ABSTRACT

This dissertation analyzes two regional systems of involuntary servitude (Indian captive slavery and Mexican debt peonage) over a period spanning roughly two centuries. Following a chronological framework, it examines the development of captive slavery in the Southwest beginning in the early 1700s and lasting through the mid-1800s, by which time debt peonage emerged as a secondary form of coerced servitude that augmented Indian slavery in order to meet increasing demand for labor. While both peonage and captive slavery had an indelible impact on cultural and social systems in the Southwest, this dissertation places those two labor systems within the context of North American slavery and sectional agitation during the antebellum period. The existence of debt bondage and Indian captivity in New Mexico had a significant impact on America's judicial and political institutions during the Reconstruction era.

Debt peonage and Indian slavery had a lasting influence on American politics during the period 1846 to 1867, forcing lawmakers to acknowledge the fact that slavery existed in many forms. Following the Civil War, legislators realized that the Thirteenth Amendment did not cast a wide enough net, because peonage and captive slavery were represented as voluntary in nature and remained commonplace throughout New Mexico. When Congress passed a measure in 1867 explicitly outlawing peonage and captive slavery in New Mexico, they implicitly acknowledged the shortcomings of the Thirteenth Amendment. The preexistence of peonage and Indian slavery in the Southwest inculcated a broader understanding of involuntary labor in post-Civil War America and helped to expand political and judicial philosophy regarding free labor. These two systems played a
crucial role in America's transition from free to unfree labor in the mid-1800s and contributed to the judicial and political frameworks that undermined slavery.
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CHAPTER 1

INTRODUCTION

In 1867, under the leadership of Republican Congressman James R. Doolittle of Wisconsin, a Senate special committee released a voluminous 532-page report outlining the “condition of the Indian tribes” occupying America’s western domain.\(^1\) Impelled by widespread accusations alleging mistreatment of indigenous peoples all across the continent, the published testimonial initiated a period of restructuring in approaches to Indian affairs. With moral reformers demanding modified federal Indian policies and the “Doolittle Report” (as it has come to be known) substantiating previous allegations of abusive conduct, officials felt pressured to pursue corrective action. Under the political leadership of Radical Republicans and the moral guidance of religious activists, this far-reaching movement promulgated the liberation of many debt peons and Indian captives in the Southwest Borderlands, a vast area that included New Mexico, Arizona, southern Utah and Colorado, and west Texas. It also prompted federal investigations to ensure compliance on the part of regional servant-holders.

The 1867 report, which included the sworn testimony of several prominent New Mexico citizens and bureaucrats, revealed a grim portrait of circumstances in that region, one where systems of human bondage persevered and prospered even after the Civil War’s culmination brought about the manumission of African American slaves. The informants—including Brigadier General James H. Carleton, Judge Kirby Benedict, ex-

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Governor Henry Connelly, and former Superintendent of Indian Affairs James L. Collins—concurred in one thing if nothing else: Indian captivity and Mexican peonage remained firmly implanted in the Southwest. Their comments outlined, in no uncertain terms, deeply entrenched systems of coercive labor that dated back more than two centuries.

“The number of Indians, men, women, and children, who have been captured or bought from the Utes, and who live in the families in the Territory,” Major Carleton told investigators, “may be safely set down as at least three thousand.” Implicitly describing the cultural and filial dependency that this fostered, he noted that many of these captives learned to speak Spanish and “become attached to the families they live in.” Carleton also acknowledged that New Mexicans frequently rode into Navajo country, where they “capture some of the women and children and make slaves of them.” He spoke of only two tribes—the Utes and Navajos—while neglecting to mention the roles of Apaches, Comanches, or other groups who acted with similar complicity in the captive slave trade.²

Judge Benedict took the stand next. Nearly a decade earlier, in a case that had legal implications into the early twentieth century, this official from Illinois had established himself as the face of anti-slavery judicial activism in New Mexico by ruling in favor of a peon in an 1857 lawsuit (see chapter 3). “There are in the Territory a large number of Indians, principally females (women and children), who have been taken by force, or stealth, or purchased . . . of these a large proportion are Navajoes,” Benedict explained. “It is notorious that natives [Hispanos] of this country have sometimes made

captives of Navajo women and children when opportunities presented themselves; the
custom has long existed here of buying Indian persons, especially women and children;
the tribes themselves have carried on this kind of traffic.” Lest his intended audience
misunderstand any of his testimony, he concluded by bluntly telling them that, “The
Indian persons obtained in any one of the modes mentioned are treated by those who
claim to own them as their servants and slaves.” Once again, however, the informant
alluded only to a solitary tribe—this time the Navajos—and failed to acknowledge the
involvement of Apaches, Comanches, Utes, and others.3

Former Governor Connelly, following the lead of Carleton and Benedict, seemed
merely to reiterate what his colleagues had already made quite clear. Describing relations
between Navajos and New Mexicans, he noted that “they mutually also captured and held
as slaves the women and children of each other. I believe the Mexicans captured the
most children, the Indians the most herds [of sheep and stock]. I found that state of
things when I came here [to New Mexico] in 1824. I presume this state of things had
existed since time immemorial.”4 James L. Collins, who developed an intimate
knowledge of slaving practices during his tenure as an Indian agent, similarly testified
that, “I think some two thousand captives are held in the territory now. They are held and
treated as slaves, but become amalgamated with the Mexicans and lose their identity.”5

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3 Statement of Chief Justice Kirby Benedict, July 4, 1865, in ibid., 326.

4 Statement of Henry Connelly, July 4, 1865, in ibid., 332. Christopher “Kit” Carson gave a similar
testimony, telling investigators, “I know that even before the acquisition of New Mexico there had always
existed an hereditary warfare between the Navajoes and Mexicans; forays were made into each other’s
country, and stock, women, and children stolen.” Ibid., 97.

5 Undated Statement of James L. Collins, ibid., 332.
At the time these four men testified, in the summer of 1865—with the nation still reeling from the deadliest conflict it has ever experienced—they doubtless realized the political, legislative, and juridical implications of the labor systems that they described. Even so, all four officials understated the extent of New Mexican slavery, referring to individual tribes and captive-taking, but failing to even mention debt peonage, a system of involuntary servitude that complemented Indian slavery in Southwestern society at that time. They also implicitly described the primary features of what I call a “society of dependency,” wherein multiple forms of enslavement pervaded New Mexico’s social relations and rendered the masses as veritable wards of the elite few. While it has been widely accepted, among previous generations of scholars and especially the general public, that the Civil War and the Thirteenth Amendment to the Constitution ended slavery in the United States, this book argues otherwise, and demonstrates the importance of debt peonage and captive slavery in America’s nineteenth century transition to free labor and the concomitant evolution of United States jurisprudence in the post-Civil War era.

By the time U.S. troops arrived in New Mexico in 1846 and seized political jurisdiction over the province, systems of human bondage had already become firmly established during the preceding centuries of Spanish and Mexican rule. Involuntary servitude existed throughout the Southwest under the guises of debt peonage and Indian captivity, both terms serving as a veritable veil for the true nature of those labor systems. Regional institutions of servility developed over many generations and therefore exhibited the influences of several transitional periods. Long before the arrival of European colonists, indigenous peoples took captives from enemy tribes during raids and
warfare, forcing them into servitude and assimilating them through processes of fictive kinship and acculturation. The introduction of captivity as an economic and labor-based enterprise, as opposed to a predominantly cultural and filial one, originated with the period of Spanish imperialism and colonialism (1540-1821). Systems of involuntary servitude subsequently underwent juridical and cultural modification during the Mexican national era (1821-1846), and then gradually unraveled in the decades following the American conquest. Three sovereignties differing politically, culturally, and economically thus influenced the evolution of indigenous slavery and debt peonage in today’s American Southwest over a period spanning approximately 330 years.

Coercive and dependent labor systems persisted and transformed in the region for three centuries before an act of Congress finally abolished the final remnant, peonage, in 1867. The mandate specifically banning debt bondage came a full two years after the statutory liberation of African American slaves at the end of the Civil War, making New Mexico’s peons some of the last involuntary servants to be freed in the United States. Systems of servility had become so culturally engrained, however, that even congressional mandates during the Reconstruction era did not immediately root them out of northern New Mexico’s isolated communities. Some servants—debt peons and captive Indians alike—remained in bondage even after implementation of the 1867 law, prompting federal investigations and grand jury indictments that, while focusing on northern New Mexico, cast a larger shadow by attempting to eliminate all forms of involuntary labor in the United States. The origins of these Civil War-era events are traceable to the colonial period, during which time coerced labor regimes and the
inegalitarian social system they engendered gradually evolved in the region that would become the American Southwest.

Political, military, and ecclesiastical support buttressed Euro-American influence over Indians in the Rio Grande Valley of north-central New Mexico during the early decades of colonization. The Spanish method of acculturation and assimilation through religious indoctrination cloaked a secondary purpose, that of providing colonists with servants who not only labored but also symbolized the social prestige and bolstered the economic aspirations of their masters.\(^6\) Initiated primarily through captivity and sustained through geographic disassociation from faraway homelands, spiritual conversion, and fictive kinship bonds, coerced servitude fostered intense animosity between Spaniards and sedentary Pueblo Indians during the early colonial period, and those feelings of hostility remained dormant but intact for generations to come.\(^7\) The Pueblo Revolt of 1680 and the subsequent 1692 Spanish \textit{reconquista} served merely to shift Euro-American slaving practices from sedentary Puebloan peoples to peripheral nomadic tribes.\(^8\)

Predicated upon imperial interlopers exerting symbolic psychological power and physical control over Native peoples and the spaces they inhabited, the proliferation of


Indian slavery in the Southwest during the seventeenth and eighteenth centuries coincided with the development of similar slave systems in the eastern part of the continent. On North America’s Atlantic Coast and throughout its hinterlands, English and French settlers also subjected Indians to comparable forms of denigrating and exploitative bondage. Spaniards acted unintentionally in concert with rival European imperialistic powers in promulgating new systems of involuntary servitude across much of the North American continent, and in so doing all three of these foreign nations thrust upon tangential Indian tribes previously unknown forms of labor and exchange, ones that featured commodified human slavery as a dominant characteristic.

The extent to which Indian slavery flourished in the Southwest as a hegemonic social enterprise during the eighteenth and early nineteenth centuries can be gleaned from early Catholic Church records. Spanish priests frequently baptized young Indian children, at which point they became accepted members of the adoptive families that initially served as their captors. New Mexico’s clergymen were only too happy to oblige any such request, recognizing anointment in the holy faith as a symbolic means of achieving religious conversion and thereby stripping Indians of their spirituality, tribal identity, and previous kinship associations while simultaneously instilling and

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broadcasting the mystic power of the church. Such theological conversion served as a secondary form of enslavement, one that priests hoped would bind a person spiritually in addition to their preconceived physical bondage and geographic isolation from their tribe of origin, thus augmenting an internalized psychological state of subjectivity within the captive.

By the early 1800s, Spain had issued numerous edicts disallowing slavery in all of its New World provinces. The final decree came in 1812 when the Spanish Council of Regency enacted the Law of Cadiz, abolishing the racial caste system and seeking to promote equality within the kingdom by explicitly prohibiting citizens from holding slaves. The measure summarily failed in its objectives throughout the colonies for the simple fact that the mother country remained so far distant that it could do little to actively enforce such a law. Rather than promulgating social egalitarianism, Spain’s anti-slavery mandates merely hindered the transport and trade of Africans in Central and South America, who comprised the more publically visible slaves in those regions.

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10 Historian Ramón A. Gutiérrez has argued that most recorded conversions were in fact only symbolic and did not constitute a true spiritual transformation because culture and language barriers prevented many Indians from understanding the tenets of Catholicism, the practices of which differed drastically from Native beliefs. Ramón A. Gutiérrez, When Jesus Came the Corn Mothers Went Away: Marriage, Sexuality and Power in New Mexico, 1500-1846 (Stanford, CA: Stanford University Press, 1991), 92-94.

11 For the official act, see New Mexico State Records Center and Archives, SANM II, Reel 21, Frames 531-33.

Royal administrators in the respective viceroyalties deliberately designed such regulations to have a minimal impact on the traditional forms of human bondage practiced in the northernmost colonial outposts. Spanish decrees that outlawed slavery, aimed as they were toward African servants in the more southerly regions of the empire, had little regulatory impact on peonage and captivity in secluded areas. Indeed, many officials held indigenous captives and servants in direct contradiction to their own laws.13

In the late 1700s, the emergence of debt peonage alongside Indian captivity signified the fragmentation of involuntary labor into two systems, the former predicated upon economic dependency and the latter sustained primarily through fictive kinship, religious conversion, and spatial isolation. The various semblances that slavery assumed by the early nineteenth century indicate its bifurcation into distinctive forms and reveal the strategic maneuvering of authoritarian masters seeking to perpetuate such institutions—and concomitant lopsided economic and social power structures—under misleading guises. With the monarchy’s renunciation of Indian enslavement in the 1600s, colonial landowners began to ponder alternative ways to procure labor. Realizing that African slaves were expensive to maintain and relatively few in number, landowners resorted to a system of serfdom that they sustained through indebtedness. Peonage became a transitional phase of dependency—one that lay at the interstices of slavery and free labor—that characterized Latin America’s agrarian and pastoral areas, most often targeting Indians, mulattos, and mestizos. By the early 1800s, Hispanos had adopted

13 See, for example, Sondra Jones, *The Trial of Don Pedro León Luján: The Attack Against Indian Slavery and Mexican Traders in Utah* (Salt Lake City: The University of Utah Press, 2000), 32-33.
credit extension and debtor servitude as a preferred method of securing labor on northern New Mexico estates.\textsuperscript{14}

Classical systems of slavery in places like ancient Rome had been predicated upon war and defeat, revolving around a conqueror’s power imperative and being only marginally driven by labor needs or economic interests. In the New World, however, slavery developed around a commercial structure that recognized property in slaves, commonly known as the chattel system, which incorporated capitalist business models.\textsuperscript{15} The Southwest was remarkable in this regard because the two forms of unfree labor in that region meshed the classical and chattel systems. Peonage and captive slavery revolved around cultural patterns and kinship structures, yet both systems accomplished commercial imperatives by fulfilling labor needs in a localized economy. New Mexicans practiced animal husbandry and subsistence agriculture—both inherently classical in nature—while gradually evolving towards a modernized business-oriented capitalist structure beginning with the advent of the Santa Fe-Missouri trade in 1821. Indian captivity and debt peonage reflect this transition; the former was predicated upon warfare, conquest, and kinship, while the latter, under the pretense of indebtedness and servitude, bore more similarities to a commercially-oriented society. The fact that both


of these labor systems existed simultaneously for several generations shows that New Mexico occupied a position at the confluence of the old and the new. In a sense, the ancient Eastern world met the modern Western world in nineteenth century New Mexico.\textsuperscript{16}

Beginning in the late 1700s, the development of unfree labor, in all of its permutations, coincided with the continuous revolutions occurring throughout Latin America, which ultimately brought about the complete dismantling of Spain’s New World Empire. The Enlightenment-era model for these upheavals was the successful American Revolution, the republican ideology of which not only helped to precipitate the independence of many Latin American countries but also laid the theoretical groundwork for the eventual emancipation of chattel slaves in the South, as well as peons and captives in the Southwest during the mid-1800s.\textsuperscript{17} Also contributing to the dissolution of Spanish hegemony was the emergence of dominant Native American forces that forged their own overriding spheres of influence in the Southwest. Through relentless raiding of colonial outposts in New Mexico, Texas, and northern Mexico, the Comanches especially—and to a lesser extent the Apaches, Navajos, and Utes—contributed not only to the redefinition and repurposing of enslavement, but also to the redistribution of social power and spatial control, carrying Euro-Americans into captivity and inciting sustained fear and anxiety.


throughout Spain’s isolated imperial outposts. All of this occurred within a plurality of sovereignty contingent upon a borderlands backdrop, wherein multiple indigenous and Euro-American power brokers coexisted in oscillating conditions of peace and warfare that revolved in large part around processes of enslavement and repatriation. In the Southwest Borderlands, the economic and diplomatic ascension of Indian tribes, coupled with the continued social evolution and legislative redefinition of Euro-American slave systems, contributed to the termination of Spanish provincial authority and helped to initiate that country’s rapid imperialistic downfall during the first two decades of the nineteenth century.

