3

What Makes Redress Better?

3.1 Introduction

Redress programmes exist because courts are inhospitable to survivors' non-recent claims. But if redress is to be better than litigation, it must be made so. Judging what makes better redress programmes requires evaluative criteria. The basic structure of redress involves, at minimum, four components: two agents (an offender and a survivor), and two forms of justice (substantive and procedural). Practically relevant evaluative criteria must engage all four. These criteria must reflect participants' interests and values, be realistic about their capabilities, and sensitive to the constraints they face.

It is easy to find works on what survivors want or need from redress (e.g. Lundy 2016; National Centre for Truth and Reconciliation 2020). As Chapter 2 describes, survivor populations are diverse, yet characterised by lower-than-average numeracy and literacy rates; high rates of morbidity and disability, including mental health; and high rates of poverty and homelessness. These disadvantages work together to impede access to both litigation and redress programmes. To help policymakers create accessible programmes, this chapter engages with the United Nations' survivor-focussed Van Boven/Bassiouni Basic Principles (the VBB Principles) to outline what a fair, impartial, and effective redress programme entails (General Assembly of the United Nations 2006).

Although essential, a survivor-focussed approach is not enough. The interests of all participants are relevant. Few works on redress attend to the offending states' distinctive interests or the constraints they confront. Unlike survivors, states are neither individuals nor groups: they are not even human. States are pluralistic institutional agents whose actions are carried out by officials. The state's distinctive nature affects applicable evaluative criteria. For example, redress programmes position the state as both offender and sovereign; discharging remedial obligations while, at the same time, exercising the state's ultimate responsibility for deciding

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what justice will be done – this is one way the agents who transact redress are not equals. More prosaically, unlike human offenders, redress programmes manage hundreds, if not thousands, of claims. Feasible criteria need to recognise that, for states, delivering redress is part of business as usual.

Conflicting interests further complicate the process of identifying acceptable evaluative criteria. For example, the survivors' interest in getting redress quickly confronts the state's need to take time to assess their claim. Participants' interests can also conflict with third parties – such as the natural justice claims of alleged perpetrators. Moreover, participants can confront internal conflicts – some procedures, such as evidentiary interviews, can be good for survivors in some ways and bad for them in others. The resulting problems are deep-seated. Good criteria can be endorsed by all stakeholders, they must be reciprocally justifiable. But human diversity means that people have different interests in how redress will operate. That deep-seated potential for disagreement provides a cornerstone for the argument that better programmes enable survivors to choose how they will pursue redress.

3.2 Survivors' Interests

Litigation is the default option for most survivors seeking justice, but the challenges it poses are so unpleasant that most survivors never file in court. A detailed discussion is not necessary for my purposes, a nine point outline will suffice.[1] First, protracted litigation for non-recent cases can take many years. Second, the costs of legal and other professionals make litigation too expensive for most survivors. Third, litigation risks harming survivors, both psychologically and with respect to their privacy, without supporting them to cope with either harm. Fourth, many survivors have claims for wrongdoings that were not tortious when they were performed, which no court can remedy. Fifth, litigation requires the plaintiff to demonstrate that the offender's wrongful acts are the proximate cause of their injuries, yet survivors suffer structural injuries and consequential damages with diffuse causal origins. Sixth, the evidence for non-recent injuries is often weak, with few documents and witnesses. Seventh, survivors seeking evidence held by states or third parties are

[1] For more comprehensive discussions: (Law Commission of Canada 2000; Royal Commission into Institutional Responses to Child Sexual Abuse 2015b; The Royal Commission of Inquiry into Historical Abuse in State and Faith-Based Care 2021).

hindered by the adversarial process of litigation. Eighth, limitation defences in statute, common law, and equity bar most non-recent claims. Ninth and last, offending institutions may no longer exist or are structured in ways that hide assets and evade liability.

These hurdles represent significant barriers for all but the most exceptional survivors. And the few survivors who succeed at litigation are not clear exemplars to follow. For example, Bruce Trevorrow was wrongfully taken into care by South Australia in 1957. In 2007, Trevorrow won the first case for wrongful removal (and sundry other claims) by a member of the Stolen Generations (*Trevorrow* v. *South Australia* 2007). Trevorrow's case was exceptionally strong, including documentary evidence that he was taken into care unlawfully. Most survivors will not have such evidence. Moreover, the litigation process inflicted 'enormous psychological and emotional trauma' on Trevorrow ('Official Committee Hansard' 2008: L&CA 16). Trevorrow died in 2008, two years before the Supreme Court of South Australia dismissed the state's final appeal.

