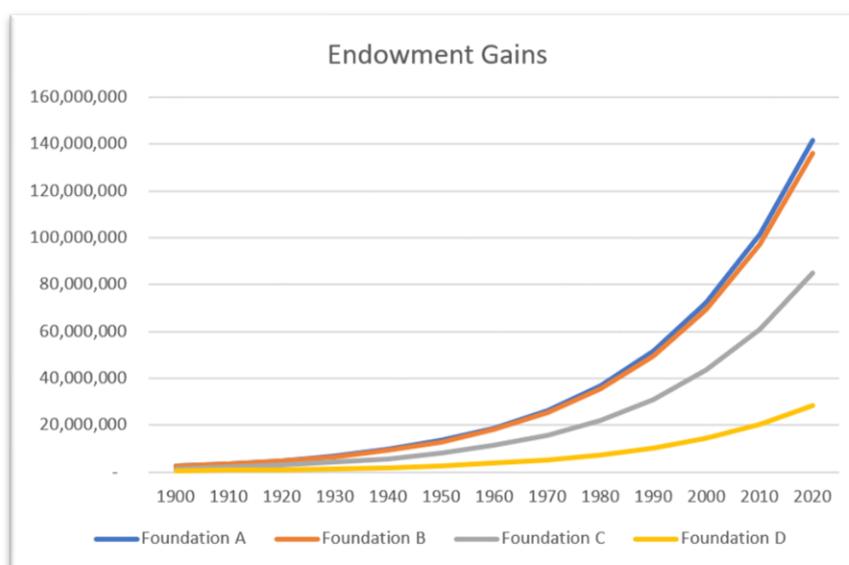


Ill-Gotten Gains - Redistribution, Restitution, Reparation



In response to the call for racial justice underpinning the Black Lives Matter movement and the response to the murder of George Floyd, some foundations in the UK have begun the process of assessing the origins of their wealth – specifically in relation to profits from the enslavement of African people and from colonialism. Examples include [Barrow Cadbury Trust](#), [Guy's and St Thomas' Charity](#) and [Wellcome Trust](#). The foundation doing most on this at the moment is the [Joseph Rowntree Charitable Trust](#).

However, thinking of this issue as purely historic – applying only to older foundations – would be a mistake. Even if your foundation didn't exist before the Slavery Abolition Act in 1833, or before India and Pakistan gained their independence in 1947, or before Apartheid ended in South Africa in 1994, and you therefore think the proceeds of enslavement and colonialism play no part in your foundation's history or current wealth, you could be wrong.

To understand our foundations' relationship to this issue, we need to start by doing research to answer these questions:

- **Where did our foundation's wealth come from?** How did the original settlor(s) acquire their wealth? If from retail, what were their supply chains or markets? If from financial services, who did they lend to or take insurance premiums from? If from property, did they displace groups or break up communities or exploit people with poor conditions and high rents? If from manufacturing, was the workforce free and paid fairly?
- **How has the foundation invested its wealth throughout its lifetime?** Has the foundation's money or other assets ever been used to support the direct or indirect oppression or exploitation of people? Your current investment managers may have a Modern Slavery Act 2015 statement, but how did they invest your foundation's wealth before then?
- **Who has the foundation banked with since it was established?** How have those institutions used your foundation's funds while they have had it on deposit? How has your foundation benefited from interest generated by the bank's other activities? As shown below, Barclays, Royal Bank of Scotland, HSBC, Lloyds and the Bank of England all had links to slavery, as did the Lloyds of London insurance market.
- **Which insurance companies has the foundation used?** Has your foundation benefited from premiums paid by businesses, individuals and governments which have supported and profited from slavery and colonialism?

Essentially, we need to investigate to answer this question: **Has our foundation ever been unjustly enriched and, if so, at whose expense?**

But knowing how your foundation's wealth was created, and exactly how it has grown over the years, is just the start. If it has gained, however indirectly, at the expense of enslaved people or through colonial exploitation, the next steps are:

- Quantifying the associated benefit at today's values.
- Deciding who is the contemporary community or constituency that should be the focus of any compensation, reparations or restitution.
- Publicly apologising and explaining – without attempting to excuse or explain away by talking about the foundation's recent good works.
- Engaging with the identified community to decide what form the compensation, reparation or restitution should take – potentially using a restorative justice approach ([Restorative Justice](#) is a process where all stakeholders affected by an injustice have an opportunity to discuss how they have been affected by that injustice and to decide what should be done to repair the harm).
- Putting the compensation/reparation/restitution plan into practice.

