**Private Law and Grave Historical Injustice: The Role of the Common Law**

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**Abstract**

This paper reintroduces the role of the common law in cases of grave historical injustice. As we conceive it, ‘grave historical injustice’ consists in serious, widespread instances of wrongdoing which, for institutional, social, political or other reasons, have remained unaddressed and un-redressed for long periods of time. Contemporary examples in Australia include the abuse of vulnerable individuals within the Catholic Church and Australian Defence Force and the historic theft of wages from Aboriginal peoples. There are many other examples across societies and nations.

Contemporary discourse assumes that private law has little or nothing to contribute to the debate about how to deal with such cases, on account of the expense and delay involved in litigation and technical obstructions internal to private law’s own doctrines. Current strategies focus instead on extra-legal political and administrative measures such as apologies, public inquiries, and (limited) compensation and reparation schemes, on the basis that these offer victims of injustice a quicker, more satisfactory solution. We reclaim an important role for private law and its underlying normative framework of corrective justice in informing and enhancing the design of compensation and reparations schemes current and future, so as to accord victims a fuller measure of justice.