as the perspective of colleagues, researchers and clients (D’Cruz et al. 2007).

Challenges and successes

Undertaking the honours research project challenged me intellectually, psychologically, emotionally and socially. Reflecting on the experience resulted in an acknowledgement that feeling disempowered was at the core of my frustration, as students were not provided with an opportunity to choose whether to participate in an imbedded honours year or continue with the previous program structure. Nor was there a consultation with students about the change to the degree. While the experience is far removed from the disempowering responses to adult survivors of institutional and historical child abuse, it has provided some insight into how social structures and hierarchies of decision-making impact individuals. Figure 1 draws a comparison between the political hierarchy of social services and tertiary institutions.

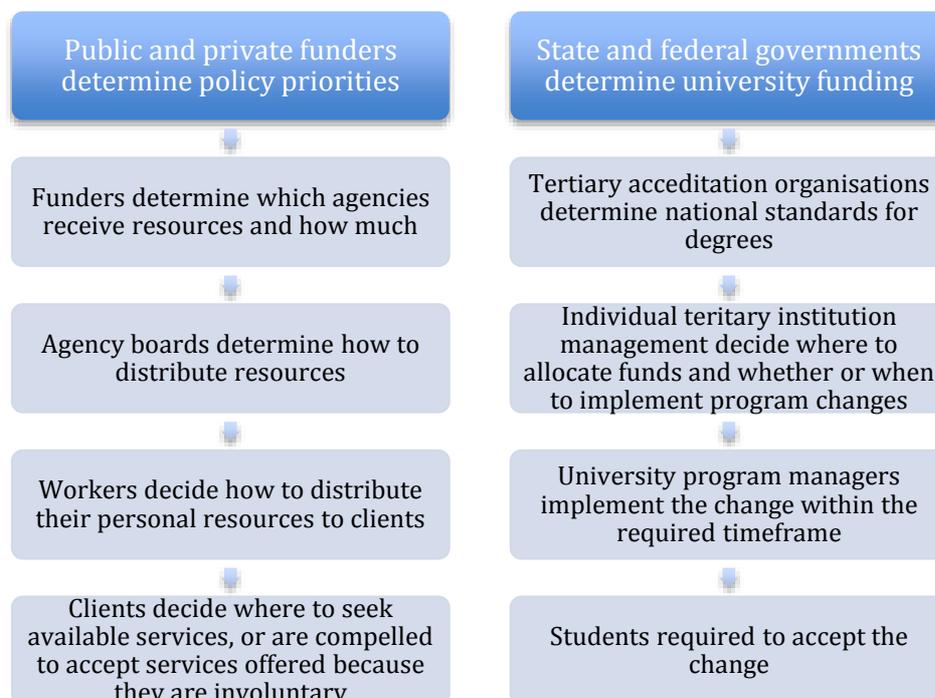


Figure 1. (Adapted figure from Reisch 2012, p.1138)

My objective throughout my degree has been to produce the highest standard of work possible. I realise now that this ambition compounded my stress and anxiety to the point of being counterproductive, particularly in first semester. My lack of comprehension and self-doubt resulted in me considering dropping honours. Ultimately, my perseverance and tenacity, while feeling at times that the project was beyond my capabilities, has provided a sense of satisfaction as I have shown that I can achieve what sometimes seemed unachievable.

An unexpected benefit of undertaking a research project was the cachet of “doing research”. Having people, such as Mary Polis from the Centre of Innovative Justice at RMIT, generously give their time to discuss the project and make comments validated my idea and belief in Restorative Justice as a credible option. It hadn’t occurred to me that my research would be sufficiently important or interesting to garner such support.

Another success has been in relation to the recent decision by the Anglicare Victoria Board to order a review of its legacy client abuse claim process in light of the ongoing investigations and findings of the Royal Commission. This review has provided an opportunity for my learnings and practice intervention proposal to influence discussions at Board level, and potentially have a positive outcome for survivors.