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The VBB Principles respond to these difficulties by setting out the survivors' high priority justice interests and recommending how states should act to avoid or mitigate common problems. The VBB Principles derive from a decades-long global consultation process, are endorsed by the UN General Assembly, and are used by courts and advocates (Akashah and Marks 2006). In short, the VBB Principles are the best and most authoritative guide available. However, the Principles were not written for survivors of injurious care: spurred by the development of transitional justice, they address 'gross violations of international human rights law and serious violations of international humanitarian law' (General Assembly of the United Nations 2006: Section 3 (III)).[2] No redress programme for survivors of injurious care is confined to gross violations of human rights law. Moreover, the Principles are a somewhat disorganised collection of injunctions, guidelines, principles, definitions, and considerations: they require some interpretation. I divide the VBB Principles into procedural and substantive considerations. With regard to procedure, the Principles require 'fair and impartial access' to justice,

[2] Subsequent unattributed quotes in this chapter are taken from General Assembly of the United Nations (2006).

while their substantive remedies include 'full compensation'. The remainder of this section develops these criteria.

I address impartiality first. Impartiality requires insulating redress procedures from arbitrary considerations. Whereas courts institutionalise their independence from other organs of government, state-run redress programmes are always at risk of being partial when the offending state acts as an investigator, adjudicator, and defendant. Independence is key to securing impartiality and encouraging survivors to participate (Stanley 2015: 1155). Illustrating best practice, Ireland's RIRB lodged responsibility for the redress programme with an independent tribunal that was led by adjudicators with secure appointments and budgets. Moreover, it adjudicated claims using publicly available regulations and produced written judgements that were subject to review. It was, in effect, an independent quasi-judicial body.

Because fairness entails the like treatment of like claims, the VBB Principles prohibit 'discrimination of any kind or on any ground, without exception'. Non-discrimination bars arbitrary distinctions between eligible and ineligible claims. Similarly, non-discrimination favours procedural consistency: other things being equal, similar claims and claimants should not be treated differently. Redress programmes may prove less discriminatory than litigation, the outcomes of which depend upon luck in evidentiary quality and the claimant's resources. Moreover, transparent operations are needed for redress programmes to be seen as non-discriminatory.

Fairness includes the survivors' interest in having 'relevant information concerning violations and reparation mechanisms.' A fair measure of transparency requires survivors to know how to obtain redress, including how programmes will assess claims. That transparency enables survivors to know if a programme makes an error and seek a remedy through a review procedure. Moreover, fairness may require redress programmes to use more relaxed evidentiary standards and non-justiciable forms of evidence, such as hearsay and 'similar fact' evidence.[3] Fairness also requires redress procedures that are not biased on gender, cultural, or other grounds. The demands of fairness are comprehensive,

[3] Similar fact evidence uses information derived from injurious patterns, where similar injuries happened to different individuals. For example, if two or more survivors claim that they suffered similar abuse by the same perpetrator, that similarity might strengthen the claims of each (Ho 2006).

including how programmes are staffed and advertised, how evidence is collected and assessed, and how payments are made.

Fairness considerations also include how survivors are supported. A proceeding against the state places survivors in a profoundly unequal contest. The temporal, financial, and human resources of the immortal state are nearly unlimited. States use these advantages to exhaust survivors through protracted litigation – recall that his ten-year-long case had not finished before Bruce Trevorrow died. The VBB Principles stipulate that redress should be 'prompt' and unimpeded by unnecessary delays. Expertise and knowledge are other inequitably (unfairly) distributed resources. States have legal, archival, and other professional staff who enjoy the subtle advantages of repeat players (Reuben 1999: 1065). Whereas survivors usually participate in only one case (their own), the state employs experts who conduct hundreds of cases, enabling its officials to develop personal relationships, cultivate reputations for credibility, and learn from experience. The state's further advantages include control over, and access to, archived evidence. In response, the VBB Principles require 'proper assistance' for survivors, including expert archival, medical, and legal support. Access to counsel is particularly important in redress programmes that require survivors to present complex evidence or make important decisions quickly. The VBB Principles' demand for 'effective access' to justice vindicates simple low-cost programmes that require all stakeholders to volunteer pertinent information, such as relevant documents, records, or prior findings of criminal activity.