Systems of involuntary servitude underwent further adaptation once Mexico achieved independence in 1821, after which the national government approved three measures outlining relationships between masters and servants. Perhaps the greatest paradox in Mexico’s master-servant regulations lay in the fact that, during the twenty-five years that New Mexico remained under its sovereignty, African slavery was almost nonexistent there and the laws proved utterly inconsequential in that more northerly

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region. Ironically, while lawmakers in Mexico City approved legislation banning citizens from selling or owning black slaves, the residents of the northernmost provinces found themselves subjected to enslavement among the Indians and had become, in some instances, veritable servants to the more powerful tribes. Apache and Comanche raiding in New Mexico and the northern Mexican states of Sonora, Chihuahua, Coahuila, Nueva Vizcaya, and Tamaulipas proliferated following Mexican independence, bringing about an unforeseen dynamic in the slave trade, one where Euro-Americans—who usually cast themselves as colonial hegemons—were themselves being subjected to captivity and servility.21

When New Mexico came under the jurisdiction of the United States in 1846, debt peonage and captive slavery underwent a rapid process of politicization, being thrust into sectionalist debates in the U.S. Congress. Preexisting Mexican laws regulating human bondage were continuously called into question during discussions over slavery in the newly acquired territories. Legislators temporarily mitigated these incendiary issues with the Compromise of 1850, allowing popular sovereignty for New Mexico and Utah territories and free-soil statehood for California. By that time, however, dependent servility had become a mainstay in Southwestern culture and federal attempts to uproot it met with staunch resistance at the local level. The extent to which human bondage existed as a cultural and social determinant in the Southwest often went underappreciated by Easterners unfamiliar with the region, as evidenced in the ill-informed antebellum debates over the future existence of slavery in the territories.

Although on several occasions they did take up the issue of African American rights and chattel slavery, New Mexico’s territorial legislators typically avoided mentioning peonage and captivity during official proceedings. Most Hispano policymakers belonged to an elite echelon of society that traced its lineages to the earliest Spanish colonists and often held Indian captives and indigent debtors as servants themselves. For this reason, local lawmakers nonchalantly perpetuated peonage through their silence on the issue, while simultaneously expressing an aversion to chattel slavery, in which they held no vested economic or social interests. Beginning in the mid-1850s, however, the ascension of pro-slavery Democrats during the presidential administrations of Franklin Pierce and James Buchanan prompted a shift in policy objectives on the part of New Mexicans. The territorial legislature first adopted a measure regulating the mobility of blacks in 1857, and then passed an infamous “Slave Code” in 1859 that mirrored those of many eastern states. In the eyes of most Americans, this placed New Mexico firmly in the camp of pro-slavery interests.

This overarching duplicity in territorial politics did little to ease the tensions emanating from the national slave debate. Just prior to and during the Civil War, ambiguity on slavery within the local sphere and continuous vacillation in the legislature relative to pro- and anti-slavery laws caused Northern and Southern leaders to question the territory’s stance on the issue, and this pervasive political uncertainty helped to encourage the Confederate invasion of the territory in 1861.22 Such political anomalies at

the local level heightened the anxiety of American politicians, who became skeptical of New Mexico’s suitability for statehood, in part because of its continued ideological haziness on an issue as important as slavery.

Having been granted popular sovereignty, the New Mexico legislature passed a number of measures regulating slavery and black persons in the antebellum era, including two Slave Codes in 1857 and 1859. To varying degrees, the laws mirrored those of many Southern states and became widely controversial, both locally at the capital of Santa Fe as well as nationally in Washington, D.C. Events during the Civil War ultimately induced the repeal of New Mexico’s slave code, and not long afterwards the federal government, influenced by Radical Republican ideology and Reconstruction policy, ventured a step further and outlawed peonage as well. By 1867, all forms of involuntary servitude had become illegal and it appeared that the peculiar institutions of captive slavery and debt bondage, as they had existed and evolved over three hundred years and three political sovereignties, had finally reached their demise. The systems remained so culturally entrenched, however, that it would take several more years and numerous legal proceedings to finally liberate captives and peons. Not until the 1870s did most servants attain freedom—more than three centuries after Spaniards introduced the system, almost three decades after American debates on slavery in the Southwestern territories began, and several years after the final shots of the Civil War had been fired.

23 See Laws of the Territory of New Mexico, Sixth Legislative Assembly, 1856-1857 (Santa Fe, NM: Office of the Democrat, 1857) and “An Act to Provide for the Protection of Property in Slaves in This Territory,” Laws of the Territory of New Mexico, Eighth Legislative Assembly, 1858-1859 (Santa Fe, NM: A. DeMarle, 1859).
The multilateral relationship between disparate groups inhabiting the Southwest reveals a complex tiered dynamic of social, ethnic, and gendered otherizing, one that pervaded the consciousness of nearly all regional occupants, and the hierarchies that developed in New Mexico can therefore be understood through “levels of other” and “society of dependency” as theoretical models. Two groundbreaking social theories developed in the late 1970s: Edward Said’s notion of othering and Robert Berkhofer, Jr.’s conceptualization of the stereotypical group classification of American Indians. Those concepts are herein expanded to include multiple dimensions that, in colonial and territorial New Mexico, interacted simultaneously with one another in such a way that determined relationships of power between masters, culturally dependent indigenous captives, and economically dependent Hispano servants.24

In accordance with the observations of Said and Berkhofer, social psychologist Henri Tajfel describes the social categorization that occurs during individual and intergroup interactions, facilitating the means for human comparison and, in the case of societies with slaves, leading to the development of stigmatizing social identities. Because, according to Tajfel, enslavement is a “social psychological process” that delineates human behavior and promulgates inequalitarian group relations, captivity and servitude played a critical role in the sequential process of dependency, identity reformulation, and social stratification that Southwesterners experienced. With social identity being largely contingent upon self-image, patrónes strategically differentiated

between individuals and groups using levels of other, thereby manipulating hierarchical power relations and asserting social dominance over servants by dictating the terms of their internalized worldviews. In this sense, nineteenth century New Mexico serves as a case study for Tajfel’s model of differentiation between social groups, and application of the “levels of other” concept creates a unique analytical device for the Civil War era Southwest—a society of dependency where slavery-induced social, economic, and cultural relationships became the defining characteristics of regional communities.  

By actively applying levels of other in everyday activities and interactions, masters sustained and even heightened the dependency of enslaved subjects. Capture and debt were merely the pretenses under which a state of dependency came into being; levels of other explain how that dependency was expanded and perpetuated. In New Mexico, multiple layers of dependency arose after one’s enslavement. Economically, landless and destitute peons depended on masters to feed, clothe, and house them, with indigence being what kept them in perpetual dependency to their creditor. Socially, both captives and peons lived at the bottom rung of New Mexico’s hierarchy and had little opportunity of elevating themselves due to their enslaved status, making them dependent on their patrónes for what little recognition they received. Culturally, Indian captives underwent processes of assimilation and acculturation that involved religious conversion, spiritual transformation, fictive kinship, and intercultural marriage, all of which made them increasingly dependent on the dominant customs of their Hispano captors as a strategy for survival. So too did captives experience a form of spatial dependency that originated

with their traumatic abductions; like a stranger visiting a foreign land, their forced integration into an unknown place left them at the mercy of others to help them find their way in the local community. And neither captives nor peons enjoyed any semblance of political agency in their communities, making them dependent on the machinations of the master class, who held governmental power and controlled provincial affairs. In New Mexico, then, several distinct forms of dependency developed, all of which revolved around slavery. For this reason, the Southwest Borderlands of the eighteenth and nineteenth centuries constituted what I call a society of dependency (rather than merely a society with dependents), because such a large proportion of the population fell into these categories of reliance at some if not all levels.

Othering, social categorization, and the multitudinous forms of dependency they create have traditionally been viewed as psychological mindsets that manifest themselves in individual or collective action and discourse, including prejudice, bigotry, sexism, racism, and ethnocentrism. According to Said, the western world views unfamiliar cultures as “other” and thereby seeks to justify its denigration and exploitation of peoples who are seen as different. Berkhofer expands this model to demonstrate how the imposition of Indianness as a universal social category became a tool of colonization and a symbolic gesture of Euro-Americans’ own perceptions of cultural and ethnic superiority. A more multifaceted version of these dual concepts, however, is necessary in order to understand systems of involuntary servitude in New Mexico and the


27 Berkhofer, Jr., White Man’s Indian, esp. 23-31.
concomitant social stratifications and psychological dispositions that regional occupants experienced. I propose that various criterion of distinction—or “levels of other”—acted in tandem and determined where a servant or slave might fall within the social hierarchy and racial caste system. In line with the Geertzian model of cultural anthropology, levels of other symbolized social power relations in colonial and territorial New Mexico, where masters exercised hegemony over servants through both physical as well as psychological means in order to sustain their society of dependency.28

The most fundamental level of other exists by default. As individuals, each human being is automatically an “other” to the beholder, because every person is an independent physiological and psychological entity. The second level involves sex, with males and females sharing similar biological characteristics, but physical and reproductive differences delineate social constructs of gender that represent an additional tier of separation between human subjects. A man will subconsciously view a woman as “other” more so than he will view another man as “other.” In this sense, female captives held by male patrones would have been more of a dependent “other” than would male captives or peons held in the household of the same overseer. This sexual understanding of “other” propagates varying cultural constructions of gender that occur within all spheres of social interaction.

A third level of other is age. Just as a man and a woman are “others” based on sex and gender, so too do people formulate a psychological disposition towards one another in terms of maturity. Despite similarities of anatomy, two men born fifty years

apart will inherently perceive one another in a much different way than two men separated in age by only one or two years. This third level of other is important for understanding social power relations, as age often becomes a factor in circumstances involving authority and dependency. Think, for example, of a teacher and a student, or a parent and a child, as objective and subjective agents based on age and experience. With this in mind, a seventy-year-old Spanish hacendado in New Mexico would be disconnected from a fifteen-year-old captive Indian woman by three levels of other: separate physical bodies; different sex and gender; and divided in age by more than five decades. In such cases, the stigma would be further exacerbated by the lack of blood kinship; control of the physical body and ownership of a captive’s labor enabled masters to exert a degree of dominance unattainable in relations with family members or other non-indigenous citizens. The more levels of other that separated two individuals, the greater the power that one wielded over the other, thus determining positionality within New Mexico’s social hierarchy.

The fourth level of other pertains to ethnic and racial categorizations within a culture and society. Like age and gender, this level is often outwardly visible through the genetic phenomena of skin color and physiognomy—what one historian calls “the sensory construction of race”—and therefore visual sensory indicators have persevered across time and place as an othering device and a determinant of ascribed racial identity. In the Southwest, involuntary servitude existed in two forms—Mexican peonage and Indian captivity—and the ethnic disparities between the two represented a

localized form of othering. Because Hispano aristocrats held the majority of servants, they would have viewed debt peons, who shared their ethnic and national background, as less of an “other” than indigenous captives, who emanated from distinct Native American groups. The indigent status of indebted Hispanos rendered them otherized dependents in a financial sense, but not ethnically, racially, culturally, or nationally. Both the female Indian captive and the male Mexican peon experienced four levels of other, but those levels differed at the fourth tier. The former, as progeny of an indigenous bloodline and oftentimes susceptible to the forced sexual advances of Hispano men, suffered more-severe forms of ethnic and gendered otherization. The latter, on the other hand, experienced the stigmatizing but less harsh status of socioeconomic other. In this sense, peons ranked above Indian captives in the social hierarchy, rendering them less vulnerable to physical, psychological, and sexual violence, despite the fact that both groups labored involuntarily, lived in a state of dependency, and answered to the same masters or patrónes.

A fifth level of other that existed in colonial New Mexico involved religion and symbolic conversion to Catholicism through baptism and renaming. Here again, peons already subscribed to the Catholic faith and therefore shared the religion of their masters, rendering them less of an other than indigenous captives. Enslaved Indians, however, sometimes did undergo baptismal rights—whether by volition or coercion—and the religious level of other thus remained moderately fluid. Genízaros, for example, became partially Hispanicized through religious conversion and elevated themselves above unbaptized captives. In so doing, genízaros managed to eliminate one level of other and
ascended New Mexico’s social hierarchy, although they remained largely demoted as servants, dependents, and ethnic outsiders.

Language presented a sixth area whereby New Mexicans otherized one another. Once again, Indian captives and Mexican peons differed in their stigmatization, with the former facing disadvantages in communication that the latter did not suffer. Because indigenous slaves were typically very young at the time of their abduction, they spoke a variety of tribal languages. Having yet to learn Spanish, most captives faced another level of other during interactions with their *patrón* and the surrounding community. Peons, on the other hand, already spoke Spanish, and language therefore became another area in which masters and servants of Hispanic ancestry shared common ground. Just as some Indian captives converted to Catholicism, however, so too did many of them learn to speak Spanish. In the process, they effectively eliminated the linguistic level of other and achieved a greater semblance of shared identity with their masters and fictive kinfolk.

Since these categories of other instilled such a pervasive sense of cultural, social, and economic dependency, and because masters and legislators so skillfully manipulated the unilateral terms and conditions of servitude, most captives and peons in the Southwest had little hope of ever scaling the hierarchical social ladder that enabled their persecution in the first place. The carefully manipulated oppression that occurs within a society of dependency helps to explain why so many Indian captives refused opportunities for repatriation in the mid-nineteenth century. Having become accustomed, or even indoctrinated, to these levels of other, many of them gradually developed a disposition towards servility and viewed their denigrated social and ethnic status as a normal component of everyday life.
In part because they so adeptly incorporated othering into the dependent relationships that defined their families, communities, and the social spaces they inhabited, Hispano masters were even more successful in sustaining dominance than their contemporary equivalents in the Southern states, inasmuch as no identifiable peon or captive revolts ever occurred.\textsuperscript{30} Levels of other upheld a servant’s sense of dependency and fictive kinship obligations—the twin threads that bound New Mexico’s social structure into a cohesive unit—without employing excessive force or brutality. This helped to sustain a superficial relationship of security between master and servant and prevented most peons and captives from forming a unitary group consciousness that could lead to open rebellion. By fostering dependency and carefully controlling social mobility through the othering process, Hispanos avoided arousing the emotions of their servants and thus preempted defiant outbursts of violent resistance like those that periodically rocked the South.

Prior to 1846, when the American conquest disrupted existing social, political, and economic structures, no alternatives to slavery challenged that reality in the Southwest; lacking any tangible points of comparison, most servants developed a sense of apathy and simply could not conceive of any condition besides that in which they already lived. When those alternatives did begin to emerge in the 1850s, they developed not out of filial, social, or economic practicality but rather from political necessity in the context of American sectionalism, abolitionism, and emancipation.\textsuperscript{31} Furthermore, the

\textsuperscript{30} On the importance of family in discouraging revolting or running away, see Calvin Schermerhorn, \textit{Money over Mastery, Family over Freedom: Slavery in the Antebellum Upper South} (Baltimore, MD: Johns Hopkins University Press, 2011).

\textsuperscript{31} On social mobility and social movements, see Tajfel, \textit{Differentiation Between Social Groups}, 46, 87.
dismal prospects for running away to freedom in the Southwest—where vast deserts surrounded the territory, Indian tribes with raiding economies posed a threat to individuals traveling alone or in small groups, the Mexican state to the south recognized peonage in statute, and no Mason-Dixon Line existed—also discouraged most slaves from attempting to escape or rebel.