In deciding which current communities to engage with to formulate the compensation/reparation/restitution plan, each foundation will need to identify which group or community (of place or identity) is most directly connected to those who were exploited for our foundation's historic gain. It is not good enough to say "the injustice happened so long ago it is not possible to make recompense or reparation". This is the argument used by some of those in the US who argue against reparations for the enslavement of African people – ignoring the continuing inequality that is a persistent legacy of that enslavement.

In formulating a plan, it may be helpful to consider the different basis/aims of the various possible approaches:

- **Restitution:** "the restoration of something lost or stolen to its proper owner". "When a court orders restitution it orders the defendant to give up their gains to the claimant".
- **Compensation:** "something, typically money, awarded to someone in recognition of loss, suffering, or injury". "When a court orders compensation it orders the defendant to pay the claimant for their loss".
- **Reparation:** "the action of making amends for a wrong one has done, by providing payment or other assistance to those who have been wronged".

A plan may include:

- Re-prioritising the distribution of the foundation's funding to focus on supporting organisations led by, and working with, the minoritised communities associated with the unjust benefit.
- Re-distributing some of the foundation's endowment to endow new foundations led by minoritised communities – such as the [Baobab Foundation](#).
- Changing the foundation's investment policy to include a specific objective of tackling racial justice through the investment of the foundation's endowment.
- Engaging with the foundation's bankers, insurers, investment managers and other suppliers to require them to take action on racial justice, and changing suppliers where necessary.
- Changing the foundation's governance, including the diversity of its board, so that its decision making reflects a lived experience of racial injustice.
- Publishing details of the plan and asking other foundations to publish theirs.

What's stopping us?

Are we, (ie our foundation and, therefore, us as individuals who gain a salary or other benefit from working for or volunteering with the foundation) benefitting from the proceeds of crime? The fact

we may not have committed or commissioned the crime is no defence. We can attempt to hide behind arguments such as our “fiduciary duty” to protect the assets of the foundation for our current and future beneficiaries – and that “giving those assets away” to right an historic wrong, possibly associated with an issue (racial justice) which may not form part of our charity’s current priorities, would be a breach of that duty. Or we can attempt the argument that there must be a statute of limitations on the crime of the transatlantic trade in enslaved people. Or that it is impossible to make reparations or restitution to people who are no longer alive. Or that our records are poor, or it would be too difficult to find out, and it would divert us from our charitable purpose. Or we can choose to hide – possibly out of fear or shame about what we might discover.

Why should we do this?

For some foundation’s interrogating the source of their wealth will be based on risk management – to have a “defence” ready in case of public challenge. For others, it will be part of a general commitment to their values – eg of social justice. For others, it will be part of an intentional process of changing their foundation to reflect a new reality created by the current calls for racial justice.

But one of the most important issues is that foundations must move beyond the symbolic response. Symbols are important – which is why the [removal and recontextualising of statues](#) has resonated with many people – both those who support and those who oppose their removal. But responding only on a symbolic level, whether that’s just moving a statue or issuing a press release or undertaking research into our history without acting on the results, does little or nothing to right the original injustice that may be part of the basis of our foundation’s power.

As a “values-led” sector, the charitable and not-for-profit sector should be leading the field when it comes to understanding and responding to historic associations with enslavement and colonialism. And there are examples of this, particularly on the cultural sector. But, in some ways, it is the private sector and governments that appear to be taking most action on this.

The Charitable and Not-for-Profit Sector:

The art gallery and museum sector, containing many charities, has a particular association with imperialism and colonialism because of the origins of many collections, gifts and sponsorship. It has long been subject to calls for restitution of works such as the [Benin Bronzes](#) and there is also a movement to ‘[Decolonise the Museum](#)’ (although publicly funded institutions have legal impediments when it comes to returning - or “[deaccessioning](#)” - items from their collections).

Some individual cultural institutions have begun to assess their relationship to enslavement and colonial profits. For example, [Tate](#)’s statement says “Although Henry Tate was not a slave-owner or slave-trader, it is not possible to separate the Tate galleries from the history of colonial slavery from which in part they derive their existence”, although it does not appear to have taken any steps to act on this history. The [Wellcome Collection](#)’s statement acknowledges that its founder’s collecting “relied on and fuelled a market for such items that was driven by colonial activities and open to exploitative trading” and it has [returned and stopped displaying items](#) in the past.

The Education Sector:

In 2018, [Glasgow University](#) produced a report on its links to the slave trade, and proposed a programme of reparative justice in response – including paying £20m in reparations. In September 2020 the [Sir John Cass’s Foundation Primary School](#) decided to change its name to The Aldgate School and to remove statues of its founder, a 17th Century merchant and proponent of slavery. It’s “parent” charity, the Sir John Cass Foundation, has also committed to [changing its name](#).