A fair proceeding protects the well-being of survivors. The VBB Principles stipulate that 'appropriate measures should be taken to ensure [the survivors'] safety, physical and psychological well-being and privacy. . .'. Under cross-examination, survivors risk serious psychological damage, including retraumatisation. Redress programmes must minimise these risks and support survivors who are harmed in the process; the Principles suggest that survivors should not bear the costs of the support they need. Turning to privacy, specific forms of abuse may be humiliating and many survivors understand their experience of out-of-home-care as shameful (Emond 2014; Sheedy 2005). Survivors should be treated with sympathy and respect throughout the process and their private data protected.

My survey of the survivors' interests in procedural criteria concludes with a value that the VBB Principles do not explicitly address: the survivors' interest in participation. Litigation disempowers survivors,

who have little control over, or involvement in, much of the judicial process. By contrast, redress programmes respect survivors as agents when they create opportunities for survivors to participate (Waterhouse 2009: 270; Lundy 2016: 31; Murray 2015: 178–79). Survivors should participate in several domains. In the first instance, survivors can co-design redress programmes, thus shaping policy at the formative stage. Second, they can be involved in delivering redress, as providers, consultants, in support services, and in the process of pursuing their own claims. Finally, survivors can be involved in redress outcomes, including their own payment negotiations or in helping others post-settlement. A flexible redress programme enables survivors to choose how they participate in redress. Because participation is not cost-free, effective survivor participation requires support. On this point, the VBB Principles suggest that redress programmes could engage with both individuals and collectives, allowing groups to present claims and receive redress.

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Turning from procedure to substance, Chapter 1 emphasises how offending states are using an array of remedial measures. The VBB Principles include a holistic range of measures for rehabilitation, restitution, satisfaction, and compensation.[4] To expand, the VBB Principles suggest that reparation can include rehabilitative claims for the treatment of medical or psychological damage incurred as a result of injury. In international law, restitution usually concerns restoring properties and liberties wrongfully taken or denied. However, the VBB Principles specify that restitution also includes the recovery of personal identity, family life, and, I would add, culture. As the previous chapter indicates, it was common for individuals in care to be assigned new identities and denied contact with, or information about, their birth families. In the most egregious cases, care systems perpetrated cultural genocide against Indigenous peoples. Therefore, better redress programmes will facilitate measures of identity recovery along with family and cultural reconnection. Satisfaction measures include researching and publishing accurate accounts of the injury, punishing offenders, and getting apologies.

[4] The Principles also include a fifth category, measures to prevent reoccurrence. Although survivors often say that a desire to prevent reoccurrence motivates them to talk to inquiries or submit redress claims (Independent Inquiry into Child Sexual Abuse 2019: 3), preventing reoccurrence is not a remedy for survivors who are no longer in care.

Survivors accord significant value to the acknowledgement that occurs when states take responsibility for offending (Lundy and Mahoney 2018: 271; Claes and Clifton 1998: 66,74). Although punishment is peripheral to the operation of monetary redress, the acknowledgement gained through report-writing, truth-telling, and apology is clearly salient.

The Principles' holistic approach positions monetary payments within a broader range of potential redress forms. That holism is important and I strongly endorse it. But its study could not be contained within this volume. My narrower focus reflects monetary redress's distinct values. The VBB Principles define compensation as a response to any 'economically assessable damage, as appropriate and proportional to the gravity of the violation'. That phrasing reflects the survivors' claim to financial compensation wherever possible and for the fullest possible extent – a criterial interest in full compensation. As the leading international judgment holds,

> reparation must, as far as possible, wipe out all consequences of the illegal act and reestablish the situation which would, in all probability have existed if that act had not been committed. Restitution in kind, or, if this is not possible, payment of a sum corresponding to the value which a restitution in kind would bear; the award, if need be, of damages for loss sustained . . . or payment in place of it – such are the principles which should serve to determine the amount of compensation. . . (*The Factory At Chorzów (Claim for Indemnity) (The Merits)* 1928)

That counterfactual demand is easy to articulate, but hard to satisfy. There may be no way to recover lost childhoods or repair psychological and social damage. Nevertheless, Chapter 13 explores how full compensation offers a regulative ideal[5] governing the quantity of compensation.

