

Advocacy Brief: Rights of Victims and Survivors of Childhood abuse and institutional failures

The struggle for justice faced by a large number of children from the same family within the Sandnes municipality demonstrates both the complications for victims seeking redress in Norway as well as the lack of a standardised child first or victim centric policy that can treat everyone fairly.

In Norway the treatment of children who are born into difficult circumstances has evolved significantly since the 1940s in which orphanages and institutionalised care was the preferred options to take care of children. Thankfully in Norway it is no longer a policy to send children to institutions - where they often suffered abuse from the very people paid to look after them. Yet the current situation in Sandnes demonstrates that vulnerable children continue to be let down in Norway and are required to fight to achieve adequate redress which could in some way make up for failures within the child welfare services.

The legacy of redress for childhood abuse in institutions belies a chaotic and complex system. Victims within a small number of municipalities, as in Bergen, received redress of 750000 nok along with an apology for the harm they had suffered – recognising that the systems established to protect them during their childhood instead let them down.¹ However, many other victims received nothing as their abuse took place in a part of Norway that has not established a redress scheme. To add to the complexity in some municipalities the redress scheme only offered victims small amounts of monetary compensation and no apology – no adequate recognition of harm which directly resulted from a failure of those within the child welfare service to adequately protect these vulnerable children. It can be more easily understood as a lottery in which only a small percentage of victims have any chance of receiving a form of adequate redress which acknowledges that the harm they have suffered was a result of the failures in the system designed to protect them. While not adequate to address the full extent of the harm suffered by victims, research has shown that the combination of apology and monetary compensation can alleviate some of the legacy of abuse and neglect experienced by victims.² Unfortunately, this results in a hierarchy of victimhood in which some victims are made to feel of less value or that their traumatic experiences of abuse are either not believed or do not matter. This occurs both within the local community that initially failed them but also at a national level. Norway is recognised internationally as a nation which prioritises children's rights. Following this best interests of the child principle, ECPAT Norway calls upon the government to impose changes to ensure all victims of childhood abuse are treated fairly, equally and granted the rights they are entitled to.

¹ Barnehjem og spesialskoler under lupen

Nasjonal kartlegging av omsorgssvikt og overgrep i barnevernsinstitusjoner 1945–1980
Utredning fra et utvalg oppnevnt av Barne- og familiedepartementet 19. desember 2003
Avgitt 1. november 2004

² Studsrød, Ingunn & Enoksen, Elisabeth. (2020). Money as Compensation for Historical Abuse : Redress Programs and Social Exchange Theory. *The Journal of the History of Childhood and Youth*. 13. 288-306. 10.1353/hcy.2020.0039.

While the policy of institutionalised care has changed for the better within Norway, the failures to protect children from abuse and neglect has continued. As the situation with Mona Anita Espedal her half-sister Cecilie, and their other siblings demonstrates, the lottery of redress for failures of the child welfare system continues to this day. While those in the municipality may justify their actions by claiming they are only acting in accordance with the law – the sudden reversal of the amount of redress and the apology granted to Mona Anita demonstrates that much more can be done to overcome unfair and unjust laws if there is collective will.³

On the European and International levels there has been significant progress in recent years on the need to seek adequate and meaningful reparations and redress for victims. Their rights have been clearly set forth by the United Nations – especially through the UN 2005 Basic Principles and Guidelines on the Right to Remedy and Reparation for Victims of Gross Violations of International Human Rights Law and Serious Violations of Humanitarian Law providing that victims of gross violations of international human rights law have the right to a remedy that includes adequate, effective and prompt reparation for harm suffered. Reparation includes “restitution, compensation, rehabilitation, satisfaction and guarantees of non-repetition.”⁴ The impact of these Basic Principles has been witnessed in the reparations decisions within the Inter American Court of Human Rights and the International Criminal Court.⁵ The shift is clear. Victims are no longer the forgotten entities in legal systems rather they hold rights to be heard and seen and the laws should be in existence to provide them with prompt and effective reparations and redress. Europe has also followed this victim centric path within its processes and procedures witnessed through the new victims’ rights strategy 2021 -25 – which places victims’ rights to meaningful and timely reparations front and centre.⁶ These developments have been trying to lessen the hurdles victims face in seeking reparations.

However even with all these developments at the European and International level a barrier still exists in ensuring that this victim centred ethos impacts upon all child victims in Norway. It is important to note at this stage as well that it is the Norwegian scholar Nils Christie who strengthened the role and rights of victims through his research and work.⁷ It is these ideals which have influenced victimology worldwide - providing greater influence and agency for victims and requiring that they hold an important role. Norway has expert knowledge in this field and should be leading the way. Unfortunately, we currently witness the struggle child victims who were let down by a child welfare system with inaction that resulted in them remaining in an abusive family situation for many years. In the case of Cecilie the technicalities of law are preventing her from getting adequate and effective compensation. This is not the case throughout all of Norway. Skien municipality has

³ <https://tv.nrk.no/serie/brennpunkt/2018/MDDP11001018/avspiller>
<https://www.aftenbladet.no/lokalt/i/BjreG0/krever-millionerstatning-fra-sandnes-kommune-for-tapt-barndom>

⁴ UN 2005 Basic Principles and Guidelines on the Right to Remedy and Reparation for Victims of Gross Violations of International Human Rights Law and Serious Violations of Humanitarian Law

⁵ Prosecutor v Thomas Lubanga Dyilo (Public Decision establishing the principles and procedures to be applied to reparations) ICC-01/04-01/06 (7 August 2012)

⁶ EU Victims Rights Strategy 2020-2025

⁷ Christie, N. (1977). CONFLICTS AS PROPERTY. *The British Journal of Criminology*, 17(1), 1–15.

provided hope for victims through the continuation of the redress scheme until 2023. It is currently the responsibility of each municipality to establish redress schemes which provide a simpler route for victims to seek redress. To prevent a hierarchy of victimhood from occurring this needs to apply equally for all victims.

Mona Anita is currently fighting to change the law which can result in the secondary traumatising of those who were let down by the child welfare system at the earliest stage in life. It is thanks to her strength, determination and resilience that the discussions surrounding changes in the law are on the table. However why do we require those who have already been let down by our society when they were at their most vulnerable to have to fight to receive adequate redress? We can all easily acknowledge that the aim of our society should be to support those who have been harmed – enabling them to overcome the difficulties they experienced at the start of their life. This is the ethos of 'leave no child behind' and now is the time to ensure this applies to all Norwegian children equally.

ECPAT Norway recommends that:

1. A national compensation scheme for child victims should be established with minimum criteria for reparations which should apply to all municipalities.
2. Measures should be taken to prevent secondary or re-traumatisation during any redress process. All potential claimants should be supported in recognition of the trauma they have suffered.
3. Best interests of the child underly the policies and procedures for questions of redress claims against child welfare authorities. This should take into account to imbalance in power between individual victims and the authorities.