As experienced by Indian captives and debt peons, the various forms of othering that characterized life in territorial New Mexico’s society of dependency resulted in a multilateral dynamic of social relations similar to that which existed between white Southerners, Cherokee and Choctaw Indians, and black slaves in the antebellum South, but without the same impetus to revolt.32 In the contemporaneous American Southwest, othering took place in a similarly hierarchical manner and even occurred among servants themselves. Debt peons shared the Spanish language, Catholic religion, and Hispanic ethnicity of their masters and, despite their destitute status as bondsmen, partook in the othering process in much the same manner as did their overseers. Captive Indians would even have been dependent on peons to help them learn the language and customs of their new culture, so forms of cultural and social dependency also developed amongst different groups of slaves. New Mexican peons toiled alongside Indian slaves within households and in the fields or pastures, populating what environmental historian Thomas Andrews has called a shared workscape, “a place shaped by the interplay of human labor and natural processes . . . as well as the language people use to understand the world, and the

32 See, for example, Tiya Miles, Ties That Bind: The Story of an Afro-Cherokee Family in Slavery and Freedom (Berkeley, CA: University of California Press, 2005); Katherine M.B. Osburn, Choctaw Resurgence in Mississippi: Race, Class, and Nation Building in the Jim Crow South, 1830-1977 (Lincoln, NE: University of Nebraska Press, 2014).
lens of culture through which they make sense of and act on their surroundings.” 33 Two
distinct systems of involuntary labor, each carrying inimitable ethnic, linguistic, spiritual,
and filial characteristics, delineated the multifarious construction of social and communal
space in the Southwest until being supplanted in the mid-1800s by American ideologies
of republicanism and free labor. Levels of other and multiple layers of dependency
predicated upon slavery were therefore part and parcel to the creation and maintenance of
New Mexico’s social world. 34

While experiencing the same degrading psychological stigmatization incumbent
upon coerced servitude in a controlled common environment, Hispano peons nonetheless
viewed indigenous captives as “others” and therefore would have seen themselves as
socially, religiously, and ethnically superior to them within the social space they shared.
Under this same logic, Indian captives would have viewed their Spanish-speaking
Catholic masters and peon cohorts as others within their own respective tribal culture and
worldviews, and their sudden immersion in this new culture made them even more
dependent. This multidimensional tiered dynamic of human relationships in New
Mexico, involving both masters-and-servants as well as servants amongst themselves,
bears similarities to contemporaneous forms of indigenous and chattel slavery in the
nineteenth century U.S. South. In both locales, slavery created an atmosphere of
longstanding social oppression and vast hegemonic disparities between classes, the result

University Press, 2008), 125.

34 On social constructs of space, see Henri Lefebvre, The Production of Space, translated by Donald
being highly impenetrable social barriers that levels of other created and sustained. Only in New Mexico, however, did an unmistakable and multifarious society of dependency develop to such a significant degree. With such a pronounced impact on human experience and consciousness, these criterion of distinction and layers of dependency can help us to better understand the mental disposition of the enslaved—whether they be captives, peons, or chattels—and the inegalitarian power relationships that sustain such societies.

Until recently, scholars have tended to overlook the Southwest’s multiethnic institutions of human bondage, especially during the period following the American conquest. This owes in large part to the longstanding (and continuing) propensity of historians to fixate on chattel slavery in the American South, an historiographical trend that has had the adverse consequence of casting alternative forms of involuntary labor into the shadows of academic awareness. In 1985, historian Howard Lamar wrote that, “the labor history of the American West has yet to be meshed with the history of American slavery or with the history of labor generally,” imploring scholars to consider whether “the American West and the Western frontier [were] more properly a symbol of bondage than of freedom when it comes to labor systems.”35 The present work is in part a response to Lamar’s call upon scholars to delve more deeply into these questions.36

A long-running historiographical trend among American historians involves favoritism towards the unique form of racialized chattel slavery that developed in the


antebellum United States, causing that system of bondage to attain primacy in the popular imagination. As historian Joseph C. Miller points out, however, the institutionalization of slavery in the early American republic “was the least representative instance of the processes of slaving in the global perspective” and has therefore become a “politicized paradigm of slavery” in the modern imagination. Following the lead of scholars who study Africa, Asia, and South America, I expand myopic North American conceptualizations of coerced labor by defining both Indian captivity and Mexican debt peonage as forms of slavery and disempowerment, because those institutions denied human subjects their fundamental rights to liberty while undermining their social and political agency. Although each system differed in certain particulars, both relied on coercion and subjected weaker groups to involuntary servitude and complete dependency for extended periods of time.

Slaves can be seen in two ways, either as commodities or as workers; in the former, slaves are convertible to cash, whereas in the latter, they are similarly subjected to servitude and varying levels of dependency but often do not have significant pecuniary value. In the Southwest, captives and peons toiled as unfree laborers in households and fields and therefore did have some value, but seldom were they commodifiable to the same degree as Southern slaves, who could easily be sold at auction for princely sums. Herein lies a primary difference between peonage and captive slavery in the Southwest and chattel slavery in the South, perhaps helping to explain scholarly confusion about the

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37 Miller, The Problem of Slavery as History, 151.

comparability of these regional labor regimes. The Southern dilemma—which scarcely existed in New Mexico Territory—was that plantation owners had become doubly reliant on slaves, both as a labor source and as a monetary asset, to such a degree that slaves were crucial to individual wealth as well as sectional economic prosperity.39 This held even more true during the first half of the nineteenth century, when emerging capitalist markets prompted commercial expansion and intensification in both the North and the South. The increasing commercialization of slavery after 1800, attendant with the contemporaneous communication and transportation revolutions, made slavery an increasingly imperative institution for Southerners’ economic success, especially those in the burgeoning Cotton Belt.40 Contrarily, Hispanos during this time continued to rely upon peons and captives primarily as a reflection of their social status rather than quantifiable capital or productive capacity.41 As one scholar points out in reference to plantation owners in seventeenth century Virginia, where, like colonial New Mexico, specie remained scarce and a barter economy prevailed, “the wealth of the patriarch consists primarily of the accumulated obligations of dependents to show submission, render service, and supply needs.” In both of those colonial enclaves, the issuance of credit enabled proprietors to exercise direct control over labor and the means of


40 Schermerhorn, Money over Mastery, Family over Freedom, 17-18.

production within a social system contingent upon patriarchy, enslavement, and the overt disempowerment of entire classes and racial groups.⁴²

Although scholars generally agree that indigenous captivity comprised a form of slavery, debates continue as to whether or not debt bondage should be classified as such. While it might be true that nobody held a gun to a person’s head and forced them to become indebted to a landlord or patrón, and indeed prospective peons understood the consequences of their failure to repay a creditor, the system nonetheless operated upon manipulated conditions of dependency that typically ensured perpetual bondage. In my view, peonage was a form of slavery, because both parties knew that the ultimate outcome would likely be a lifetime of servitude, and unfortunate peons necessarily subjected themselves to that condition anyway because no plausible alternatives existed. The indigent status of many landless New Mexicans left them little choice but to enter into a disempowered state of dependency, one in which they worked for years without pay in exchange for the barest necessities, and at risk of corporal punishment or imprisonment if they neglected their duties or ran away. With this in mind, the system of debt bondage that developed in New Mexico really was not voluntary at all, nor did peons have any control over the terms of servitude, as patrónes and territorial legislators often claimed in their attempts to deflect comparisons between peonage and slavery.

While debt peonage remains comparatively obscure in the historiographies of American labor, slavery, and the western frontier in general, the subject of indigenous captivity and resultant kinship structures has received considerable attention. Most notable in this regard is the work of James Brooks, whose pathbreaking monograph *Captives & Cousins: Slavery, Kinship, and Community in the Southwest Borderlands* details human relationships revolving around an “intricate web of intercultural animosity and affection” between Spanish colonists and nomadic Indian tribes.\(^{43}\) While Brooks’s work is highly anthropological and ethnohistorical, however, I make no claim to those respective methodological approaches as an overarching framework. Furthermore, the thesis in *Captives & Cousins* is predominantly an ethnic and cultural one, with Brooks writing that, “peonage, slavery, and the circumstances that confounded their interdiction grew largely from the way in which New Mexican slavery blended into relations of kinship.”\(^{44}\) While acknowledging the veracity of this perspective, my argument focuses on political and legal ramifications, contextualizing captivity and peonage within the broader framework of antebellum sectionalism, wartime emancipation, and postwar Reconstruction. Although I recount the development of Indian slavery and debt peonage during the colonial era, my ultimate focal point is on the post-1846 period, when Americans dominated judicially and economically, and when notions of abolitionism and westward expansion became a pressing concern in the Southwest.


\(^{44}\) Brooks, *Captives & Cousins*, 299.
Since the publication of Brooks’s monograph in 2002, scholars have increasingly recognized the historical roles of various Southwestern tribes and have elevated Native Americans—especially Apaches, Comanches, Navajos, and Utes—to a higher level of importance as actors in the gradual evolution of regional societies. Others have focused on the complicity of indigenous peoples, and women especially, in Southwestern slave raiding and the resulting contention for social and cultural hegemony in that porous borderlands region, a conflict that often saw Indians emerging as a dominant force during multilateral interactions. As historian Jack D. Forbes and others have pointed out, the Indian slave trade resulted in a widespread assimilation of phenotypes and propagated the emergence of highly amalgamated bloodlines. The existence of racial castes and social hierarchies meant that most New Mexican communities exhibited some level of segregation, with marginalized Indian captives and indigent peons occupying positions at the periphery of communal interaction. The present work contributes to these bodies of


literature through “levels of other” and “society of dependency” as theoretical models, advancing our understanding of social relations within the context of Southwestern slavery.

As the basis for cultural hybridity, captive slavery had a profound impact on the social, economic, and political development of the Southwest, both prior to and following its geopolitical absorption into the United States.\(^49\) One of the primary reasons that antebellum U.S. politicians remained hesitant to admit New Mexico into the Union as a state rather than a territory involved the presence of a large mixed-blood mestizo population that ethnocentric Americans viewed as inferior, degraded, and unworthy of equal political representation in Congress.\(^50\) Recognizing this as an important factor in the social evolution of Southwestern communities, borderlands scholars have examined the far-reaching significance of race, ethnicity, and nationalism in the nineteenth century Southwest, linking New Mexico’s cultural evolution prior to the American conquest to a distinct Hispano identity and sense of nationalistic pride during the post-Civil War era.\(^51\) Furthermore, political historians analyzing New Mexico’s territorial period have cited a number of reasons for its failure to attain statehood until 1912. These works allude to

\(^{49}\) On cultural hybridity, see Homi Bhabha, *The Location of Culture* (New York, NY: Routledge, 1994). In 1863 New Mexico Territory was split vertically and its western half became Arizona Territory. Each respective locale struggled to achieve statehood until 1912, although slavery, peonage, and captivity never became a serious issue in Arizona because those systems were confined mostly to Hispanic northern New Mexico.


antebellum sectionalism as a contentious issue involving the addition of Mexican Cession lands to the Union, but they do so at a macro level and in the context of chattel slavery and abolitionist ideology. This body of literature has not sufficiently accounted for the nature of preexisting systems of servitude, nor has it addressed the impact of those institutions on national politics and legal philosophy before and after the Civil War.  

Often overlooked is the presence of captive slavery and debt bondage as two forms of involuntary servitude that went widely ignored by Americans who, through stubborn tunnel-vision, continued to view slavery as a strictly Southern, plantation-based, African American phenomenon. Not until the era of Reconstruction did federal legislation finally address these alternative forms of human bondage. Previous scholarship therefore neglects to place debt peonage and Indian captivity within the broader context of American slavery and the mid-1800s political proceedings that brought about the abolition of unfree labor.

While anti-Hispanic ethnocentrism and anti-Catholic nativism have been acknowledged as factors in New Mexico’s stifled political aspirations during the years following the 1846-1848 U.S. conquest, we must also recognize Indian slavery and debtor servitude—within the context of antebellum sectionalism—as another reason for the territory’s struggle to achieve statehood prior to the Civil War. New Mexico languished in territorial status for over sixty years, in part because the continuing

presence of involuntary servitude discouraged favorable action towards statehood on the part of Northern Free-Soilers and Radical Republicans during the Civil War era.

Debt peonage and Indian captivity comprised crucial components of political, economic, and social development in the Southwest from the time of their initial implementation in the early seventeenth century until their final abolition in the mid-nineteenth century. In New Mexico, as in the South, slavery was both a labor regime and a social system. Indeed, the number of enslaved people in late eighteenth century New Mexico roughly mirrored that in the United States. Historian James Brooks estimates 12 percent of New Mexico’s population in 1790 to have been in a servile status, a number that closely coincided with the early American republic, where 15 percent of the national population in 1780 was enslaved.53 In the beginning, Indian slavery provided an enabling foundation for social prestige, economic advancement, and sustained prosperity among Spanish imperialists and landholders. Over time, captivity evolved into a multidirectional retributive measure between various nomadic Indian tribes and Euro-American colonists, one that fulfilled the economic, social, and kinship needs of both Spanish and Native American societies by fostering dependency through enslavement. Intercultural amalgamation emanating from the captive slave trade spawned an ethnically diverse culture and gave rise to a stratified social order in which indigent, mixed-blood inhabitants faced a burgeoning form of servitude, that of debt peonage. By the mid-nineteenth century, however, slavery had become a contentious issue across North America, as evidenced by Mexican decrees banning the institution and intense debates in

the United States Congress reverberating around sectionalism. Once the United States took possession of New Mexico, the presence of coerced labor became a political liability and a detriment to regional inhabitants hoping to attain standing as American citizens.

The pages that follow consolidate the various thematic and methodological approaches of the aforementioned historians—as well as many others—into a single volume. This work increases scholarly transparency on the interrelationship between the political, social, and ideological elements of involuntary labor in the Southwest. The presence of Indian slaves and Mexican peons in local communities following the American conquest trivialized the territory in the minds of many Protestant white Easterners, who entertained ethnocentric and nativist opinions of Southwestern culture. New Mexico’s failure to achieve statehood prior to and immediately after the Civil War owed in part to the existence of unfamiliar forms of involuntary labor that confounded the comprehension of most American political leaders, regardless of sectional affiliation. The presence of two distinct systems of servitude, coupled with the enactment of discriminatory decrees and slave codes in the territorial legislature, sent a confusing message to Southerners and helped to encourage a Confederate invasion of New Mexico at the onset of the Civil War. After that war, with the manumission of African American slaves, Northern politicians and Radical Republicans—who collectively held a supermajority in Congress—expected to see a similar liberation of slaves in all parts of the country. In the isolated Southwest, citizens ignored emancipation laws and retained most of their servants, contending that captives had nowhere to go if freed and that peons, who went into debt voluntarily, did not fall into the category of slaves. In so doing,
Hispanos further exacerbated Anglo-Americans’ pessimistic opinions of the culturally and socially “backwards” territory.

Even more significantly, the existence of debt peonage and Indian captivity in New Mexico culture and society played an important role in the political debates that brought about America’s midcentury transition from slavery to free labor. With the implementation of popular sovereignty, peonage and captivity became critical factors in congressional deliberations over the future of slavery because of their entrenchment in the newly-acquired Mexican Cession lands. Although most federal leaders realized that these institutions existed in that region, perceptions on whether or not debt peons and Indian captives constituted slaves varied between Northerners and Southerners.

Antebellum political debates over these unfamiliar systems of bondage ultimately informed federal policy during the Reconstruction era, helping to expand abolitionist legal doctrine to include peonage in addition to the “involuntary servitude” mentioned in the Thirteenth Amendment. During the fifteen years preceding the Civil War, the existence of debt bondage and captive servitude in New Mexico forced Americans to think more broadly about slavery and brought about an awareness that involuntary labor was not limited to chattel slavery in the South. This recognition informed political debates during the 1850s regarding the future role of unfree labor in the country. In the immediate postwar years, federal leaders realized that the Constitutional ban on slavery failed to encompass all systems of servitude, due to varying definitions of voluntary and involuntary labor. Postwar investigations by the Bureau of Indian Affairs, along with the 1867 congressional moratorium on peonage, broadened federal policy on coercive and dependent labor, although the subsequent implementation of debtor servitude (along with
sharecropping) in the rural South indicates that those efforts, while largely effective in New Mexico, lacked national resonance. Despite this shortcoming, federal deliberations over peonage and captive slavery prior to and during the Civil War had a significant impact on the future legal perception of compulsory labor in the United States, as evidenced by early twentieth century court proceedings in the Deep South that cited New Mexico peonage cases as precedent.54

Just as New Mexico’s systems of involuntary servitude influenced American legal and political thought, so too did American republicanism, capitalism, and the postwar emancipation of peons and captives have a reciprocal impact on the Southwest. The application of democracy and free labor ideology effectively reconstituted New Mexico’s social order, political economy, and communal space. While the official relationship between the United States and New Mexico Territory remained lopsided in favor of the former and semi-colonial in nature, both entities nonetheless had long-lasting institutional impacts on one another’s politics, economy, and society.