The substantive content of the survivor's monetary claim depends on the nature of original wrongdoing and the harmful effects of that wrongdoing (consequential damage). The Principles embrace structural and interactional, and individual and collective, injuries. The ambit of compensable damage includes physical and mental harms, including the loss of opportunities, unemployment, and miseducation; loss of earnings and earning potential; and moral damage, which may include damage to family and cultural relationships and to the survivor's reputation or character. To that end, monetary redress can include the costs of other

[5] A regulative ideal is a principle or value that serves to shape action without presuming that the principle or value can be wholly realised. See (Emmet 1994).

remedies, such as treatment for rehabilitation and restitution of family connections. Moreover, considered from a holistic perspective, monetary redress is a means of satisfaction because payment acknowledges the survivor's experience and validates the truth of their evidence.

To conclude this section, the VBB Principles articulate survivor-respecting programme criteria. Redress programmes should provide fair and impartial access to justice through non-arbitrary and non-discriminatory programmes delivered by an independent body. Fairness requires procedural rules that are public, prospective, and stable. Moreover, survivors need adequate assistance both to mitigate the disadvantages they face in making redress claims and support their well-being. Relevant well-being considerations include physical, psychological, and cultural aspects alongside privacy concerns. Survivors must have opportunities to participate in the development, delivery, and outcomes of redress. Regarding substance, survivors can have rehabilitative claims to remedy physical and psychological damage; restitutive claims for properties and liberties they have been denied, including information about family members; satisfaction claims for apologies and other forms of acknowledgement; and, finally and most centrally, compensation claims. The substance of compensation includes the interactional, individual, collective, and structural injuries discussed in the previous chapter, embracing any injurious acts and consequences that can be financially valued.

3.3 State Interests

The VBB Principles adopt 'a victim [survivor]-oriented perspective' (Zwanenburg 2007). Attending to survivor populations' distinctive characteristics is essential to developing and delivering accessible programmes. However, their survivor-orientation means that the Principles do not address the interests and capabilities of states. That is a manifest shortcoming. Evaluative criteria must address considerations relevant to both parties if they are not to engender unjust and unrealistic expectations.

Chapter 1 notes that, unlike survivors, states are not human. There, I observe that states do not feel remorse or guilt like people do. It is also true that the state's redress obligations impinge upon third parties in distinctive ways. Whereas wrongdoing can create stringent remedial obligations among individuals – obligations that take priority over most other demands – things are otherwise for states. States use taxation to

raise most of their revenue, meaning that the citizenry pays for the state's offences. And the citizenry's remedial obligation is not the same as the state's (Pasternak 2021). Citizens have a responsibility to contribute to developing and maintaining just institutions (Rawls 1999: 242ff). Because the remedial obligations the state has towards injured care leavers are part of that responsibility, the citizenry has reason to contribute resources towards redress. But that reason is quite different from those that govern interpersonal remedial frameworks. The citizens who provide the resources for redress are not usually guilty of any wrongdoing and, moreover, have countervailing claims upon the public revenue.

The basic policy goal of redress is to resolve the survivors' meritorious claims – success in that task defines an effective programme. Every state is marked by significant and persistent deficiencies of justice, which means that remedial obligations towards care leavers compete with other compelling policy demands. States must also provide a range of public goods, including transport, medical care, education, and defence. The observation that redress competes with other demands on the public purse means that survivors cannot reasonably ask that their claims receive absolute priority: *fiat iustitia, et pereat mundus*[6] is not a principle for good policymaking. But, obviously, survivors' claims are not without weight.

Because redress is a form of public policy, the basic tools of public policy analysis provide some criterial guidance. A foundational axiom of public policy analysis is that the optimal relation between a policy goal and policy tool is one-to-one (Knudson 2009: 308).[7] To have more than one policy tool for a policy goal invites inefficiency – efficiency is a key procedural interest of states. States maintain the ordinary courts as the primary policy tool for resolving remedial obligations. Therefore, one way to satisfy their criterial interests is to ensure that redress programmes are comparatively better than litigation would be. That means redress should not be worse than litigation with regard to the state's procedural values. Programmes need to respect rights, follow the law, nurture public support, and the benefits to the citizenry should outweigh the costs. Substantively, redress should be more effective in resolving the survivors' meritorious claims.

[6] Translation: Let justice be done, though the world perish.
[7] The ideal ratio is sometimes called the 'Tinbergen Rule' after the economist Jan Tinbergen.

