

## **A Desperate Appliance: On Reparations**

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*“Diseases desperate grown,  
By desperate appliance are relieved,  
Or not at all.”*  
— William Shakespeare

I imagine the quote above will remind many of the coronavirus. But I write not on the pandemic that kept us in our homes this spring, but on the plague that took us to the streets this summer—racial inequality.

Among other structural disadvantages, [Black Americans face worse prospects](#) in life expectancy, infant mortality, income, wealth, employment, and education than the average American. These disparities are no accident. They are the deliberate result of centuries of enslavement followed by Jim Crow, segregation, redlining, mass incarceration, and all manner of schemes designed to prolong the oppression of Black Americans.

Racial inequality is a disease desperate grown. Lest we fall forever infirm, we must meet the problem with ambitious solutions. One necessary remedy is financial reparations from the United States government for the institution of slavery and all that followed.

I take the moral need for reparations to be self-evident. What is harder for many to grasp is how such payments would work, especially given legal constraints. What follows outlines who would receive such payments, how much they would receive, and how that funding would be provided within the confines of the law.

Let us first consider who would be eligible for reparations payments. The legal basis for awarding government funds based on race is tenuous. Any government policy that discriminates on the basis of race is likely to invite a Fourteenth Amendment equal protection lawsuit. The policy would then be evaluated by the courts through the doctrine of strict scrutiny, which requires the government to prove the policy is narrowly tailored to achieve a compelling objective. If reparations were paid to all Black Americans, such payments would likely be struck down in federal courts, especially if the case reached the Supreme Court. Given that the Supreme Court barely permits affirmative action, its new 6–3 conservative majority would almost certainly reject repayment of moral debt as a compelling reason for discriminating on the basis of race.

Instead of paying reparations to all Black Americans, legal necessity dictates that only descendants of slaves would be eligible for reparations payments. Admittedly, this is morally unsatisfactory. All Black Americans, not just descendants of slaves, are impacted by the legacy of slavery. But as law currently stands, reparations must be paid only to descendants of slaves. This would follow the precedent set by the [Civil Liberties Act of 1988](#), which provided payments to Japanese Americans who had been interned during World War II. Even though all payments were made to members of one racial group, it was not racially discriminatory because eligibility was based on having been interned. Similarly, if reparations are made only to descendants of slaves, they would survive a Fourteenth Amendment lawsuit because the eligibility requirement would be ancestry, not race.

We must then ask how much money is needed to repair the harm of slavery and its legacy. Among other evils, slavery deprived Black Americans of equality and freedom; making descendants of slaves “whole” (in the legal sense) requires honoring their claims to those natural rights. [Economist William Darity has proposed the amount necessary to do so](#). Descendants of slaves make up 13% of the American population, so equality dictates that they should hold 13% of the country’s wealth, which would be \$13 trillion. Descendants of slaves currently hold only \$3 trillion in wealth, leaving a wealth gap of \$10 trillion. Reparations payments must close this gap by paying \$267,000 to each descendant.

Admittedly, wealth itself is not equality or freedom. But in a country where money is speech, making descendants of slaves economic equals with their peers meaningfully raises their political voices. And reparations payments would provide descendants of slaves with a level of economic empowerment that is the modern embodiment of freedom. Wealth is the best metric we have to atone for an immeasurable sin.

The final consideration is how these reparations would be paid. Unlike with the Civil Liberties Act, there will not be enough consensus in Congress to begin reparation through the legislature. While some presidential candidates have expressed support for reparations, the executive lacks the power of the purse. Lawsuits through the judicial system raise difficult questions of standing and are unlikely to succeed. Reparations, then, must find an ally in an unexpected place: the Federal Reserve.

The Fed currently finds itself in a difficult position. Unable to lower interest rates any further, it has had to resort to propping up risky assets to stave off recession. A far better alternative would be to support consumers or small businesses directly rather than trying to indirectly help them through risky markets. The Fed has tested the waters in this regard with the [Main Street Lending Program](#), and reparations could be the next step in the Fed’s transition to direct consumer support. The Fed could use its emergency powers under [Section 13\(3\)](#) of the Federal Reserve Act

to make forgivable loans directly to descendants of slaves, which would effectively be payments. \$10 trillion would be a hefty sum to pay all at once, but the Fed could feasibly space out such loans over a period of 10–15 years.

It might seem odd to put a financial institution in the middle of social justice, but it is fitting on two levels. First, it is rhetorically meaningful. Slavery stripped people of their humanity and treated them as economic assets. It is only appropriate that reparations would require an economic asset to recognize the humanity of its recipients. And second, reparations would further the Fed's mission. Racial inequality is economically inefficient. [Eliminating the racial wealth gap would boost GDP by 6%](#). And closing the racial income gap, which reparations have the potential to do, would [increase GDP by 14%](#). Given the economic crisis created by the pandemic and the waning effectiveness of the Fed's traditional tools, this is an opportunity the Fed cannot ignore.

Biden and his successors must appoint Fed Chairs and Governors who will have the courage to undertake this ambitious policy. Otherwise, we will fall forever infirm, acquiescent to impermissible racial inequality.

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