

The Staying Power of Injustice and the Prolonged History of the Trafficking of Indian Children in The Other Slavery

Author : Ann Tweedy

Date : April 25, 2017

Andrés Reséndez, **The Other Slavery: The Uncovered Story of Indian Enslavement in America** (2016), available at [Amazon](#).

The Other Slavery: The Uncovered Story of Indian Enslavement in America is a devastating encyclopedic account of slavery in the Spanish colonial New World. For me, the ultimate effect was a surprising combination of a renewed sense of the intractability of old problems like racism and slavery and an acute sense of having awoken to a new historical reality that I previously knew next to nothing about.

As a professor of federal Indian law, I begin my class each semester with a brief overview of early colonialism, including the Requerimiento, a document that Spanish explorers read to Indigenous peoples before attacking them. Drafted in 1510, the Requerimiento threatened the original inhabitants of the Spanish colonies with slavery and war if they did not accept Christianity and the primacy of both the Pope and the Spanish monarchs. Despite my knowledge of the widespread use of this document, I had no idea of the breadth of the system of enslavement that Indians in the Spanish New World, ranging from New Mexico, California, Utah, and Florida down to Chile, were subject to. Author and UC Davis historian Andres Reséndez posits remarkably that Indigenous peoples' precipitous population declines from the end of the fifteenth century through the mid-sixteenth century were due more to "slavery, overwork, and famine" than to disease. (P. 17.) While shocking given the prevalence of the disease theory, this idea makes intuitive sense to me because I can see the popularity of the disease hypothesis standing alone possibly being fueled by its resonance with old but unfortunately not quite extirpated Western ideas of the supposedly divinely ordained superiority of Europeans and European-Americans compared to their Indigenous counterparts. Given slavery's overtly oppressive character, the idea that Indigenous populations were decimated through slavery (in addition to disease) is undoubtedly more difficult for European-Americans to reckon with. In short, the book pierced me and changed me, and I will never see American history or Latin American history the same way again.

It would be impossible to do this book any sort of justice in the course of a short review, so I will touch on a few of the insights that *The Other Slavery* led me to. First, the book elucidates how Anglo-centric the teaching of history in the context of U.S. federal Indian law tends to be. It showed me starkly that the snippets I previously knew about the history of tribes in the Southwest were grossly inadequate. I am now convinced that it is essential to know a fair amount about the Spanish government's colonial policies to understand federal Indian law. Looking at it solely through the lens of historical British, French, and American policies is insufficient—too much is left out that can help us understand how we got to where we are today.¹

One of the harsh truths that the book instilled in me is the difficulty of effecting justice through law. At the same time, one of the rays of hope that sustains the book and bulwarks the reader against utter despair is that there were several Spanish rulers (as well as priests and scholars) who saw the injustice of Indigenous enslavement and who, in the case of the rulers, enacted laws outlawing the practice. For instance, King Ferdinand and Queen Isabella as well as King Philip IV, his wife Queen Mariana, and their son King Charles II all enacted laws prohibiting taking Indians as slaves. These laws had important beneficial effects—indeed many slaves sued for their freedom under them—but, all in all, the laws ended up freeing only a small portion of all the Indian slaves throughout the New World. (P. 74.)

Reséndez carries us through numerous innovations that colonial leaders developed to circumvent these laws. As he explains, "[a]ll over Spanish America, Indian slave owners and colonial authorities devised subtle changes in

terminology and newfangled labor institutions to comply with the law in form but not in substance.” (P. 75.) Thus, slavery, after being outlawed, gave way to a tribute system involving *encomiendas*, which were rights granted by the Crown that included the ability to demand work from Indigenous persons. New *encomiendas* ceased in 1673, and so they were replaced by another tribute system, also involving forced labor, called *repartimientos*. Finally, when *repartimientos* began to be phased out in the late 1700s, debt peonage, which had existed for centuries, came to the forefront as the most prevalent species of slavery. (P. 238.) Debt peonage proved hard to root out—although a few politicians and political appointees made heroic efforts—and Reséndez points to one example in New Mexico that occurred as late as 1967. (P. 314.)