The first part of this work traces the evolution of slavery in the Southwest from the Spanish colonial era through the American Civil War, comparing and contrasting captivity and peonage as two distinct yet fundamentally analogous systems of coercive servitude. Whereas much of the existing scholarship has focused on only one or two Indian polities—Apaches, Comanches, Kiowas, Navajos, Paiutes, Pawnees, Pueblos, Utes—the actions of all these important actors are herein meshed to demonstrate the interrelatedness of their participation in the ongoing captive slave network and their role

in the Southwest’s society of dependency. As a multilateral institution involving numerous autonomous groups of people, involuntary servitude cannot be seen simply as a series of binary relationships between Euro-Americans and each Native tribe; rather, it must also be viewed in the context of multiple simultaneous intertribal relations occurring within different socially- and spatially-constructed spheres of interaction. Through this lens, we can better understand the development and proliferation of coercive labor systems during the Spanish, Mexican, and American periods of sovereignty in the Southwest.

Part two analyzes Indian slavery and debt peonage as viewed by American politicians, soldiers, and settlers in the post-occupation era, beginning in 1846 and extending into the years immediately following the Civil War. Congressional debates on slavery in the territories are examined in detail; the focus, however, is not on Southern interests hoping to expand the slave enterprise westward and Northern Free-Soilers standing in defiant resistance, but rather on how Americans of all political ilks and sectional proclivities viewed the past, present, and future of slavery in North America. These national debates are honed down into the less conspicuous actions of regional participants, including territorial legislators, newspaper editors, military officers, Indian agents, and the landed aristocracy that comprised the primary servant-holding element of New Mexico society. The expressed opinions and localized actions of these individuals are juxtaposed with those of federal legislators and the general American public, informing our understanding of differing and confused viewpoints on systems of involuntary labor. This analysis of post-1846 political rhetoric and public perception modifies previous interpretations of New Mexico’s tedious development during its early
territorial years, suggesting that stifled political aspirations owed in part to the existence of perplexing systems of servitude and concomitant factionalism at the territorial and national levels. It also demonstrates that the Constitutional amendment banning slavery failed to encompass all forms of servitude in the United States and its territorial appendages. The presence of peonage and captivity in the Southwest brought about a realization among Americans that slavery and involuntary servitude was not limited to blacks in the South, but instead extended to other groups of people, including those in New Mexico who suffered the similarly stigmatizing effects of human bondage. After coming to this understanding in the immediate post-Civil War years, Americans embarked upon a renewed quest to eliminate compulsory labor in the United States. In so doing, they effectively expanded the scope of the Thirteenth Amendment and, in the parlance of the times, set out to make “freedom national” in the reunified republic.\footnote{See Oakes, \textit{Freedom National}, Chapter 1, for the origins and meaning of the phrase.}
CHAPTER 2

INDIAN CAPTIVITY AND SLAVERY IN THE COLONIAL SOUTHWEST

In a January 1864 communication with Indian Commissioner William P. Dole, New Mexico Superintendent of Indian Affairs Michael Steck provided a concise description of Indian slavery that alluded to every fundamental aspect of the practice as it existed in the Southwest. Upon being taken into captivity, he explained, indigenous slaves “are usually adopted into the family, baptized, and brought up in the Catholic faith, and given the name of the owner’s family, generally become faithful and trustworthy servants, and sometimes are married to the native New Mexicans.”¹ In a single breath the superintendent summarized—albeit somewhat superficially—Indian slavery as it existed not only in American times but in earlier Spanish and Mexican periods as well. Revered among his colleagues as an honest and trustworthy man, Steck’s previous decade of experience in New Mexican Indian affairs rendered him imminently qualified to comment upon the nature of captivity.² His letter to Commissioner Dole conspicuously asserted the widespread cultural hybridity and concomitant transformation of human identity that emanated from captivity and dependency, practices that predated Steck’s arrival in New Mexico by three centuries.

Human captivity comprised a critical component of indigenous warfare, labor, and social interaction in the Southwest long before the arrival of European explorers and

¹ Michael Steck to William P. Dole, January 13, 1864, RG75, OIA, M234, LR, NMS, Roll 552.

² See, for example, John Greiner to Gov. William Dennison, June 11, 1865 and Greiner to Chief Justice Salmon P. Chase, June 11, 1865, both in Center for Southwest Research, Inventory of the Michael Steck Papers, Series 2, Roll 4.
colonists in the sixteenth century, in a system that anthropologists have termed the “Southern Plains Macroeconomy.” This complex trade network linked nomadic people of the Plains with sedentary Puebloan inhabitants of the upper Rio Grande region through intricate commercial mechanisms, primarily involving commodities obtained through hunting, gathering, and cultivation. The exchange of human subjects, however, also formed an element of this culturally entrenched kin-based system, with adoption, dependency, and assimilation as important components. Intertribal warfare in the Southwest perpetuated a continuing captive trade, one based more on honor, community, gender roles, and kinship demands rather than economic or demographic necessity. Scholars often question the extent to which this practice can be considered slavery, in the strict definition of the term, because Indian captives absorbed or assimilated into neighboring groups often enjoyed certain social and physical liberties that did not pertain to slaves in other parts of the world. Native American written records for this period do not exist, making it hard to determine precisely how captives were treated after incorporation into surrogate tribal families. It also remains difficult to estimate the degree to which pre-Columbian indigenous peoples practiced captivity and servitude, but the fact that they did so to some extent is certain.


Following a large multi-tribal council at Bent’s Fort in 1849, U.S. officials reported that the Comanches possessed “more Mexican prisoners” than all other Plains tribes combined.\(^5\) A decade earlier, Republic of Texas officials grappled with this same reality; one Indian commissioner reported in 1837 that, although the Pawnees took some captives in Texas, the Comanches were far more formidable, constituting “the natural enemies of the Mexicans whom they contemptuously discriminate their *stockkeepers* and out of which nation they procure slaves.”\(^6\) This nineteenth century proclivity of the more powerful tribes to retain captives for cultural assimilation and ethnic amalgamation correlated to Native slave systems prior to European contact. In pre-Columbian times, however, captivity and servitude differed from slavery in other contemporary world societies.\(^7\) When Francisco Vasquez de Coronado penetrated northern New Mexico in 1540-41, he found a thoroughly enmeshed system of slavery that emanated from intertribal warfare and captivity raids between sedentary Puebloan peoples and the nomadic tribes occupying neighboring regions. Coronado himself enlisted the services of a former Indian slave—a Pawnee held in servitude at the Tiguex Pueblo—as a guide for

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\(^5\) Thomas Fitzpatrick to B.L. Beall, February 24, 1849, RG393, M1102, LR, DNM, Roll 1; B.L. Beall to J.H. Dickerson, March 12, 1849, ibid.

\(^6\) Report of Standing Committee on Indian Affairs, October 12, 1837, in Dorman H. Winfrey and James M. Day, eds., *The Indian Papers of Texas and the Southwest, 1825-1916* (Austin, TX: Texas State Historical Association, 1995), 24 (emphasis in original).

\(^7\) See David M. Brugge, *Navajos in the Catholic Church Records of New Mexico, 1694-1875* (Tsaile, AZ: Navajo Community College Press, 1985), 117-34.
his expedition from the Rio Grande valley to the South Plains. The enslavement of women and children from other tribes did not necessarily proliferate during the Spanish colonial era as records suggest, but rather the presence of European witnesses resulted in the indigenous captive trade being documented for the first time.

With the arrival of the first Spanish imperialists—many of whom subverted Native inhabitants to servitude using the royally-sanctioned encomienda and repartimiento systems—heterogeneous multiethnic slavery institutions took on new importance in the Southwest and quickly burgeoned into a permanent fixture of social, political, and economic interaction. Although European systems of coerced labor proliferated to a larger degree in Spain’s South- and Central-American outposts, where labor-intensive sugar plantations and silver mines required large numbers of workers, colonists representing cross and crown carried the impetus for involuntary servitude into the more northerly provinces as well. Initially, Spaniards tended to apply these labor systems to semi-sedentary agricultural peoples—predominantly Pueblo Indians in New Mexico and agrarian societies in modern-day northern Mexico—and largely overlooked

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nomadic tribes because their highly mobilized lifestyles rendered it difficult to capture and subvert them to servitude.\footnote{11}

The arrival of Spanish explorers in the mid-1500s and the colonization of New Mexico beginning in the early 1600s resulted in the coalescence of two separate yet fundamentally similar institutions of servitude, both of which borrowed characteristics from the other in forging new regional slaving practices. Sedentary and nomadic indigenous societies had, over the course of many centuries, developed a dependence on hunting, gathering, and trading with neighboring peoples and thus had a minimal need for captive labor or slavery. Spaniards, however, established a predominantly agricultural and pastoral economy, one that required a liberal supply of manual labor to ensure optimum production.\footnote{12} With the demand for labor exceeding the number of available working-age men and women, colonists began forcing Indians into servitude, a phenomenon first manifested in the encomienda system and later in captive slavery. Whatever their sobriquets, such systems introduced an economic component of slavery into the Southwest, initiating a partial shift from the kin-based minisystems of indigenous tribes to the capitalist-oriented core communities of Spanish colonists seeking to exploit the peripheral and semiperipheral components of a larger exchange network.\footnote{13}


\footnote{13} Thomas D. Hall, \textit{A World-Systems Reader: New Perspectives on Gender, Urbanism, Cultures, Indigenous Peoples, and Ecology} (Boulder, CO: Rowman & Littlefield Publishers, 2000), esp. 35. For the
Accordingly, preexisting institutions of servitude underwent a period of egalitarian decline, with more profit-centered Euro-American labor systems, or what historian Pekka Hamalainen refers to as “a powerful materialist dimension,” replacing them.  

This new mode of labor acquisition, predicated upon the accumulation of visible wealth in slaves, represented the antithesis to the kin-based modes of accumulation that indigenous peoples formerly employed within their own respective social networks. As a state-based society, Spaniards deployed a form of organized, coercive power in the Southwest that differed drastically from the more localized hegemonic structures that existed among stateless tribes. With the support of political and judicial infrastructures that upheld hierarchical power relations between masters and servants, possession of captive women and children allowed Euro-American colonists to more effectively establish and exert an aura of authority over Native peoples. Contrarily, in mostly classless Indian communities with radically differing ideological perceptions of space and power, captives and slaves continued to fulfill traditional kinship and labor expectations

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15 On “kin-based modes of accumulation,” see Christopher Chase-Dunn and Thomas D. Hall, Rise and Demise: Comparing World-Systems (Boulder, CO: Westview Press, 1997), 30; Chase-Dunn and Hall use the term “composite units” to describe indigenous tribes as “very small world-systems,” stressing the need to differentiate from the broader term “society,” which oftentimes comprises a less fluid and more easily defined social structure. See ibid., 28.
that hinged upon mutual conciliation rather than overt exploitation.\(^\text{16}\) For Euro-Americans, captive servitude was inherently violent in nature and constituted an instrument of colonization, a clash of worldviews wherein imperialists projected both symbolic and physical power over distant indigenous populations through raiding, coerced labor, cultural dependency, and religious indoctrination. Thus, when Indians resisted the authority of outsiders by abducting and enslaving Spanish settlers, they worked to reverse the tide of colonialism and perpetuate a more culturally balanced power structure in the Southwest. As Indians took more and more Spanish captives, they contributed to the development of a multilateral society of dependency wherein enslavement and othering played prominent roles.

As a result of these reverberating configurations of social power between nation-states and stateless societies, captivity began to morph from its customary role in Native American communities, where families often adopted abductees and raised them as their own kin, into a form of economic expression delineated from European traditions of social prestige through property ownership. The characteristics of European slavery diffused into preexisting aboriginal systems through continuous contact between the two cultures, resulting in the emergence of hybridized labor regimes that effectively combined the old and the new. These disparate forms of servitude interacted, coalesced, and evolved over a period of more than two centuries and fulfilled the needs of colonists as well as peripheral Indians, with each respective group attempting to manipulate the other in a perpetually oscillating power struggle.

As late as the mid-nineteenth century, Hispano captives held among Comanches, Kiowas, Navajos, and Utes frequently married tribe members, bore children, participated in spiritual and ceremonial exchanges, and even retained material goods. Their reintegrated status as communal and ethnic outsiders, however, meant that they themselves could often be exchanged to another tribe at any moment as a form of property or human capital. The cultural transition that accompanied captivity did not so much denote a direct shift from freedom to slavery on the part of the abducted subject, but instead represented a transfer between kinship networks.\(^{17}\) Among the Comanches, for example, linguistic patterns became a level of other whereby they distinguished between natal tribe members and adopted captives, with slight terminological variations differentiating those “born of Comanche” from those “raised as Comanche.”\(^{18}\)

One such captive, a Mexican girl taken from her home in the 1850s at the age of six or seven, lived the remainder of her life with an adoptive Comanche family. Carrying Her Sunshade, as she was known to the tribe, related her tale in 1933 and recalled that she “was sitting in my grandmother’s arms on a log outside our house. An Indian came and pushed down our fence. He rode up, grabbed me from my grandmother’s arms and put me behind him on his horse.” She described her journey from Mexico to the South Plains where, like many young captives, she underwent a rapid process of assimilation,

\(^{17}\) Hamalainen, *The Comanche Empire*, 16.

Having learned both the Comanche language and their customs within two years. She gave birth to numerous children and lived happily with her Indian husband, mixed-blood children, and fictive kin for eight decades after her abduction.¹⁹

Nuevomexicano oral tradition regarding captivity among the Plains Indians similarly alludes to these assimilative processes. One story involving Rafael Lovato and the Pawnees (both names being fictitious euphemisms denoting the dialectic of Hispano and Indian identity) describes the experience of a teenage boy abducted on New Mexico’s eastern llano, adopted by indigenous foster parents, taught to speak the Pawnee language, and instructed in the art of Indian warfare during five years of captivity.²⁰ In such cases—whether real, as in the case of Carrying Her Sunshade, or folkloric, as with Rafael Lovato—captives became so thoroughly assimilated, and both looked and behaved so much like their adoptive families, that American military officers and government officials often had difficulty distinguishing between Mexican-born and Indian-born persons.²¹

By the mid-1800s, many nomadic tribes held large numbers of captives—both Hispanic and indigenous—and used them to tend horse herds and to replace tribal

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²¹ See, for example, Daniel Chandler to W.A. Nichols, August 10, 1854, RG393, M1120, LR, DNM, Roll 3.
members lost in either warfare or ravaging disease epidemics that periodically swept the Southwest, including seven major bouts of smallpox between 1780 and 1851. In 1830, according to one witness in Texas, the Comanches held as many as 500 Mexican-born captives as slaves, an estimate that likely fell far short of the actual number. Just two years earlier, in fact, José Francisco Ruiz, who served as Mexico’s commissioner to the Comanches and Lipan Apaches in Texas, enumerated 900 captives in Comanchería, “not counting the many who have managed to escape after suffering great hardships.” When American officers arrived in the West at midcentury, they reported similar conditions, with one U.S. Army inspector noting that, “there were almost as many Mexican slaves, women and children, as Indians” in a Comanche camp that he visited.