To expand, effective redress policy should cohere with the state's other goals and practices. Redress programmes need to, for example, meet the demands of lawfulness, because an unlawful programme would risk survivors reverting to litigation. Litigation assures legality – claims are resolved in conformity with the law. But lawfulness has further procedural implications for third parties. Employment law offers an illustrative challenge. Redress programme staff are not (usually) offenders – they are third parties. They must be treated appropriately with respect to their legal entitlements and with regard to their physical and psychological well-being, including mitigating the risks of vicarious harm (discussed in Chapter 10) that arise when working with survivors' claims.

States have an interest in efficiency, meaning that redress programmes need the capacity to process claims economically. That entails an operative framework that is adequately resourced and rationally organised with well-run technical infrastructures. Since the procedural costs of claims tend to increase along with the time that officials devote to them, redress should be no slower than litigation and preferably much faster. Because increasing information quantity correlates with decreasing adjudication speed (and higher procedural costs), states have an interest in ensuring that a programme can access useable data efficiently. The need for efficiency underpins states' interest in the form and character of redress processes, including supporting applicants to provide information in easily managed forms. As Part II will demonstrate, redress programmes regularly confront difficulties with staffing, information, and regulation. Good programme design will not only minimise impediments, but will build in reflexive capacities to help identify and mitigate problems as they arise. Programmes need to be able to develop their capabilities as they mature.

Redress programmes should aim for internal consistency, but the interests of survivors, states, and other stakeholders are in perpetual tension. For example, no programme can deliver full compensation at a low cost without encouraging (inefficient) fraud. But there are measures programmes can take to promote consistency. I previously noted the survivor's interest in procedural transparency. States have an analogous interest in publicity. Because they are accountable for their expenditures – legally to their auditors and politically to their citizenry – states have an interest in being protected against fraudulent claims (Bay 2013: 2). Moreover, citizens should be confident that survivors are not abusing an opaque process, otherwise, 'if [citizens] don't understand the dynamics of it, it just looks like people are making up stories and they want

money and it is going to cost the taxpayer a fortune' (AU Interview 6). Publicity enables everyone to know what rules apply and whether participants are conforming to those rules. Litigation satisfies that demand with open courts that operate according to known rules and procedures using evidence available to, and contestable by, all parties. By testing claims to exclude non-meritorious applications, redress programmes can provide comparable forms of publicity. To do this, a redress programme needs to obtain relevant and reliable information, including potentially adverse evidence from offender-participants. It also needs to publish informative reports and statistical data.

Finally, a programme's goals and components should work together efficiently. This internal efficiency is a form of what policy scholars call congruence. Given that states have a policy tool for managing the claims of care leavers, redress will need to cost less than litigation. Litigation is a notoriously inefficient consumer of money and human capital that states might put to more productive uses. Redress programmes can be much cheaper to administer on a per capita basis. To illustrate, per capita administration costs for redress programmes in Queensland, Tasmania, and Redress WA ranged between AUD$1200 and AUD$3000 (Pearson and Portelli 2015: 55). These sums would not suffice to pay even one lawyer to attend a single day in court.[8] The potential procedural savings are significant. However, there are difficulties in ascertaining the right comparative baseline. Should it be what a state would spend on litigation in the absence of a redress programme? Or should it be what the state would spend if every redress applicant chose to litigate? The latter scenario would likely involve many more cases than would otherwise appear, as the abovementioned problems with litigation deter most survivors. And the cost of litigation depends in part on the state's litigation strategy. A state that adopts an aggressive approach that prolongs litigation will increase the associated procedural cost for a few cases, but may thereby deter others. By contrast, some states adopt model litigant strategies that eschew indecorous pettifogging but risk encouraging more claims.

Such contingencies make the answer to the question 'What would it cost to litigate?' indeterminate. But that does not make the counterfactual useless. Recall the fundamental assumption of reciprocity: good criteria are justifiable to all stakeholders. If being a model litigant is a common

[8] Australian lawyers charge between AUD$5000 and AUD$10,000 per day (Wells 2018).

law obligation for states (Chami 2010), states should not be able to rely on their failing to meet that obligation when setting redress budgets. Survivors could reasonably reject a parameter derived from hostile and unlawful procedures. Therefore, the expected cost of litigation to a state acting as a model litigant is a fairer parameter for an overall budget.