This is a difficult emotional path to follow as a reader. We learn, for instance, that, as anti-slavery laws became more ingrained, Spanish colonial slave traffickers were replaced by tribal traffickers, including Caribs and Comanches. Furthermore, the laws had the unfortunate effect of promising the Native slaves more than they could deliver: “[the Indians’] experience of the campaign [in the late 1600s] was marked by dashed hopes, anxiety, and restlessness.” (P. 147.) These relentless innovations in slavery and slave-like institutions are one of the central themes of the work, and what they ultimately tell us is that justice is extremely hard to effect in the face of contrary economic interests.

One very early example of a colonial leader flouting the law involves Columbus himself. His contract with the Spanish monarchy allowed him to invest in the cost of his expeditions in order to gain a percentage of any profits derived therefrom, and thus he had a direct economic incentive to exploit the Indigenous people and to try to get around slavery laws—indeed, he noted that the Indians of Española were its “greatest wealth” and that they did “all the work of men and beasts alike.” (P. 28.) The difficulty of achieving justice when it threatens economic interests is a lesson that can equally be applied to other facets of injustice in the United States, and Reséndez himself describes the Supreme Court’s disappointingly narrow interpretation of the Thirteenth Amendment, which proved a tragedy not just for Indians mired in debt peonage, but also for newly free African Americans. (P. 304-05.)

Another revelation for me was the fact that the assimilationist practice of social services’ removal of Indian children from their homes, which is generally traced back to the mid-1900s, had an important and largely unrecognized historical antecedent: stealing Indian children into slavery.² In most circumstances in the Spanish New World, Reséndez explains, Indian slaves who were women or children were considered more valuable than grown men. Indeed, even the *Requerimiento* itself threatens to enslave the listener’s wife and children. Thus, *The Other Slavery* exposes us to a long and appalling history of stealing Indian children into slavery. One of the most gut-wrenching quotes is this one by Alonso de León, describing Mexico in the late sixteenth century: “In those days, we did not consider anyone a man until he had journeyed to the Indian *rancherías*, whether friends or enemies, and seized some children from their mothers to sell.” (P. 99.)

Stealing children was also a rampant practice in California and in what eventually became the American Southwest, and Reséndez describes several different forms of it. Among them are the Mormon practice in Utah in the mid-1800s of purchasing Indian children under the pretense of saving their souls (which also involved erasing their cultures), apprenticing Indian children to white families in California also in the mid-1800s, and the widespread practice of stealing Navajo children in the 1860s. At one point during the Navajo Campaign, Kit Carson requested permission from General James Henry Carleton to allow the Utes assisting the U.S. forces to keep the Navajo women and children they captured partly because otherwise the Utes would not be sufficiently compensated for their services and partly because selling the Navajo captives into slavery in Mexico would “cause them to loosen their collectiveness of interest as a tribe.” (P. 286.) Thus, shades of genocide are apparent in Carson’s missive and in the U.S.’s condonation of the practice (although this particular request was refused). The fact that thievery of Indian children has such a long history in America reinforces the need for the Indian Child Welfare Act and similar state laws to protect against further iterations of this type of abuse.

In conclusion, *The Other Slavery* is indispensable reading for professors in the U.S. who teach federal Indian law. More broadly, I sincerely wish that Chapter One, which is about Columbus, could be read by everyone who teaches some aspect of New World history at any level. I would hesitate to recommend any of the other chapters individually—for

those who are interested in colonial history, Indigenous history, or the history of slavery, all of the chapters delineate crucial parts of the same horrifying story.

1. There has also been important scholarship on slavery under French colonial rule—and its continuance under British rule—in Canada. See, e.g., Marcel Trudel, **Canada's Forgotten Slaves: Two Hundred Years of Bondage** (trans. George Tombs 2013). For a discussion of Indian slavery in colonial and early American Virginia, as well as elsewhere in the United States, see Gregory Ablavsky, *Making Indians "White": The Judicial Abolition of Native Slavery in Revolutionary Virginia and Its Racial Legacy*, 159 **U. Pa. L. Rev.** 1457 (2011). [?]
2. Another key historical antecedent to these removals was the genocidal boarding school system, which came to the forefront in the late 1800s. [?]

Cite as: Ann Tweedy, *The Staying Power of Injustice and the Prolonged History of the Trafficking of Indian Children in The Other Slavery*, JOTWELL (April 25, 2017) (reviewing Andrés Reséndez, **The Other Slavery: The Uncovered Story of Indian Enslavement in America** (2016), available at Amazon), <https://equality.jotwell.com/the-staying-power-of-injustice-and-the-prolonged-history-of-the-trafficking-of-indian-children-in-the-other-slavery/>.