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25 Robert W. Frazer, ed., New Mexico in 1850: A Military View (Norman, OK: University of Oklahoma Press, 1968), 103. John P. Sherburne, accompanying Lieutenant Amiel W. Whipple’s Pacific Railway Survey in 1853, observed that, “There are a large number of whites with the Comanches, as slaves, mostly Americans—also some Mexicans—among them several young girls of 15 to 18 yrs. of age.” See Mary McDougall Gordon, ed., Through Indian Country to California: John P. Sherburne’s Diary of the Whipple Expedition, 1853-1854 (Stanford, CA: Stanford University Press, 1988), 58-59. Lieutenant E.G. Beckwith of the Third Artillery, likewise traveling through Comanche territory as part of the Pacific Railway Surveys, noted that in one camp he encountered “two or three Mexicans and others, who at some early period of their lives have been captured and are now slaves of these bands.” See Lieutenant E.G. Beckwith, Report of Explorations for a Route to the Pacific Railroad, 33rd Cong., 2nd Sess., Senate Exec. Doc. #78, Vol. 2, p. 25. See also Julius Froebel, Seven Years Travel in Central America, Northern Mexico, and the Far West of the United States (London, UK: Richard Bentley, 1859), 265-70.
Empirical evidence suggests, however, that in spite of their success during raids, most Indian groups never managed to secure enough captives to replace the large numbers of tribemembers lost in combat or to illness.\textsuperscript{26} Even the formidable Comanches, who experienced the peak of their imperial ascendancy in the 1840s, never assimilated enough captives to fully compensate for tribal losses during the preceding century of resistance to Euro-American colonization. Reporting in 1855 on another powerful tribe, the Gila Apaches, agent Michael Steck explained that they had been at war with neighboring Indian groups as well as surrounding Mexican communities for over a century. With many Apache fighting men having died during the course of those conflicts, he noted, “they cannot bring into the field over half the number of warriors that they could have 20 years ago.”\textsuperscript{27} Three years later, Steck ominously described health conditions among the Indians, noting with despair that over one quarter of the Apaches living near his agency at Fort Thorn, New Mexico had died of malaria over the preceding year.\textsuperscript{28} Periodic captive raiding, no matter how judiciously and successfully conducted, simply could not replenish such rapid demographic depletions.

An illustrative account outlining the characteristics of intertribal slave trading comes from Lieutenant William W. Averell of the Regiment of Mounted Rifles, who served for several years at various New Mexico forts. Sometime around 1857, he and his


\textsuperscript{27} Michael Steck Monthly Report, July 30, 1855, Center for Southwest Research, Inventory of the Michael Steck Papers, Series 2, Roll 1.

\textsuperscript{28} Michael Steck Annual Report of 1858, ibid.
troops recovered a young Mexican girl formerly held captive among several Great Plains tribes. She one day recounted her memories of these tribulations:

A long time ago when she was a little barefooted girl, she was playing in a vineyard with her little brother when the dreadful Apaches came and killed her father and mother and all the people but her and her little brother whom they carried away. And they travelled a great way in strange lands where there were no trees but sometimes many wild buffalo and many horses. She knew not how long she lived and wandered with the Apaches, but one time she was sold to the Indians called Kiowas with whom she wandered and lived several more winters, and then she belonged to the Cheyennes. She could not tell how, whether sold or captured.29

The traumatized girl, who Averell estimated had spent eight to ten years in captivity, shared an experience not at all dissimilar from many other victimized women and children of that era. Like most captives, her subaltern status accorded her anonymity in the historical record. Nevertheless, her tale characterizes the unenviable plight that captives faced and illuminates the harsh life realities that such persons suffered.

The practice of forcibly removing indigenous women and children (who collectively comprised some two-thirds of all captives) from their tribes and subverting them to servitude entailed a widespread assimilation of Indians into Spanish culture—and vice versa—and often resulted in an almost complete transformation of identity on the part of the victim.30 The earliest documented system of forced labor in the Southwest can

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29 William Woods Averell, *Ten Years in the Saddle: The Memoir of William Woods Averell 1851-1862*, edited by Edward K. Eckert and Nicholas J. Amato (San Rafael, CA: Presidio Press, 1978), 117. From the description given, her Apache captors were doubtless Plains Apaches (Lipans). Given the reference to "many horses," it is also possible that she lived amongst the Comanches.

be traced to the entrada of Francisco Vasquez de Coronado in 1540-42—when Pueblo Indian auxiliaries were conscripted to serve as guides—but did not proliferate until the years following Don Juan de Oñate’s 1598 colonization. In New Mexico, the encomienda system (formally inaugurated by the Spanish crown in 1503) legitimized the subjugation of Pueblo Indians. Through this legal apparatus, Spaniards manipulated power relations and allowed for Indians to be claimed by settlers (usually soldiers) who, as their masters, exposed them to Christianity and protected them from enemies. In return, indigenous subjects performed menial chores and acted as either domestic servants or shepherds in the field depending on age and gender; they also paid tributary taxes in the form of corn and other foodstuffs that they cultivated throughout the year.31 Perceiving this to be a noble undertaking, colonists taught Puebloan subjects to speak the Castilian language while ecclesiastics forcefully instructed them in the tenets of Catholicism, believing that this so-called salvation warranted servitude as a means of remuneration.32 Over several generations, the encomienda system and indigenous captivity fused to form an institution that promoted colonial economic interests, upheld


Europeans’ perceived social superiority, and converted (superficially, at least) as many Indians as possible to Christianity in furtherance of the Crown’s foremost imperial purposes. The actual result of these processes, however, was a hybridized New Mexican society that exhibited the cultural, economic, and religious characteristics of both European and Indian peoples.

Back on the Iberian Peninsula, Spanish officials, including Queen Isabella, not only condoned but even encouraged miscegenation between Indians and New World colonists, recognizing the social and religious benefits entailed in such demographic incorporation and believing that the absorption of native blood into Catholic lineages through the ideology of limpieza de sangre, or cleanliness of blood, would more readily foment spiritual conversion and civility. More than two hundred years later, in 1785, Governor Juan Bautista de Anza issued a decree reaffirming the right of Indians to marry Spaniards and criticizing church officials who impeded such nuptials. Although it continued to sanction the encomienda and remained supportive of settlers who held others in bondage, the Crown insisted that such a system not be identified as “slavery” and banned settlers from holding Indians as slaves. As early as 1542, the Spanish monarchy outlawed all trade in Indian servants, a decree that leaders reiterated in the


34 Decree of Juan Bautista de Anza, January 20, 1785, Archives of the Archdiocese of Santa Fe, Loose Documents 1744-1789, Microfilm #52, Frames 741-744.
1681 *Recopilación de Leyes de los Reynos de las Indias* (a nine-volume set of laws governing all aspects of colonial affairs), which prohibited the ransoming of captives but simultaneously encouraged that non-compliant Indians be attacked and subverted. The 1542 ban on captivity appeared five years after Pope Paul III issued a papal bull explicitly forbidding the enslavement of Indians in the New World. The mandate disseminated the Catholic view of indigenous peoples as human beings capable of understanding Church doctrine and thus warranting theological “salvation” rather than subhuman enslavement. Even so, the redemption and exchange of captives occurred frequently throughout Spain’s colonies and effectively counteracted any prohibitory edicts issued from across the Atlantic. Spanish legal doctrine itself sometimes seemed counterintuitive; royal *cedulas* allowing for the ten-year imprisonment of Indian captives, for example, proved conducive to lifetime enslavement throughout the Americas.

In 1593, the king of Spain learned that a civil official, Gaspar Castaño, had unlawfully enslaved Indians in New Mexico and responded with a decree mandating that

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37 For Spanish policy on indigenous slavery in the New World, see Weber, *Bárbaros*, 234-35, 239; Robert Archibald, “Assimilation and Acculturation in Colonial New Mexico,” in *New Mexico Historical Review* 53 (July 1978), 206-07. In 1789, in conformity with the liberalism of the Bourbon Reforms, a royal *cedula* was issued outlining a new “slaveholding code” that granted numerous rights and privileges to slaves throughout the Indies, but it made no mention of the nomadic Indian captives held in New Mexico and instead pertained primarily to mulattos in the more southerly reaches of the New World provinces. See “Real Cedula de su Magestad Sobre La Educacion, Trato y Ocupaciones de los Esclavos, en todos sus Dominios de Indias, e Islas Filipinas, Baxo las Reglas que se Expresan,” May 31, 1789, New Mexico State Records Center and Archives, Benjamin M. Read Collection, Series 1, Box 3, Folder 113.
the subjects be liberated. The Crown reiterated to the audiencia of New Spain that, “you will give no opportunity nor will you permit any Indians to be made slaves.”

The distance separating New Mexico from Spain, however, effectively negated such mandates, as state officials in the motherland found enforcement to be virtually impossible in a province located half a world away. Like colonists in seventeenth century Virginia, whose statutes-at-large mandated that “all Indians taken in warr [sic] be held and accounted slaves,” New Mexicans easily circumvented royal cedulas by invoking the “just war doctrine,” enabling them to take captives at their own discretion during hostile encounters.

Because the majority of Indian captives were obtained during military engagements that fell under the category of “just war,” the enslavement of aboriginal peoples continued unabated and Spanish authorities seldom enforced the Crown’s prohibitory decrees regarding captivity. The failure to uphold these laws was oftentimes intentional, as Spanish viceroyalties recognized that the lucrative nature of captive slave sales helped to finance warfare with indigenous groups and lessened the pecuniary burden of paying soldier salaries that otherwise rested solely on the Crown.

Moreover, much like English colonists in North America, Spaniards in northern New

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38 “To the Audiencia of New Spain, Madrid, January 17, 1593,” in Hackett, ed., Historical Documents Relating to New Mexico, Nueva Vizcaya, and Approaches Thereto, Vol. 1, 219; see also Nermesio Salcedo to Governor of the Province of New Mexico, April 23, 1806, Archives of the Archdiocese of Santa Fe, Loose Documents 1790-1817, Microfilm #53, Frames 566-567. Serving as the commandant general of the internal provinces, Salcedo reminded the governor of royal laws forbidding the sale or barter of Indian captives.


40 Elliott, Empires of the Atlantic World, 62, 97-98.
Spain extended the doctrine to include captives taken by neighboring tribes during raids, and imperial forces thus recognized intertribal conflict as a form of “just war” in order to rationalize trading with the Indians for captives.\textsuperscript{41}

The traumatic hardships placed upon the Native inhabitants of New Mexico as a result of the \textit{encomienda}, coupled with religious and spiritual persecution, became a leading cause for the indigenous discontent that culminated in the 1680 Pueblo Revolt.\textsuperscript{42} Writing forty-two years before that rebellion, Fray Juan de Prada specifically named the \textit{encomienda} as a system of persecution and ominously predicted that the Indians, “oppressed with new impositions and annoyances,” would lash back at the ecclesiastics who collected their tribute. In the worst case scenario, the padre warned that Puebloan peoples “might become disgusted with the Catholic religion in which their spiritual fathers are instructing them and they might return to the freedom of heathendom and the rites of its idolatries.”\textsuperscript{43} Time would ultimately prove him correct. At the onset of the 1680 uprising, an estimated half of the approximately two hundred Spanish households in New Mexico held Pueblo Indians in varying forms of servility.\textsuperscript{44} Indeed, as one historian has argued, the rebellion occurred not solely because of cultural tensions between Natives and newcomers, but also in response to the widespread use of Puebloan peoples as


\textsuperscript{42} Vlasich, \textit{Pueblo Indian Agriculture}, 30-33.

\textsuperscript{43} “Petition of Father Juan de Prada,” September 26, 1638, in Hackett, ed., \textit{Historical Documents Relating to New Mexico, Nueva Vizcaya, and Approaches Thereto, to 1773}, Vol. 3, p. 111.

\textsuperscript{44} Brooks, \textit{Captives & Cousins}, 50.
unwilling laborers. The successful Pueblo insurgence ousted colonists from New Mexico for more than a decade and invoked a profound sense of fear among Euro-Americans, with the ripple effect being felt as far away as Seville.

Following Don Diego de Vargas’s 1692 *reconquista* and subsequent reestablishment of Spanish rule in New Mexico, settlers came to better appreciate the limits to which the Pueblos could be subverted. Like the 1676 Bacon’s Rebellion in colonial Virginia—which prompted a tactical shift in coerced labor from the predominantly white method of indentured servitude to a race-based chattel system of African slavery—the Pueblo Revolt completely altered slaving practices in the Southwest. Consequently, by the 1700s, enslavement of indigenous peoples began to shift towards nomadic and semi-nomadic Apaches, Arapahoes, Comanches, Kiowas, Navajos, Paiutes, and Utes. Furthermore, Catholic missionaries actively contested the enslavement of Pueblo Indians, hoping instead to convert them to Christianity through conciliatory strategies. Longstanding rivalries between secular and clerical elements stemming from the Inquisition fanned the flames on these already firmly established hegemonic quarrels. Ecclesiastics emerged largely successful in such protestations, inasmuch as the captive slave trade shifted to neighboring, non-sedentary tribes, about whose religious conversion the friars cared much less.

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After the 1692 reconquest, Spanish captive raiding initiated a violent process of hostile reciprocation that did not dissipate until after the American Civil War. While not proliferating until the years following the Pueblo Revolt, Spanish slave raids targeting nomadic tribes did occasionally occur in earlier times. The first documented raid against the Utes, led by Governor Luis de Rosas, took place in 1639 and resulted in eighty captives being hauled back to Santa Fe for distribution among local households, a trend that would become more commonplace as years wore on. That early raid, however, represented a rare instance of contact between the Spanish and that tribe in the seventeenth century, as Euro-Americans rarely probed Ute territory prior to the mid-1700s.

Spanish aristocrats frequently exposed Indian slaves to the forms of harsh treatment that have historically typified involuntary servitude across the globe. In 1707 a military officer, Nicolás Ortíz, reported on the apparent mistreatment of Apache captives, a trend that held steadfast throughout colonial New Mexico. Decades later, according to Fray Andrés Varo, conditions remained little changed. “When these barbarians bring a certain number of Indian women to sell, among them many young maidens and girls . . .

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47 Virginia McConnell Simmons, *The Ute Indians of Utah, Colorado, and New Mexico* (Boulder, CO: University Press of Colorado, 2000), 29. On distribution of Indian captives among Spanish households, see Antonio Narbona to Don Fernando Chacon, January 24, 1805, New Mexico State Records Center and Archives, Frank McNitt Collection, Serial #10678, Folder 8; Unknown to Commandant General, April 18, 1825, ibid., Folder 26.


he wrote in 1761, “before delivering them to the Christians who buy them, if they are ten years old or over, they deflower and corrupt them in sight of innumerable assemblies of barbarians and Catholics.” Varo confirmed that the trade in Indian slaves was not limited to average New Mexican citizens, but that the ecclesiastical element also condoned the practice and openly partook in the cruel treatment of captives. His observation publicized the widespread bartering of human property among Spanish clerics and landholding elites in spite of royal decrees forbidding the slave trade. Coincidentally, Spain’s powerlessness to enforce its ban on slave trading abetted, rather than prevented, the perpetuation of Indian captivity in the Southwest.

The fact that indigenous captivity continued unhindered can be attributed to a multitude of factors, not the least of which being the material and symbolic wealth that captives represented in a frontier society. Ideally, colonies existed for the benefit of the mother country, with the settlers expected to produce tangible, valuable goods to be traded both locally and worldwide in view of augmenting the monarchy’s riches. Whereas silver and gold could be shipped back to Spain, slaves represented a wholly different type of commodity. New Mexico’s landholding aristocracy found captives to be a convenient means of retaining a publicly visible form of wealth, a type of symbolic

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Indian slaves served a purpose even greater than precious metals or specie to many New Mexicans in that they not only provided labor, but also could be exchanged at any time as organic currency in a region where, until the late 1700s, hard coinage remained scarce. So too did captives become progenitors of mixed-blood offspring, in a sense reproducing a perpetual line of servants for the master. Spain’s overarching desire to impose strictures on the colonial slave trade should therefore be viewed in the context of its inability to regulate the commerce in human captives, an authoritarian failure that in turn allowed the colonies to retain capital and resources that the Crown believed should belong solely to the mother country.

