

The Moral case for Reparations for Slavery

A presentation by Sir Ronald Sanders¹

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In 1838, British slave owners in the English-Speaking Caribbean received £11.6 billion in today's value as compensation for the emancipation of their "property" – 655,780 human beings of African descent that they had enslaved and exploited, and, in many cases, brutalised.

The freed slaves, by comparison, received nothing in recompense for their dehumanisation, their cruel treatment, the abuse of their labour and the plain injustice of their enslavement.

This is the basis on which 14 governments of the member-states of the Caribbean Community (CARICOM) believe there is a case for reparations.

Reparations debate not new

The Caribbean governments are targeting the governments of Britain, France and the Netherlands even though the initiator of the Atlantic slave trade was Portugal followed closely by Spain.

Indeed, while Britain passed legislation to end the slave trade in 1807 – almost three hundred years after it started - and to abolish slavery in 1838, the Spanish and Portuguese kept their trade alive, exploiting African slave labour for their economic benefit until the second half of the 19th Century.

The reason that the 14 governments are tackling only Britain, France and the Netherlands is that these three were their colonial masters responsible for slavery in these particular jurisdictions.

The issue of reparations for slavery is, of course, not new.

It has been discussed for years.

Every time it arises it causes fierce debate and evokes media attention, academic commentary and public discussion such as this one.

¹ Sir Ronald Sanders is a Consultant and Writer, Senior Research Fellow at the University of London and a former Caribbean diplomat.

² Other panelists were Dan Leader of the UK legal firm, Leigh Day, and Professor Philip Murphy Director of the Institute for Commonwealth Studies and Author

This call for reparations is different

What makes this time different is that the monies paid to slave owners in what was the British Caribbean have been studied and assembled by a team of Academics from University College London, including Dr Nick Draper, who spent three years pulling together 46,000 records.

According to Draper's findings that were made public in February this year, the benefits of those monies still exist in Britain today.

For example, they are the foundations of Barclays Bank, Lloyds Bank and the Royal Bank of Scotland. They are also the basis of wealth for many leading British and Scottish families among them the Hogg family – two of whom became Lord Chancellors in British governments.

Dr Draper is reported as saying of the Hogg family:

"To have two Lord Chancellors in Britain in the 20th century bearing the name of a slave-owner from British Guiana (now Guyana), who went penniless to British Guiana, came back a very wealthy man and contributed to the formation of this political dynasty, which incorporated his name into their children in recognition – it seems to me to be an illuminating story and a potent example."

The Hogg family was not unique.

The wealth and political good fortune of 19th Century British Prime Minister William Gladstone had its origins in the £83 million, at today's value, of "compensation" given to his father, John Gladstone, for slaves he owned in British Guiana and Jamaica.

But it was not individual families alone that helped to create African slavery and that benefitted from it; it was the British state as whole.

Successive governments provided subsidies for the trade; adopted legislation that facilitated it; and were complicit with the governments of their colonies in adopting laws that designated African slaves as "real estate" – people stripped of human identity, including life, and, therefore, to be treated like land, houses and buildings.

In August this year, a Daily Telegraph report laid the blame for this squarely at the feet of the Stuart Monarchs Charles 11 and James 11 who "systematically drew up laws to enforce and spread hereditary slavery... with relentless focus, stacking the courts to ensure favourable rulings, and silence opponents in sedition trials, not least because revenues from tobacco and sugar plantations became the chief source of wealth for the Crown".

Remarkably, it was also the British State that paid “compensation” to the slave owners while completely disregarding any obligation whatsoever to 655,780 people, who were enslaved and cruelly exploited.

To do so, the British government borrowed £20 million which is £76 billion, at today’s value, from the Rothschild Banking Empire.

The sum amounted to about 40 per cent of the country’s Gross Domestic Product at the time.

These studies and the detailed information that is now available bolstered the view that a case for reparations exists.

Success of Mau-Mau against British Government bolsters resolve

What gave greater resolve to the advocates for reparations for slavery was a High Court ruling last year in the UK that Kenyan Mau Mau claimants had established a proper case for hearing.

The British government made an out of court settlement to pay 5,228 victims sums totalling £19.9 million.

Caribbean Governments act

In July this year, shortly after this settlement with the Mau Mau survivors was announced, Heads of Government of the Caribbean Community (CARICOM) requested each Member State to set up its own National Reparations Committee to document the effects of European genocide against the indigenous inhabitants of the region, the slave trade in and the enslavement of Africans, and the colonization of the country.

A Regional Ministerial Committee on Reparation has been established.

And, on September 15th the first Regional Reparations Conference was held in St. Vincent.

Equally important was that Heads of Government decided to approach the UK law firm, Leigh Day that represented the Mau Mau victims “to consider a legal challenge to seek compensation from three European nations for what they claim is the legacy of the Atlantic slave trade”.

