

Apology for anti-homosexual persecution should include compensation, government told



Emily Haws
(<http://ipolitics.ca/author/emily-haws/>)

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Ottawa's apology to Mounties, soldiers and other public servants whose careers were destroyed by anti-homosexual witch hunts will have to be accompanied by compensation, experts say.

Prime Minister Justin Trudeau appointed Edmonton Centre MP Randy Boisbouvier as a 'special advisor for LGBTQ issues' earlier this week with the goal of arranging an official apology to the thousands of gay and lesbians who were persecuted in the latter half of the 20th century.

"We do not have a timeline to announce at this stage," Cameron Ahmad, press secretary to the Prime Minister's Office, said in an email to *iPolitics*.

The apology will have to include some form of compensation, said Matt James, an associate professor at the University of Victoria who specializes in political apologies and the Canadian Constitution.

James said he would not be surprised if representatives from the agencies involved in the persecution — the RCMP and Canadian Armed Forces — had a chance to vet the apology.

"I'd be very interested to see, for example, if the apology attempts to make any kind of excuse in terms of national security or that these were things that other security agencies were doing at the time," he said. "I would expect it's something the RCMP or military representatives



at the time, he said. I would expect it's something the RCMP or military representatives would want to see in there and something I expect the representatives in the LGBTQ community would not want ... So there will be some interesting choices the government will have to make around that."

The government announced in April it would apologize and offer redress to LGBTQ employees of the federal public service and the Canadian Armed Forces persecuted by the RCMP. Many were charged with gross indecency before homosexuality was decriminalized in 1969. After decriminalization, federal government workers suspected of being gay or lesbian were often denied promotions or security clearances that would advance their careers. Military members could be dishonorably discharged from the service until 1992. Upwards of 9,000 people were affected.

Douglas Elliott, a partner at Cambridge LLP, said the process could take longer because of its scope. Elliott is also the chair of the Just Society Committee of Egale, a group lobbying for LGBTQ rights that wrote the ["Just Society Report](http://egale.ca/wp-content/uploads/2016/06/FINAL_REPORT_EGALE.pdf) (http://egale.ca/wp-content/uploads/2016/06/FINAL_REPORT_EGALE.pdf), which documented the discrimination and is recommending the apology.

"The problem is that once they started delving into it ... the scope of the issues was a lot wider than they realized," he said. "How do you get rid of all these old criminal records, and to whom do you apologize and for what, and of course, do you provide compensation? And if you do, how do you find them and figure out what they are entitled to?"

The governments of Germany and the U.K. are already working on redressing past persecution of homosexuals. In May, the German government announced it was pardoning 50,000 men who were criminally convicted for being gay after World War II. The German government is offering 30 million Euros in compensation — approximately \$44 million Canadian.

The British government announced plans last month to formerly pardon those persecuted for same-sex consensual relationships through an amendment to the Policing and Crime Bill. James said it is likely that government officials are looking at what other states are doing on the issue, but did not know what sort of financial compensation could be expected.

"[The government officials] are going to be particularly interested in cautionary tales, what sorts of moves backfired, that sort of thing," James said, noting that financial compensation adds to the integrity of the apology.

Past apologies of similar nature have included financial compensation and funds for educational initiatives. Former Prime Minister Brian Mulroney apologized for Canada's internment of Japanese-Canadians during the Second World War. The \$300 million compensation package included \$21,000 for each of the 13,000 survivors, as well as \$12 million for a Japanese community fund, and \$24 million to create a Canadian race relations foundation.

"Canada's got a lot of experience apologizing so there's lots of expertise that Trudeau and his federal cabinet can call upon in the federal public service," James said.

Elliott said it's a misconception that apologies open up governments to possible litigation. He said no class action lawsuit has ever come out of a government apology, although it is possible.

"Who would be your class, because there have been different types of persecution by the government over the years," he said. "The people with the strongest case are those who were kicked out of the military or fired from government positions because class action has to be about money."

"That would basically break into two groups of people: the people who were kicked out after Section 15 of the Charter of Rights came into effect in 1985 ... those people would clearly have an action of damages for breach of their Charter rights. Then there's the people who were kicked out before that time. They might be able to bring a class action, but that would require a little more creativity."

Gary Kinsman is a spokesman for the We Demand an Apology Network, a group of academics, victims and their supporters putting pressure on the government to address this issue. He said thousands of people were affected by these policies, which included being surveilled by the RCMP and blackmailed into outing LGBTQ friends. The reason LGBTQ people were persecuted was because they were thought to be a security threat — that the Soviet Union could blackmail LGBTQ employees into giving up high level government secrets. Kinsman said there has never been any proof this happened.

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"It is important to understand these national security campaigns were mandated at the highest level of the cabinet and the Canadian state, these were not just some accidental things that some rogue RCMP [did]," he said.

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