By the late 1700s, many lower-class New Mexicans utilized the captive trade to repay their own debts and avoid falling into servitude themselves as peons. Slaves became a medium of exchange in the Southwest, where some people used Indian captives to purchase and barter for merchandise or other inanimate items, creating an economic dynamic that swapped living for nonliving commodities and dehumanized those held in bondage. Oftentimes, individuals participated in raids on Indian camps and villages for the sole purpose of taking captives and selling them after returning to the Rio Grande settlements. In 1661, for example, the governor of New Mexico dispatched a column of forty soldiers and some eight hundred allied Pueblo Indians “for the purpose of making


53 In 1778, for example, Fray Juan Agustín de Morfi observed that, “money doesn’t even circulate in the interior of the kingdom . . . business is conducted by barter with the merchants trading things from Spain and Mexico, and receiving in return from the natives and citizens their own local products.” Marc Simmons, ed. and trans., *Father Juan Agustín de Morfi’s Account of Disorders in New Mexico, 1778* (Isleta Pueblo, NM: Historical Society of New Mexico, 1977), 15; see also Frank, *From Settler to Citizen*, 139-51.
With indigenous women and children in high demand, these marauders could accrue handsome profits by selling captives to landowners, some of whom owned dozens of servants and comprised an element of society reminiscent of feudal lords in earlier European times.\textsuperscript{55}

The Indian slave trade continued to expand geographically during the colonial period. As Euro-American populations grew in both Alta California and New Mexico, there arose a corresponding increase in the demand for captive servants.\textsuperscript{56} In Alta California, hacendados and rancheros frequently subverted mission Indians through a system of debtor servitude in which elites, and even some religious missionaries, lent merchandise to Indians and then required them to repay the debt through labor. Despite Alta California having outlawed the exchange of indigenous servants in 1824, one observer noted as late as 1846 that, with Indians as the primary labor force in the region, “the business of the country could hardly be carried on” without their forced servitude.\textsuperscript{57}


\textsuperscript{56} For population figures in Spanish colonial New Mexico between 1750 and 1830, see Virginia Langham Olmsted, \textit{Spanish and Mexican Censuses of New Mexico, 1750-1830} (Albuquerque, NM: New Mexico Genealogical Society, Inc., 1981). Oakah L. Jones Jr., \textit{Los Paisanos: Spanish Settlers on the Northern Frontier of New Spain} (Norman, OK: University of Oklahoma Press, 1979), 120-135 provides a chronological breakdown of census figures with statistical analyses from 1744-1817. For a case study using these censuses, see Brooks, “This Evil Extends Especially,” 294-95. For the populations of the various missions in northern New Mexico, broken down by ethnicity and gender, see the 1795 Mission Census, Archives of the Archdiocese of Santa Fe, Loose Documents, Mission, 1790-1817, Microfilm #53, Frame 139. The earliest known enumeration of New Mexican population figures is found in Fray Alonso de Benavides, \textit{The Memorial of Fray Alonso de Benavides of 1630}. Translated by Mrs. Edward E. Ayer (Albuquerque, NM: Horn and Wallace, 1965).

\textsuperscript{57} Quoted in David J. Weber, \textit{The Mexican Frontier, 1821-1846} (Albuquerque, NM: University of New Mexico Press, 1982), 211. For intercultural relationships between colonists and Indians at Alta California missions, see Albert L. Hurtado, \textit{Intimate Frontiers: Sex, Gender and Culture in Old California} (Albuquerque, NM: University of New Mexico Press, 1999), 1-29; Stephen W. Hackel, \textit{Children of
Captain Henry Smith Turner, accompanying Brigadier General Stephen W. Kearny’s military expedition to southern California in 1846, was even more succinct in his assessment, informing his wife that Indians there had been “made abject slaves to toil for the benefit of the Mexican race.”

Systems of involuntary labor in California bore significant differences from those in the Southwest, however, owing in part to the generally passive nature and semi-sedentary lifestyle of Indians in the former region compared to the more bellicose proclivities of nomadic tribes elsewhere. In contrast to the system that prevailed in California, slaving mechanisms in New Mexico required greater armed force and coercion to sustain them. Continuing raids on Indian villages and the outright theft of women and children inevitably sparked violent reciprocation on the part of the various tribes being targeted. When Euro-American settlers raided an Indian camp, they could often count on their own villages being attacked in retaliation. Ironically, the Spanish Crown emerged as one of the biggest losers in this phenomenon because the royal treasury had to subsidize the expenses of waging an interminable war between its New Mexican colonists and the Indian tribes inhabiting outlying regions—a war that resulted largely from the captive slave trade.

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The extent to which Indian captivity and the resulting intercultural warfare carried on in the Southwest can be gleaned from an analysis of Spanish and Mexican baptism records.\textsuperscript{60} The Catholic Church recorded over three thousand Indian baptisms in New Mexico between 1700 and 1849, a calculation that doubtless fell short of the actual figure. The number of Indians being baptized increased following Mexican independence in 1821, suggesting either that the practice became more common thereafter or that Mexican priests kept more accurate records than their Spanish predecessors. Another possible explanation stems from triumphant Mexican military campaigns (against the Navajos especially) in the post-1821 period, during which time soldiers and civilian auxiliaries enjoyed increased success in their attacks on unsuspecting Indian camps.\textsuperscript{61} In 1825, for example, Juan de Abrego returned from a Navajo campaign in which his men took twenty-two “slaves of both sexes.”\textsuperscript{62} In a particularly destructive expedition during 1838, New Mexicans killed seventy-eight Navajo warriors near their Canyon de Chelly homelands and took another fifty-six women and children back to the Rio Grande settlements as captives, a demographically devastating toll for the tribe.\textsuperscript{63} In accordance with this increased violence, Navajos

\textsuperscript{60} For a brief synopsis of individual baptism booklets, see Fray Angélico Chávez, \textit{Archives of the Archdiocese of Santa Fe, 1678-1900} (Washington, DC: Academy of American Franciscan History, 1957), 198-219. For Spanish approaches to the religious indoctrination of Indians generally, see Elliott, \textit{Empires of the Atlantic World}, 66-72.

\textsuperscript{61} See, for example, David M. Brugge, ed., “Vizcarra’s Navajo Campaign of 1823,” in \textit{Journal of the Southwest} 6 (Autumn 1964); Brooks, Captives & Cousins, 250; Frank McNitt, \textit{Navajo Wars: Military Campaigns, Slave Raids, and Reprisals} (Albuquerque, NM: University of New Mexico Press, 1972), 52-91.

\textsuperscript{62} New Mexico State Records Center and Archives, Frank McNitt Collection, Serial #10678, Folder 29, Military Papers, Santa Fe Presidial Company, Enlistment Papers, 1821-1845.

\textsuperscript{63} Report of Governor Manuel Armijo, November 25, 1838, ibid.
comprised the largest component of approximately 3,000 recorded baptisms after Mexican independence, representing 37.5 percent of that total. Apaches (primarily of the Jicarilla tribe in northern New Mexico) comprised 24 percent, Utes represented 16 percent, and Comanches just five percent.64

Between 1700 and 1749, 770 slave baptisms led to at least 351 illegitimate mixed-blood child births resulting from sexual relationships—both voluntary and involuntary—between Spanish masters and Indian captives. In the brief five years spanning 1750-54, the church anointed over 300 abductees, indicating a drastic increase in captive-taking during that period. From 1775-99 friars baptized 658 indigenous captives; from 1800-24, 822 captives; and from 1825-49, 636 captives. A considerable percentage of those baptisms (1,171 out of 3,237, or roughly one-third) occurred in the Spanish settlements north of Santa Fe, with a relatively even distribution in all other provincial regions as far south as Paso del Norte (modern Ciudad Juárez) on the Rio Grande.65

While many baptisms occurred involuntarily, instances did arise involving Indians who sought conversion and personally requested that the ritual be performed. As early as 1744, a Spanish official noted that some Navajo captives were desirous of receiving “the baptismal waters.”66 Between 1812, when Spain abolished slavery outright, and 1847,

64 Additional census data reveals that 335 Navajo baptisms occurred from 1700-1800 and 1,241 between 1800 and 1870. Other tribes also fell victim to this coerced religious conversion. Catholic priests baptized 236 Utes between 1700 and 1800 and an additional 467 from 1800-1870. Along with the Apache tribes residing east of the Rio Grande, the Navajos and Utes comprised the tribes most prevalently targeted by Spanish efforts. See Brugge, Navajos in the Catholic Church Records, 30; DeLay, War of a Thousand Deserts, 167.

65 Gutiérrez, When Jesus Came, 200.

66 Unsigned note dated “Año de 1744,” New Mexico State Records Center and Archives, SANM II, #457, Reel 8, Frame 276.
after the United States had procured sovereignty over New Mexico, at least 330 Navajo captives underwent baptismal rights, of which only two reportedly did so on their own accord. In an 1823 treaty negotiated with the tribe, New Mexican officials carefully avoided any agreement that would mandate the repatriation of those captives seeking religious conversion. If any Navajos sought “the beneficial waters of baptism,” the treaty’s Mexican authors concluded that it would be improper for good Catholics to deny such wishes and therefore encouraged clergymen to administer the sacrament at their own discretion. Voluntary spiritual adaptation, however, typically transpired only when an Indian married a non-Indian, in which case, realizing the unlikelihood of being repatriated, they sometimes wanted their children to be baptized into the Christian faith in order that they might be privy to greater societal advantages and less susceptible to the cultural dependency that often sustained their enslavement. Whether by choice or by coercion, however, it should be noted that not all Indian captives experienced baptism; indeed, a considerable number never underwent the process, so the available statistics offer only a fragmentary glimpse of the Indian slaves actually held in New Mexico prior to the American conquest.

67 Brooks, Captives & Cousins, 235.

68 Navajo Treaty, February 5, 1823, New Mexico State Records Center and Archives, Frank McNitt Collection, Serial #10678, Folder 29.

69 Brugge, Navajos in the Catholic Church Records, 39. For intermarriage between Indians and Americans resulting in voluntary baptism of children, see Brooks, Captives & Cousins, 228-29. For Spanish baptism of Pueblo Indians prior to the 1680 Revolt, see Benavides, The Memorial of Fray Alonso de Benavides of 1630.
Catholic Church registries from the Spanish colonial era are replete with individual examples of indigenous captive baptism, each entry giving voice to a human subject that would otherwise remain invisible in the historical record. Priests oftentimes noted an approximate age (almost invariably under ten years) and assigned a new Christian name to each Indian child, a common practice in slave cultures worldwide that comprised a symbolic ascription of hybridized human identity. Six Comanche children baptized at Santa Clara Pueblo in 1743 became, by virtue of receiving the sacrament: María la Luz; Polonia; Antonia; Josepha; Lorenza; and Cristobal. Through the simple and superficial act of Catholic conversion, these Indian children immediately became less of an “other” within the adoptive society, as baptism and renaming marked the beginning of the cultural assimilation process in colonial New Mexico. Typically, several captives would be baptized in one day—an indication that they had been taken from their tribe during a single slave raid—and in many cases the presiding friar’s notation of tribal affiliation (“Cumanche;” “Apacha;” “Yuta;” “Jumano/a”) confirms this. Although most ceremonies involved only a small number of children, mass Indian baptisms did

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70 Registries usually described captive children as being “como [ . . . ] años de edad,” meaning “about . . . [certain] years of age, leaving the record somewhat ambiguous on this issue. Three Comanches baptized at San Juan Pueblo in 1780, for example, were listed as being “about” five or six years old. San Juan Baptisms 1774-1798, Archives of the Archdiocese of Santa Fe, Microfilm #9, Frame 900. The padre at that pueblo baptized no less than nine Comanche children between the ages of three and eight that year; the following year an additional six Comanches were baptized there, not counting those of other tribes. Ibid., Frames 899-923. See also Pecos Baptisms 1726-1774, Archives of the Archdiocese of Santa Fe, Microfilm #6, Frame 240 for the similar baptism of four “Jumana” children of various estimated ages. On the symbolic significance of renaming enslaved peoples, see Orlando Patterson, Slavery and Social Death: A Comparative Study (Cambridge, MA: Harvard University Press, 1982), 54-58.

71 Santa Clara Baptisms 1728-1845, Archives of the Archdiocese of Santa Fe, Microfilm #12, Frame 463. The presiding friar noted that only these six infants were baptized because “so many Comanches were ransomed (rescatado)” recently at nearby Ojo Caliente that it became impractical to anoint them all at once. Ibid.
occasionally occur. Fray Manuel Sopeña baptized twenty-two Apache children at Santa Clara in 1743; Fray Otero did the same with nineteen Apaches at Laguna Pueblo that year; and Fray Manuel Zambrano anointed an additional eleven Indian children in one ceremony on August 27, 1759 at Santa Fe.\footnote{Ibid., Frames 464-65; Laguna Baptisms 1720-1776, ibid., Microfilm #5, Frames 1036-39; Santa Fe Baptisms 1747-1814, ibid., Microfilm #15, Frame 101.}

The 3,237 recorded Indian baptisms in New Mexico resulted in a corresponding 3,302 mixed ethnicity child births. Such figures suggest that the number of slave baptisms and corresponding illicit conceptions through unsanctified exogamous unions remained relatively constant over a period of one hundred fifty years, and had not begun to wane even after the arrival of the Americans in 1846. The frequency of childbearing among captive Indian women, not only in New Mexico but throughout the colonial New World, indicates the extent to which the Spanish—and later the Mexicans—practiced miscegenation as a method for assimilating indigenous peoples. Such intimate relations directly contradicted the teachings of Catholicism regarding sexuality but nonetheless occurred with noticeable regularity.\footnote{See Stuart B. Schwartz, All Can Be Saved: Religious Tolerance and Salvation in the Iberian Atlantic World (New Haven, CT: Yale University Press, 2008), 130-32.} The progeny that resulted from such unions bound women to their captors through biologically-shared offspring, and in some instances also raised the societal status of the mother. Most mixed-blood children spent their entire lives in the Spanish settlements, giving rise to the racial and ethnic castes that emanated from interethnic relationships between European masters and Indian slaves.\footnote{For an analysis of female baptisms and resulting child births, see Brooks, “This Evil Extends Especially,” 296-97.}
Not until 1857 would any noteworthy action be taken to thwart such practices. In that year, New Mexico’s territorial supreme court heard a case involving the legal custody and servitude of Catalina Bustamento, a young girl in Santa Fe born out of wedlock to a female servant, Juana Analla, and her master, Carpio Bustamento (see chapter four). The court ruled that any mother, regardless of the purported illegitimacy of their child, was the natural and rightful guardian “and entitled to its custody,” despite any paternal attempts to assume custodianship and subvert the boy or girl to servitude. Even in an instance when the enslaved mother offered the illegitimate offspring to her master as a gift, the father had “no right to treat the child as a peon.” The ruling granted protection to children conceived through master-servant relationships and prohibited their servitude through ascribed or inherited dependency. It also represented a symbolic end to New Mexico’s centuries-old custom of gender exploitation, one that entailed the impregnation of female servants for the purpose of perpetuating a master’s access to vassals.⁷⁵

Very few of these baptized Indians appeared in church records as slaves, indicating that many ecclesiastics avoided placing that title upon them in an attempt to veil the prevalence of servitude from the Spanish crown, which disapproved of the term “slave” and prohibited the exchange of human property. In mission baptism books, priests recorded ancestry in one of three quasi-euphemistic ways, intended to describe the

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⁷⁵ Marcellina Bustamento v. Juana Analla, in Charles H. Gildersleeve, Reports of Cases Argued and Determined in the Supreme Court of the Territory of New Mexico, from January term 1852 to January term 1879, Vol. 1 (San Francisco, CA: A.L. Bancroft & Co., 1881), 255. The records do not indicate the ethnicity of Juana Analla; she could have been either a baptized Indian captive or, more likely, a mestiza or genízara. Nevertheless, her case was unique inasmuch as it upheld the maternal rights of an enslaved woman over the property rights of a male master.
biological origin of the child being baptized and also to identify blood purity, or *limpieza de sangre*, reiterating the importance that Spaniards placed on genealogical origin. Most eighteenth-century baptisms involved an “hijo(a) legitima,” meaning a male or female of, literally, legitimate Spanish pedigree. Other notations that friars used included “hijo(a) de padre(s) no conocido,” indicating that either one or both of the child’s parents remained unknown. This category typically appeared in registries when one of the parents claimed Indian ancestry, in which case the church only recognized the Spanish parent and disregarded the Native father or mother by recording them as “unknown.”

The third and final notation, used primarily for Pueblos and nomadic Indian captives, simply denoted “indio/a.”