Implications for social work

The implications of this study highlight two important areas for social work.

1. *How can social work better support adult, institutional child abuse survivors?*

As discussed in the literature review, there is a significant opportunity for social workers to advocate for more funding for dedicated services to the specific needs of this cohort. Social workers are best placed to assist in developing new empowering, validating and respectful complaint processes, such as RJ, to ensure survivors' healing and justice needs are being met. Social work could use its voice to advocate for more restorative or therapeutic justice responses, rather than focussing on punishment or financial reparation.

2. How can social work better protect vulnerable children today in order to help prevent history repeating?

Since Australia's Out-of-Home Care arrangements were de-institutionalised in the 1970s, governments and the welfare sector have instituted numerous Inquiries and strategies to help protect children from abuse and neglect. These include: accreditation for Government funded community service organisations, accreditation and training for all foster parents, Working with Children checks, and mandatory reporting to Child Protection.

Despite these interventions, it is conservatively estimated that 177,000 Australian children were abused or neglected in 2007 (Taylor cited in Broadley et al. 2014, p.5). A recent report by the Victorian Commission for Children and Young People stated that of 6,500 children and young people in state care, around 1,040 were Aboriginal and that "substantiated reports of abuse, neglect or harm among Aboriginal children were on the rise" (Edwards 2014, 1st para). Accurate national child protection data does not exist due to different definitions in different states on what constitutes a "notification" or "report". As stated by Broadley et al. (2014, p.12) accurate data "is the only way the magnitude of the

child abuse problem can be understood". Once a child is removed from a dangerous situation with their families and placed in state care, they are tragically still at risk of suffering abuse. For example, in response to recent allegations of child sexual exploitation in residential care units, the state Government has announced a \$55million increase in funding to pay for a higher ratio of staff per child and better access to psychological support (Cook 2014). Sandie de Wolf AM, CEO of Berry Street, hopes that reports of this nature will lead to "not another Inquiry, but instead a genuine partnership with community service organisations to work together for the benefit of Victoria's most vulnerable children" (Berry Street 2014, Latest news). Ms Wolf welcomes the additional funding for residential care units but believes that it will not ensure children are protected. "Apart from the well-documented economic and social costs of not acting while they are young, we all share a moral responsibility to ensure they are not betrayed again", Ms Wolf stated (Berry Street 2014, Latest news).

Implications for my personal and professional development

The research has informed my practice of the impact of trauma and the importance of creating a safe space and an open, respectful and transparent professional relationship. It has also deepened my commitment to privilege the client's voice and expertise and empower clients of all ages to collaborate in decision-making. Safeguarding against re-traumatising clients may require professional assistance from a supervisor in the early years of my career, or until I possess the requisite skills to manage clients reactions to traumatic experiences.

The level of emersion required to undertake research has the potential to be consuming. With a topic relating to child sexual abuse, I have reflected on the extent of the problem and have implemented self-care strategies to counter feeling overwhelmed by its magnitude. Tragically, children may never stop being abused at home or by trusted individuals, but there is some comfort in the knowledge that most children grow up in healthy, happy environments and, when provided with love and support, people have the potential to heal themselves.

As a qualified social worker my aim will be to continue to advocate for improved organisational responses to historical child abuse survivors. As a sector and a community we can do much more to support those who live with the life-long impact of childhood experiences of abuse and neglect. In terms of protecting vulnerable children today, my aim is to be attuned to the signs of child abuse and cognisant that while children may be predisposed to keep abuse secret, they are sometimes inclined to *show* rather than *tell* adults about what is happening to them. I will promote child safe organisations to inform carers of ways they can determine whether an organisation their child comes in contact with is 'child safe'. Knowing that how I work with a child, or decisions I participate in regarding the wellbeing of a child today, could impact them for a lifetime has had a profound influence on me personally and on my future career as a qualified social worker.

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