Returning to the policy goal, states aim to provide a procedure for resolving the survivors' meritorious claims. A claim is resolved when it no longer presents the state with a remedial reason to act. Therefore, the adjudication of redress should normally be final and not regularly displaced, or succeeded, by another process. Litigation serves this value by being a closed system, in which claims are adjudicated according to legal rules and issued by legal authorities. There is no appeal on points of law beyond the legal system.[9] However, most survivors never file claims, making litigation ineffective. To be effective, redress programmes need to attract (more) survivor-applicants and resolve their claims. A criterion then, for states, is that redress should attract and resolve more claims than litigation.

A further source of comparative effectiveness is the potential for redress programmes to address meritorious claims that litigation is incapable of resolving. An old legal saw holds that the state never loses in court. The truth of that nostrum approaches inevitability in the realm of non-recent claims. As one official said to me, the problem with litigating these claims is not that the state might lose, the problem was 'quite the reverse' – the state was nearly guaranteed to win (AU Interview 3). Moreover, some meritorious claims fall beyond the ambit of tort law, such as when injurious acts were legal at the time of commission. Afforded greater flexibility, redress programmes can target salient claims (and claimants) more effectively.

Previously, I discussed how states should expect redress to be more procedurally efficient than litigation. A similar point applies to the total cost of redress payments: states have an interest in resolving claims cost-effectively. In terms of monetary costs, litigation can be very expensive. To illustrate, the above-mentioned landmark non-recent abuse case, *Trevorrow*, resulted in a total award for the plaintiff of AUD$525,000. By comparison, the maximum payment available in Australia's NRS is AUD$150,000. Anticipating tens of thousands of deserving claimants in Australia, the McClellan Commission states that 'calculating monetary

[9] Of course, this is not technically true. But the number of litigation cases settled by non-legal officials is tiny in the relevant jurisdictions.

payments in the same way as common law damages would be … unaffordable' (Royal Commission into Institutional Responses to Child Sexual Abuse 2015b: 248).[10] South Australia's *Trevorrow* court rightly ignored the opportunity costs its award imposed upon the public purse, but no responsible policymaker could design a redress programme without addressing that point. The business case policymakers develop must include budget projections. Because money consumed by redress is not available for other public purposes, it is reasonable for states to require some budgetary certainty. That assurance might emerge using different techniques, as later chapters explain.

To summarise, a good redress programme should resolve more meritorious claims than litigation. To take a further step, redress programmes are better when they resolve more deserving claims. But that interest in resolution is balanced by a concern with costs: states have an interest in expending no more (ideally less) on redress (per claim) than they would on litigation, while good redress programmes resolve no fewer (ideally many more) meritorious claims than litigation. An effective redress programme might optimise those two criteria; if payment values decrease as the number of (expected) resolved claims increases, programmes become more cost-effective, increasing the ratio of the achieved policy target as compared to input costs.

To conclude this section, the criteria for evaluating a redress programme must recognise the distinctive character of state agency. States bear remedial obligations; however, these obligations are 'on all fours' with other policy goals – redress is a form of public policy. States have an interest in policy tools that are effective and efficient. Redress programmes should be superior to litigation. Programmes should operate lawfully; moreover, as states are accountable, both legally and politically, they have an interest in excluding ineligible claims. Substantively, redress should be cost-effective and offer a measure of budgetary certainty.

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In general, both states and survivors can expect a redress programme to improve on the prospect of litigation. To review some key procedural points relevant for survivors, the process must be impartial and fair. Impartiality requires redress delivered by an independent body using non-discriminatory procedures. Fairness requires stable rules and

[10] Chapter 13 returns to criticise the Commission's affordability argument.

processes. Transparency enables survivors to find out when errors occur. Moreover, survivors may need support to mitigate the disadvantages they experience pursuing their claims. Relevant well-being concerns include privacy matters, alongside physical, psychological, and cultural considerations. Finally, survivors need robust opportunities to participate in programme development, delivery, and outcomes. Like survivors, states can expect the programme to verify claims lawfully and efficiently. Moreover, turning to substance, survivors have a right to full compensation while a state can expect a redress programme to be effective, optimising the number of meritorious claims resolved and the costs associated with those settlements. Later chapters develop these criteria using information about existing programmes, before coming to the recommendations of Part III. But a note of caution. As previously noted, the criteria are riven with internal tensions. Later discussions will expose and develop some of these conflicts. The resulting need for trade-offs underscores the benefits of flexible programme design, a flexibility that enables survivors to choose how they pursue redress.