Equally compelling is the extent to which New Mexicans sought to cloak their intermarriage with Indian captives. Of 6,613 extant Spanish and Mexican marriage records between 1694 and 1846, a mere twenty-one admitted to involving actual slaves, with the more anonymous method of concubinage being substituted in place of formal wedlock. “By refusing to admit that these people were slaves,” observes historian David Brugge, “and by viewing the situation primarily as one conducive to the making of

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76 See, for example, Cochiti Baptisms 1736-1827, Archives of the Archdiocese of Santa Fe, Microfilm #4, Frames 478-496, in which a representative cross section of all three notations appears in the registry.

77 Gutiérrez, *When Jesus Came*, 153-54, 295; Brooks, *Captives & Cousins*, 35; for individual Catholic Church marriage records, see Chávez, *Archives of the Archdiocese of Santa Fe*, 220-30. One historian notes that, “The capture, conversion, and presence of indigenous people within these communities and households was . . . continuously identified and defined outside of ‘slavery,’ which was illegal.” Estévan Rael-Galvéz, *Identifying Captivity and Capturing Identity: Narratives of American Indian Slavery, Colorado and New Mexico, 1776-1934* (Ann Arbor, MI: University of Michigan, PhD Diss., 2002), 171. The recording of baptized Indian slaves as ethnically Spanish or Mexican evinces the fact that it served primarily as an assimilative device. See Gutiérrez, *When Jesus Came*, 295-97.
[Christian] converts, the clergy found the practice acceptable and even desirable. 

Once baptized, in fact, a captive would no longer be considered a slave in the literal sense. As time passed and visible genetic distinctions such as skin pigmentation began to coalesce in a single Hispanic ethnicity, ecclesiastics became increasingly lax in notating ancestry in their record books, indicating a reinvention of the cultural construction of race in New Mexico. The dearth of documentary evidence for sanctioned marriages between Indians and mulattos in the Southwest suggests that, by the Mexican national era, racial differences had indeed become less easily recognizable. Another possible explanation hinges upon inaccurate recordkeeping on the part of the Church; clergymen may have documented some statistics according to preference or prudence rather than fact in order to shroud the extent to which indigenous baptisms occurred. Even early Spanish census records contain discrepancies in regards to such controversial issues as ethnic origins, indicating that those in power attempted to conceal the true nature of gender and race relations in the province.

As late as 1852, several years after the U.S. government assumed jurisdiction over New Mexico, the tradition of baptizing Indian captives remained firmly implanted throughout territorial communities. Explaining the practice to Indian agent Lafayette

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81 A resurgence in Indian baptisms occurred during the 1860s, primarily as a result of the Navajo removal to Bosque Redondo. Historians have discovered that 788 Navajo captives were baptized between 1860 and
Head, renowned slave trader Pedro León claimed that, once baptized, Indians “cannot be sold any more than the Mexican children,” explaining that such action would contradict Church doctrine. “They are not peons,” he insisted. “They have no debts to work out . . . there is no Mexican law on the subject – only custom.”

John Greiner reiterated that sentiment when noting that anybody attempting to sell a baptized Indian captive “not only violates the laws of the land – but the laws of the Church.”

León’s statement suggests that many New Mexicans did not consider the captivity, dependency, and forced servitude of Indian women and children to be a form of slavery. The notion that indigenous captives did not constitute slaves (or, in León’s words, “peons”) because they had no debts to satisfy is telling and insinuates an underlying variation in viewpoints between Mexicans and their newly-arrived American counterparts. Whereas some foreigners in the territory would readily contend that both Indian captivity and Mexican debt peonage represented involuntary servitude and, by definitional extension, forms of slavery, this did not hold true among longtime Southwestern inhabitants. To them, Indian captives were servants—not slaves or peons—because they had no pecuniary debt to repay. In this way, hacendados and patrónes avoided the application of Mexican master-servant laws to their practice of Indian enslavement, using baptism as the point of “conversion” and thus as a basis for their mostly technical argument.

1868, primarily in the villages east of Santa Fe. See Brugge, Navajos in the Catholic Church Records, 37; Brooks, Captives & Cousins, 332, 336n47.

82 Quoted in Sondra Jones, The Trial of Don Pedro León Luján: The Attack against Indian Slavery and Mexican Traders in Utah (Salt Lake City, UT: The University of Utah Press, 2000), 36.

83 Greiner to Lea, May 19, 1852, in Annie H. Abel, ed., The Official Correspondence of James S. Calhoun While Indian Agent at Santa Fe and Superintendent of Indian Affairs in New Mexico, 1849-1852 (Washington, DC: Government Printing Office, 1915), 537.
As time wore on, a multilateral captive trade network developed in the Southwest that involved not only Spanish colonists but numerous peripheral and semiperipheral Indian tribes as well, giving rise to hegemonic rivalries and resulting in a plurality of power across the region. The considerable worth of slaves in the New Mexican marketplace (typically measured in trade value rather than dollar amount), as well as the utilitarian uses for captives as both servants and fictive kin among indigenous tribes, resulted in a dynamic of raiding and warfare that pitted Indian polities against one another, dividing tribal resources and fighting men in multiple directions and thus limiting the capability of individual Native communities to resist violence and predation. Just as Euro-Americans raided Indian camps for captives and Indians in turn attacked colonial settlements, so too did Pawnees and Comanches raid Apaches and Kiowas; Apaches and Kiowas raided Comanches and Pawnees; Utes raided Arapahoes, Paiutes, and Navajos; Navajos raided Utes and Paiutes, and the processes of intertribal warfare went on \textit{ad infinitum}.\footnote{L.R. Bailey, \textit{Indian Slave Trade in the Southwest} (Los Angeles, CA: Westernlore Press, 1966), 136. For specific examples see Charles Bent to Manuel Alvarez, January 30, 1841, New Mexico State Records Center and Archives, Benjamin M. Read Collection, Series 1, Box 1, Folder 46; B.L.E. Bonneville to W.A. Nichols, November 24, 1857, RG393, M1120, LR, DNM, Roll 6; John Greiner to James S. Calhoun, October 20, 1851, RG393, M1102, LR, DNM, Roll 4.} Writing in 1793, New Mexico Governor Fernando de la Concha found it difficult to maintain peaceful relations with so many feuding raiding-economy
tribes because, according to him, the Comanches, Utes, Navajos, and Jicarilla Apaches continued to target one another, “and this stems primarily from the hate which the three latter tribes feel for the first.”

Multiple levels of conflict thus played out simultaneously across a broad geographic realm and resulted in continuous warfare not only between Spanish interlopers and outlying Indian communities, but also among the tangential indigenous groups themselves, making the social systems of colonial New Mexico ones of great multidimensional complexity. The Indian slave trade therefore had a wide-ranging demographic and economic impact on regional societies and played a crucial role in determining the direction and outcome of social and cultural evolution.

The number of Indians taken into captivity continued to swell over time, and, correspondingly, so too did the amount of Spanish deaths at the hands of Indians increase. Nomadic tribes killed at least 820 New Mexicans between 1700 and 1849. The number of Indians slain during hostile encounters is not positively known, as they typically carried their dead and wounded from the battlefield when circumstances allowed. The Navajos alone bore responsibility for the recorded deaths of 424 settlers between 1700 and 1860, while the tribe itself suffered at least 1,130 deaths during the same period. During that time, the number of Euro-American colonists who died at the hands of surrounding nomadic tribes correlated closely to indigenous baptisms in New Mexico.

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85 Fernando de la Concha to Conde de Revillagigedo, May 6, 1793, New Mexico State Records Center and Archives, Frank McNitt Collection, Serial #10678, Folder 26.

86 See Brugge, Navajos in the Catholic Church Records, 135-45.
Mexico’s churches, indicating a direct relationship between Indian raiding of the settlements and Spanish strikes against Indian camps for captive-taking purposes.87

Improving technology and the increasing availability of more effective weaponry undoubtedly contributed to the increased number of Spanish casualties. By the late eighteenth century some of the colonists who raided Indian camps carried firearms and, whenever such a person fell in battle, tribe members quickly gathered his gun, ammunition, and other weapons for their own use. Additionally, Europeans’ widespread introduction of steel into New Mexico inadvertently improved the durability and lethality of Indian armaments. By the early 1800s, in the waning years of Spain’s dominion over its New World Empire, many tribes had begun fashioning arrowheads and lance-tips out of metal rather than stone. These newly-crafted projectile points proved more dependable and deadly, partially explaining the increased Euro-American mortality rate during hostile engagements.

As time wore on, slave raiding emerged as a ruthless profession among both New Mexicans and the more powerful equestrian tribes surrounding the province, all of whom preyed upon and exploited weaker groups for their own benefit. While intermediaries—both Spanish and Indian—oftentimes assisted in transporting captives to New Mexican masters, the system originated with and was perpetuated by European colonists themselves, whose economic interests and social hierarchies demanded the continuation of involuntary labor systems and concomitant dependency. Weaker Indian tribes served as a convenient means of obtaining this labor, eventually resulting in intertribal slave

raiding once the more powerful Apaches, Comanches, Navajos, and Utes realized that they could exploit the colonists’ insatiable desire for additional servants. Through these means, hegemonic tribes participated to a remarkable degree in the Euro-American economic and social systems that Spaniards implanted in the colonial Southwest. By raiding and exploiting weaker tribes for captives and slaves to trade in Spanish markets, the aforementioned Native groups recast themselves as core societies—those which dominate socially and economically—while disempowering and denigrating neighboring peoples to the status of weaker and poorer peripheral components of that larger hierarchical system, a multilateral process of Indian power relations and tribal reinvention that long predated the arrival of Europeans.

With Spanish inhabitants continuing to wrest Indians from their families through violent and coercive tactics, Native peoples reacted impulsively by raiding the Rio Grande settlements, carrying away Spanish women and children and likewise submitting them into dependent servitude within their respective tribes. The fact that some New Mexicans were widely dispersed in and around haciendas and did not live in fortified

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villages or towns rendered these forays all the more effective, with many settlers finding their homes indefensible because of their great distance from one another.\textsuperscript{91} By the mid-1700s, violent reprisals by Apaches, Comanches, Navajos, and Utes targeted New Mexico’s northern settlements on a regular basis and effectively, if only temporarily, contained Spanish power and curtailed imperialistic aspirations.\textsuperscript{92} Tribal alliances, most notably between the Utes and Comanches for approximately four decades prior to 1750, further exacerbated the toll on Spanish communities and asserted collective indigenous power in the face of colonialism.\textsuperscript{93} In 1747, for example, a sizable Ute raiding party

\textsuperscript{91} Governor Mendinueta noted this dilemma twice, first in 1760 and again in 1772, lamenting the fact that Comanches and Apaches preyed on Spanish haciendas with little opposition because of their isolated nature. See Decree of Governor Mendinueta, March 31, 1760, New Mexico State Records Center and Archives, SANM 1, Item #656, Microfilm Translations, Roll 3; Don Pedro Fermín de Mendinueta to Viceroy Bucareli, March 26, 1772, in Alfred Barnaby Thomas, ed., “Governor Mendinueta’s Proposals for the Defense of New Mexico, 1772-1778,” in \textit{New Mexico Historical Review} 6 (January 1931), 26-30. On the militarization of New Mexico villages for defensive purposes, see Carlos R. Herrera, \textit{Juan Bautista de Anza: The King’s Governor in New Mexico} (Norman, OK: University of Oklahoma Press, 2015), 122-25.

\textsuperscript{92} Mendinueta cited these four tribes as New Mexico’s “principal enemies,” with specific emphasis on the Comanches. See Mendinueta to Bucareli, June 23, 1772, in ibid., 32. In 1854, Indian agent Edmund Graves noted of the Navajos that they “have long been the terror of New Mexicans, carrying on robberies on an extensive scale, and often carrying away many captives and committing murders.” E.A. Graves to G.W. Manypenny, June 8, 1854, in 1854 Annual Report of the Commissioner of Indian Affairs, 179. For characteristics of Navajo warfare, see W.W. Hill, “Navaho Warfare,” in \textit{Yale University Publications in Anthropology} 5 (1936), 3-19, esp. 14-15. For an analysis of Plains Indian military societies in the theoretical context of sodalities, see William C. Meadows, \textit{Kiowa, Apache, and Comanche Military Societies: Enduring Veterans, 1800 to the Present} (Austin, TX: University of Texas Press, 1999), 1-11; on Comanche militarism, see ibid., 251-368.

\textsuperscript{93} For the Indian slave trade as it emanated from the Comanche-Ute alliance, see Blackhawk, “The Displacement of Violence,” 740-43; Hamalainen, \textit{The Comanche Empire}, 26-28. A corresponding lull in Navajo raids on Spanish villages occurred during this time, which historian Frank McNitt attributes to the Comanche-Ute pact, postulating that Navajos, as enemies of those two tribes, refrained from raiding the Spaniards in hopes that they might protect them from the united Comanches and Utes. See McNitt, \textit{Navajo Wars}, 23.
allied with Comanche warriors swept down upon the village of Abiquiú, riding away with twenty-three women and children after killing two others who attempted to defend themselves. Endemic slave raiding plagued Spain’s and Mexico’s far northern frontier well into the nineteenth century and left officials searching in vain for solutions, with some governors going so far as to grant citizen requests to abandon entire towns in the face of unchecked depredations. Thus, Indian slavery in pre-nineteenth century New Mexico was characterized by continuous raiding on both sides, resulting in thousands of persons being snatched from their families and exposed to an entirely new way of life, one of bondage to an unknown master. As one American traveler observed in 1851, “this slave trade gave rise to cruel wars between the native tribes of this country.” Four years later, when a group of New Mexicans from Abiquiú and Ojo Caliente raided an Indian camp, killing two and taking two others captive, Indian agent Lorenzo Labadi noted sardonically that, “this is not the first time they have done this.”

Despite occasional peace accords between Euro-American officials and Indian tribes—most notably that of 1786 with the Comanches—these processes of raiding


95 Governor Codallos y Rabal issued a decree on March 30, 1748 granting permission for settlers in Abiquiú and vicinity to abandon their homes following continuous attacks by “pagan enemies.” The people reported that Utes, Comanches, and other tribes appeared almost daily in their village and that they had little means of protecting themselves. Petition of the Residents of Ojo Caliente, Abiquiú and Pueblo Quemado, and Response by Governor Joaquín Codallos y Rabal, March 30, 1748, New Mexico State Records Center and Archives, SANM I, Item #28, Microfilm Translations, Roll 1. A decade later, a new governor ordered all residents to return to those locations which they had previously abandoned. Decree of Governor Mendinueta, March 31, 1760, SANM I, Item #656, ibid. For the similar abandonment of other New Mexican towns, see Ebright and Hendricks, *The Witches of Abiquiú*, 20-24.


97 Lorenzo Labadi to David Meriwether, February 18, 1855, RG75, OIA, T21, LR, NMS, Roll 1.
continued mostly unaltered for the entirety of the period during which New Mexico remained a Spanish possession, and indeed did not fundamentally change even after Spain lost control of its New World provinces. By the time American merchants and explorers began to arrive in the Southwest with the opening of the Santa Fe Trail in 1821, systems of coercive labor and the multifarious forms of dependency they engendered had become fully enmeshed in local society and culture.

During Mexico’s first two decades of independence, reciprocal slave raiding between Indians and Mexicans carried on mostly unhindered. None of the Southwestern tribes were immune to the captive trade, no matter how remote or hidden their campsites and villages might be. While northern New Mexico captivities typically involved Navajos, Paiutes, and Utes, slave raids in the more southerly Chihuahua and Sonora usually involved Apaches.  

98 In a well-known 1851 attack in Chihuahua, Colonel José María Carrasco led some four hundred Sonoran troops in a rout of the Apaches and took sixty-two prisoners, all of whom he transported deep into the Mexican interior for distribution “among the haciendas and ranchos as servants, too far off ever to reach their homes again.”  

99 Carrasco’s brash ambush came in response to almost three hundred Sonoran deaths at the hands of Apache raiding parties during the preceding two years alone, indicating the extent to which hostilities proliferated as a result of animosities.

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associated with ongoing reciprocal enslavement. Among the Apaches slain or captured in the Janos attack were several of Geronimo’s family members, and he later recalled the incident in his autobiography and noted the intense hatred it incited within him. Only about thirty years old at the time and yet to achieve notoriety outside his own tribal community, Geronimo organized a vengeance raid that claimed the lives of many Sonorans, thus perpetuating the vicious cycle of violence and blood feuding between the two groups.