The Private Sector:

Barclays, Royal Bank of Scotland, HSBC and Lloyds banks all had [links to slavery](#) which they have acknowledged, as did directors of the [Bank of England](#). [Lloyd’s of London](#) insurance market has

apologised for its “shameful” role in the 18th and 19th Century Atlantic slave trade and has promised to invest in ways to “recruit, retain, and develop more black and minority ethnic market participants and provide financial support to charities and other organisations promoting diversity and inclusion”.

One of pub chain [Greene King's](#) founders owned a number of plantations in the Caribbean and it has said it would make a "substantial investment to benefit the BAME community", after consulting with its staff on how the money can best be used.

The UK Government:

The UK government has a long history of paying compensation and restitution. Most notably, under the Abolition of Slavery Act 1833, the government paid £20million in compensation to the [3,000 British families](#) that had owned enslaved people. This was around 40% of the government's budget at that time and it had to take out huge loans to be able to raise the funds, which it only finished paying off in 2015. So, anyone who was paying taxes in the UK prior to 2015 was involved in compensating the owners of enslaved people.

In 2013 the government agreed to pay a total of [£19.9m to 5,228 Kenyans](#) tortured by British colonial forces during the Mau Mau uprising in Kenya in the 1950s. The compensation amounted to about £3,000 per person but applied only to the living survivors of the abuses that took place.

In 2003/4, the NHS made [restitution payments](#) estimated at £180m to people wrongly denied continuing care.

Other Governments:

In 2017 the [Canadian government](#) agreed to pay between \$500 and \$800 million in restitution to Indigenous children who lost their cultural identities after being removed from their families and communities and placed with non-Indigenous foster and adoptive families in Canada, the US, and Europe in the 1960s.

After World War One, [Germany](#) and the other countries were to be made to pay for the damage faced by Britain and France during the war. In 1922 the amount to be paid was set at £6.6 billion. After World War Two, West Germany agreed to pay \$7 billion to the newly created state of Israel, and in total around \$89 billion was paid to individual survivors of the Holocaust.

All of these cases focussed on compensating living people who have been the subject of an historic wrong.

In contrast, the prime minister of Antigua and Barbuda [has written to the Master of All Souls College at Oxford University](#) recently, seeking reparations for what now amounts to tens of millions of pounds, amassed from the labour of enslaved people on Antigua and Barbuda in the 18th Century.

In the US, the call for reparations is older and stronger than in the UK, where the narrative has tended to focus on celebrating the UK's role in [ending the slave trade](#). In the US, part of the debate is whether reparations should go to the individual descendants of enslaved people, or their communities or countries from which enslaved people were originally taken.

Recent action is being led by faith-based organisations. For example, the Episcopal Diocese of Maryland voted in September 2020 to create a [\\$1 million reparations fund](#), likely to finance programs supporting Black students, nursing home residents, small-business owners and others. In March 2021, leaders of the Jesuit Conference of Canada and the United States have promised to raise [\\$100 million, which will be paid to a foundation set up with a group of descendants of Black people](#) it enslaved and sold, and to “begin a very serious process of truth and reconciliation”.

Also, in the absence of action by their institutions which benefitted directly from enslavement, at least one student body in the US has decided to begin to pay reparations to African American student programmes – eg at [Georgetown University](#).

Some local authorities are also taking action to right historic racial injustices. The city council in Evanston, Illinois, [voted to distribute \\$25,000](#) (£18,000) each to 16 eligible black households. To be eligible, residents must be a black person who lived in Evanston between 1919 to 1969, or a descendant of such a person. The family must also have been a victim of discrimination in housing because of policies or practices in the city in that time.

What Now?

Charities, governments and even the private sector have taken action to assess how they have benefited from enslavement and colonial exploitation – and have begun to make reparations.

UK grantmaking foundations now need to do the same.

If you are the chief executive or a trustee of a foundation, you should be able to answer the question **“did any of our foundation’s wealth come from the exploitation of others?”**.

And if the answer to that question is “yes”, you need to decide what action you are going to take – beyond the symbolic – in order to make meaningful reparations.

Further Reading:

For more reading on this subject in relation to the foundation sector:

[Philanthropy and the Sins of the Past: Statues, Slavery & Tainted Donations](#): Rhodri Davies /

Charities Aid Foundation

[Covid-19 and racial disparity: A time for urgent action](#): Derek Bardowell

[Decolonising Wealth](#): Edgar Villanueva

[Future Foundations UK](#)

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