Effort not just legal

The regional reparations conference recognized the magnitude of the reparations quest and accepted “that this effort would require a regional consortium of experts in law, research and academia”

The Conference also emphasized that any legal effort must be coupled with the mobilization of the Caribbean people and intensification of a political and diplomatic outreach.

Will a legal challenge actually be mounted?

But, it is by no means certain that a legal challenge will or can be mounted.

Martin Day of Leigh Day has said that: “At this early stage the CARICOM Governments have asked us to advise them on the bringing of a legal claim against the British, French and Dutch governments if they cannot reach a negotiated settlement”.

It is also not at all clear which of the 14 CARICOM governments will actually take forward a legal challenge against the three European governments particularly as many of them have shown reluctance to take on bigger powers in costly legal disputes.

A particular case in point is their failure to take action against the United States government at the World Trade Organisation over a rum issue.

Many of them also fear reprisals from the European powers.

A further downside to whipping-up sentiment for reparations for slavery in the Caribbean itself, is that the argument assumes an intensified racial dimension.

Caribbean countries have become highly dependent on tourism – in some countries that reliance reaches as high as 80 per cent or more of their gross domestic product.

It will therefore call for politicians to temper the legitimacy of the call for reparations by education and information so as not to enflame racial sentiment that could be directed at today’s Europeans who comprise a significant number of tourists to the region.

The moral case established

On the moral case:

That today the people of the Caribbean (except for Haiti) have built middle-income societies despite the conditions they were handed at slavery’s abolition, is a tribute to the resilience, capabilities and high quality of human beings that European states considered ‘chattel and real estate’.

That they have produced Nobel Prize winners, great athletes and fine intellectual thinkers who have commanded high positions in the international community in business, medicine, the law, and technology is testimony to the wrongness of the “white” supremacist doctrine.

Their achievement re-enforces the position that their enslavement, their servitude and the infamous acts of violence against them were wrong, and it cannot be right that those who were the principal perpetrators of those wrongs benefitted while they were left as nothing more than a human catastrophe.

They did all this in a space that was - and is - limited by racial discrimination, inadequate health and education facilities, and restricted opportunities.

Caribbean progress retarded

The trans-Atlantic slave trade and chattel slavery were flagrant crimes against humanity

Today, the Caribbean could today have been much further along the road of social and economic development if even half of the “compensation” given to slave owners had been given to slavery’s victims 175 years ago.

The case of Haiti is especially monstrous.

Not only France, but England, Spain and the USA refused to recognise or deal with Haiti after the slaves’ successful revolt against French rule.

Haiti had to pay France some 90 million gold francs (estimated to be £24.7 billion in today’s money) or endure a French military invasion and the re-enslavement of its population.

There is clearly a moral case for reparations.

It is worth spending a moment to look at what is meant by reparation.

Reparation is a legal term deriving from the notion that someone who has been grievously injured should be compensated in some appropriate manner.

But beyond its legal meaning, it is also about bringing closure to the event about which reparation is sought, thus allowing all parties to draw a line in the sand and move on. However, for such closure to occur, reparations should be made in a spirit of penitence and accepted in a spirit of settlement. If closure does not occur in these terms, the sense of deprivation, discrimination and dispossession felt by many persons of African descent in the Caribbean will persist.

Is there a legal case?

The moral case is clear, but is there a legal one?

Martin Day of Leigh Day says: “What is an important factor in this potential legal action is that CARICOM is interested in seeking a settlement for the impact of slavery on their communities today - not on the historic position of the individual slaves”.

That is just as well.

For the question would otherwise have arisen as to how and to whom any “reparations” - either negotiated or awarded by a Court – would be distributed.

In the event, the quest for reparations – despite its solid moral groundings – appears somewhat quixotic in legal terms.

It is very doubtful that Britain, France and The Netherlands will agree to negotiations on the matter.

They will argue – as they have done in the past – that their official development assistance, bilaterally and through the European Union and other multilateral agencies, to the CARICOM countries have provided, and is providing, considerable assistance – amounting to hundreds of millions of pounds - for their development.

Further, while the International Court of Justice (ICJ) would have the authority to adjudicate a claim for reparations, there are two obstacles to such a course.

The first is that the cost would be hefty (and beyond the capacity of many CARICOM countries).

The second is that litigants in the ICJ have to consent to the jurisdiction of the court, and it is very unlikely that Britain, France and the Netherlands would do so.

Of course, there could also be an appeal to the General Assembly of the United Nations to seek, at least, an Advisory Opinion from the ICJ on the matter as happened in 2010 in respect of Kosovo when the UN General Assembly requested an Opinion about Kosovo’s declaration of independence in 2008.

But, again, this may produce no good result because a resolution on this issue to the UN General Assembly would not be supported by the United States, many European countries including Spain and Portugal, and many Arab states (themselves having indulged in African slavery).

On that basis, the quest for reparations may come to nought, but that should not absolve the governments of all the European nations that indulged in slavery and benefitted from it, of the obligation to at least apologise and to make further arrangements for contributing meaningfully to health and education programmes that would improve the conditions of the Caribbean’s people. (End)