Slave raiding, then, defined human interactions not only in the more populous northern New Mexico communities, but also at the southernmost reaches of the province, where Mescalero, Chiricahua, and Western Apaches—along with some Comanche groups—engaged in similar captive-taking practices aimed at their Mexican neighbors in Chihuahua and Sonora. Thus, the entire Southwest served as a backdrop for violent encounters that involved the captivity and enslavement of women and children taken during raiding and warfare.

Although it did not proliferate until the eighteenth century, the indigenous slave trade nonetheless traced its roots to the decades preceding the 1680 Pueblo Revolt. While at Pecos Pueblo in the 1650s, Fray Alonso de Posada reported that Plains Apaches arriving with hides to sell also brought “some captive Indian children from Quivira to

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101 For Geronimo’s personal recollection of these events, see S.M. Barrett, ed., *Geronimo’s Story of His Life* (New York, NY: Duffield & Co., 1906), 75-83.
trade for horses.”102 As slave trafficking increased, large trade fairs became commonplace at Santa Fe, Taos, and Pecos, with hundreds, sometimes thousands, of Indian attendees bringing captives with them to redeem for various goods of Euro-American manufacture.103 In these trade fairs one sees the emergence of a system of both intra- and intercultural commercial exchange involving multi-party negotiations in which the principal product—human captives—had no input in their ultimate disposition, a characteristic that New Mexico shared with the contemporaneous American South.

Pueblo Indians acted as intermediaries in this trade, becoming quasi-capitalists in the process. Following an inquiry made at Pecos Pueblo in 1711, one New Mexico governor noted that Indian residents there traded with nomadic tribes at annual fairs, giving “a


103 For Spanish documentation of activities at the Taos, Santa Fe, and Pecos fairs, see “Report of Melchon de Pexamás,” October 27, 1775, New Mexico State Records Center and Archives, Archivo General de las Indias Photocopy Collection, Serial #15825, Folder 1; Tomás Vélez Cachupín to Conde de Revilla Gigedo, November 27, 1751, in Alfred Barnaby Thomas, ed., The Plains Indians and New Mexico, 1751-1778: A Collection of Documents Illustrative of the History of the Eastern Frontier of New Mexico (Albuquerque, NM: University of New Mexico Press, 1940), 68. Cachupín explained that a Comanche ranchería “of forty tipis . . . arrived [at Taos] to hold the usual exchange of skins and Indian captives of different nations which they brought from those of the north . . . and some grown women from the Carlama [Apaches].” (ibid). See also Pedro Fermín de Mendinueta to Viceroy Bucareli, September 30, 1774, in ibid., 172, in which Mendinueta speaks of ransoming “six Indians, male and female,” from the Comanches on June 27, 1774 at the Taos trade fair. Bishop Tamarón, touring New Mexico in 1760, observed while at Taos that the Comanches “come every year to the trading, or fairs. The governor comes to those fairs, which they call rescates, every year with the majority of his garrison and people from all over the kingdom. They bring captives to sell, pieces of chamois, many buffalo skins, [etc].” Eleanor B. Adams, ed., “Bishop Tamarón’s Visitation of New Mexico, 1760,” in New Mexico Historical Review 28 (July 1953), 216. See also Fernando de la Concha to Fernando Chacón, June 28, 1794, in Donald E. Worcester, ed. and trans., “Notes and Documents: Advice on Governing New Mexico, 1794,” in New Mexico Historical Review 24 (July 1949), 246. For trade fairs at Pecos Pueblo, see Kessell, Kiva, Cross, and Crown, esp. 134-38, 364-70; Anderson, The Indian Southwest, 206-07, 332n8. Ultimately the Comanchero trade of the early 1800s spawned from these early Spanish-Indian fairs. See Frances Levine, “Economic Perspectives on the Comanchero Trade,” in Spielmann, ed., Farmers, Hunters, and Colonists, 155-69, esp. 156-58; Kenner, A History of New Mexican-Plains Indian Relations, 78-97; Kavanagh, Comanche Political History, 278-80; Hamalainen, The Comanche Empire, 211-12. For a firsthand account of the Comanchero trade, see Jacqueline Dorgan Meketa, ed., Legacy of Honor: The Life of Rafael Chacón, A Nineteenth-Century New Mexican (Albuquerque, NM: University of New Mexico Press, 1986), 105-108.
horse or two” for each captive and then promptly bartering that captive to Spanish colonists “for four or five horses.” In the process, these Indians realized substantial profits in equine flesh, one of the most valuable commodities on the northern Spanish frontier at that time.104

Fray Andrés Varo, a venerated Church veteran, observed of the trade fairs in 1749 that, “these Infidel Indians are accustomed to come in peace to the Pueblos, and bring buffalo and elk skins, and some young Indians from those that they have imprisoned in the wars that they have among themselves.” They then swapped these young Indian captives to both Spanish colonists and Pueblo Indians for horses and mules, knives, clothing, beads, and other items of foreign manufacture not otherwise available to them.105 Two years later Comanches again visited Santa Fe, where they “traded their pelts, buffalo skins, and little Indians” to Spanish colonists, as they had grown accustomed to doing.106 Fray Miguel de Menchero noticed that the powerful Comanches were especially prone to selling Plains Indian captives “to the Spaniards of the kingdom, by whom they are held in servitude, the adults being instructed by the fathers and the children baptized.”107 Colonial elites went to great trouble to hoard trade items prior to these fairs because, according to Varo, Indian slaves constituted the “gold and silver and

the richest treasure of the governors.” All of this occurred despite the issuance of official bandos to the contrary, including a 1732 proclamation by Governor Gervasio Cruzat y Gongora forbidding the sale of Apache captives, a toothless order that went unheeded and unenforced.

An armistice brokered in 1786 between Comanche Chief Ecuerecapa and New Mexico Governor Juan Bautista de Anza consummated Teodoro de Croix’s recommendation for peace five years earlier and solidified preexisting but porous trade relationships, encouraging greater numbers of Comanches to trade at or near the settlements. Following the accord, Anza’s superior authorized him to ransom all captives being held among the Comanches under the age of fourteen. As many as three thousand captive Indians, from various tribes, were ransomed in northern New Mexico between 1700 and 1850 and thereafter entered society as indios de rescate and

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109 Proclamation of Gervasio Cruzat y Gongora, December 6, 1732, New Mexico State Records Center and Archives, SANM II, Reel 6, Frames 1243-45.

110 See Alfred Barnaby Thomas, ed. and trans., Teodoro de Croix and the Northern Frontier of New Spain, 1776-1783 (Norman, OK: University of Oklahoma Press, 1968), 111-14. For a firsthand account of the 1786 Comanche peace accord, see Alfred Barnaby Thomas, ed. and trans., Forgotten Frontiers: A Study of the Spanish Policy of Don Juan Bautista de Anza, Governor of New Mexico, 1777-1787 (Norman, OK: University of Oklahoma Press, 1969), 294-321. For the treaty generally, see Hamalainen, The Comanche Empire, 119-23; Brooks, Captives & Cousins, 162-69. On Anza’s Indian policies, see Herrera, Juan Bautista de Anza, esp. 95-120. Navajo oral history also recounts peace accord between Comanches and New Mexicans, with stories lamenting that this alliance allowed the two groups to scout and raid in Navajo country. See Ruth Roessel, ed., Navajo Stories of the Long Walk Period (Chinle, AZ: Navajo Community College Press, 1973), 181-82.

gentzaros in a process that historian James Brooks calls “a thinly disguised slave market.” Authority to ransom captives dated to the 1681 Recopilación, which encouraged Spanish officials to redeem them for the purpose of baptism and conversion. The exchangeability of human subjects as a form of organic capital in colonial New Mexico had the dual effect of providing nomadic tribes with trading material while simultaneously limiting Spanish raids on their own communities, because these captive exchanges fulfilled the colonial servant quota instead. The introduction of a European economic system predicated upon slave labor redefined traditional Indian economies in the Southwest through their exploits in taking captives and trading them for other goods. In a geographically extensive network that included members of the Wichita and Caddo tribes as intermediaries, captives abducted in northern New Mexico sometimes wound up as far away as Natchitoches on the Gulf Coast of Texas.

Bartering in Indian captives at northern New Mexico trade fairs continued into the nineteenth century. In 1803, Governor Fernando de Chacón observed that, in exchange

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112 Brooks, Captives & Cousins, 366. For an overview of Thomas Vélez Cachupín’s policies on dealing with indigenous tribes, with an emphasis on repatriation of captives, see Ebright and Hendricks, The Witches of Abiquiu, 20-23, 69-87. For statistics on indios de rescate, see Brooks, “Served Well by Plunder,” 36; Brooks, “This Evil Extends Especially,” 282-83. Brooks contends that ransomed Indian slaves comprised between ten and fifteen percent of New Mexico’s eighteenth century population. Ibid., 283, 303-04 n. 15. For additional statistics on New Mexico slave populations, see Brooks, Captives & Cousins, 50, 125, 143-46.

113 For intertribal slave raiding involving Utes, see Ned Blackhawk, Violence over the Land, 28-29; Hamalainen, The Comanche Empire, 27. For Comanche slave trading at the Taos fairs, see Fray Francisco Atanasio Domínguez, The Missions of New Mexico, 1776: A Description by Fray Francisco Atanasio Domínguez, with other Contemporary Documents, ed. and trans. Fray Angelico Chavez and Eleanor B. Adams (Albuquerque, NM: University of New Mexico Press, 1956), 251-52; Gerald Betty, Comanche Society: Before the Reservation (College Station, TX: Texas A&M University Press, 2002), 104-05; Hamalainen, The Comanche Empire, 38-45; 51-52.

114 See Barr, Peace Came in the Form of a Woman, 260-61.
for horses, equestrian equipment, edged iron weapons, cloth, tobacco, and even mirrors, the visiting tribes would “give Indian captives of both sexes.”\(^{115}\) When Mexico gained its independence from Spain in 1821, its northernmost province immediately opened its doors to U.S. merchants, many of whom had been itching for decades to establish commercial relations with the Southwest but had previously been unable to do so because of prohibitive Spanish commerce laws. The blazing of the Santa Fe Trail in 1821 and the rapid influx of American opportunists brought with it an exponential rise in the volume and variety of materials being exchanged in Santa Fe and other nearby locales.\(^{116}\) With this increase came a corresponding demand for cheap labor in the form of Indian slaves, and the already well-established captive trade expanded accordingly in order to satisfy this need. New Mexico’s transfer in sovereignty from Spanish to Mexican control also contributed to the proliferation of slave trafficking. Despite the passage of three Mexican laws between 1824 and 1837 regulating master-servant relationships, such edicts pertained only to debt bondage between Mexican citizens and completely ignored the existence of Indian slavery.\(^{117}\)

Commerce in Indian captives remained a regional mainstay even beyond the American Civil War, as well-armed civilian militias took advantage of the U.S. Army’s


increasing subjugation of Navajos and other tribes and began targeting small bands in hopes of capturing women and children to sell in northern New Mexico communities. By that time, sanctioned trade fairs had begun to wane and captive exchanges took place predominantly in small-scale, individual transactions. One observer described the situation as it existed in 1865, noting that “destitute orphans are sometimes sold by their remote relations; poor parents also make traffic of their children.” Indian captives, he continued, “are bought and sold by and between the inhabitants at a price as much as is a horse or an ox,” and young girls could sometimes fetch as much as four hundred dollars worth of goods.118

Centuries of captive slave trafficking had a noticeable cultural and demographic impact in the Southwest. Like many slave families in the antebellum Upper South, where a mass redistribution of slaves to the more southerly Cotton Belt propagated forced migrations that broke filial bonds through spatial disassociation, captive slavery left an indelible psychological imprint on countless Indian families whose kinfolk were forcibly redistributed among households across a large geographic area far-removed from tribal homelands.119 One U.S. special agent, writing to the commissioner of Indian affairs in

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118 Statement of Chief Justice Kirby Benedict, July 4, 1865, in “Condition of the Indian Tribes,” 39th Cong., 2nd Sess., Senate Report No. 156 (Washington, DC: Government Printing Office, 1867), 326. Observers frequently used animal metaphors to describe the means by which captives and peons were regarded in the marketplace. See, for example, James O. Pattie, The Personal Narrative of James O. Pattie, of Kentucky (Ann Arbor, MI: University Microfilms, 1966), 113. Writing of an incident that occurred about 1857, Lieutenant William Woods Averell described a transaction in which an Indian man offered him “pretty much everything he possessed of cows, sheep, goats, and other personal property” for a young Mexican girl who had formerly been a captive among the Kiowas and Cheyennes. The young officer entertained the offer for amusement but did not follow through with the deal. Averell, Ten Years in the Saddle, 118. See also James S. Calhoun to Orlando Brown, March 31, 1850, in Abel, ed., Official Correspondence, 181-83, in which Calhoun describes the items that Mexican citizens at the village of Mora traded to various Indian tribes for captives, which included knives, tobacco, corn, cloth, blankets, and bullets among other items.

1867, lamented that he would not be able to locate and redeem many of the captives recently taken from the Navajo tribe. The abductees, he explained, were scattered throughout the northern New Mexico settlements of Tierra Amarilla, Ojo Caliente, El Rito, Arroyo Seco, and Taos, as well as Los Conejos in Colorado Territory. Such was the fate that befell scores of Indian captives in the Southwest, as the relocation and assimilation of such persons often resulted in their disappearance from public view.

While the Indian slave trade continued to provide a strong motivation for intertribal raiding well into the nineteenth century, not all captives were immediately traded to New Mexican colonists. Peripheral tribes sometimes captured infant children and raised them for several years until they reached an age at which their trade value warranted their exchange. Captive children therefore underwent a complete transformation of identity as a direct result of the slave trade, being raised by members of a different tribe and then traded to Spanish colonists. In such a process, a native-born child might plausibly undergo two or three cultural transformations during their early developmental years, therefore retaining little or no memory of their original familial and tribal lineages. Historian James Brooks writes that captives in the Southwest experienced bondage “on a continuum that ranged from near slavery to familial incorporation, but few shed the stigma of servility.”

120 John Ward to A.B. Norton, February 10, 1867, RG75, OIA, M234, LR, NMS. Roll 552.


122 Brooks, *Captives & Cousins*, 125.
The adoption of captives and slaves into Indian tribes occurred somewhat frequently with young children and adult women, but almost never involved adult males from enemy tribes, who were killed on the battlefield whenever circumstances allowed. The captive trade in the Southwest rarely targeted grown men, largely owing to masculine proclivities towards resistance. The defensive characteristics of the male psyche generally meant that, even if taken captive, indigenous men would be much more likely to resist assimilation and fictive kinship bonds and therefore the captors could not as easily absorb them into their own social and cultural spheres. Rather than risk the unnecessary hazards of overt defiance, slave raiders (both Indian and Spanish) either killed adult males who resisted or simply avoided them and instead targeted more vulnerable women and children.  

Among the more well-known examples of tribal captive adoption is that of Mickey Free, who, after being seized by a group of Western Apaches, went on to become a prominent interpreter and Indian scout for the U.S. Army. Born in 1847 as Felix Telles at a ranch along Sonoita Creek in southwestern New Mexico Territory (now a part of southern Arizona, about fifty miles south of Tucson), the thirteen-year-old fell victim to an Indian raid in 1861. Had he been much older, he likely would have been summarily executed as a Mexican enemy. “Though these captives were thought of as belonging, and being subservient, to their captors or those whom they were given,” wrote early ethnologist Grenville Goodwin, “actually they often became well-respected and loved

123 Gutiérrez, When Jesus Came, 159-61; Weber, Bárbaros, 238.
members of the family.” In the case of Felix Telles, an Aravaipa Apache family adopted and raised him as their own and he became an Apache in spirit, if not in blood. He received the sobriquet Mickey Free in 1872, while serving as a military scout, and the name stuck. Years later, when visiting Tucson, he coincidentally encountered one of his biological brothers, who he had not seen since his abduction from the Sonoita Creek ranch in 1861. The man implored Mickey to abandon his life as an Apache, but he absolutely refused. He had undergone a complete transformation of identity, from Mexican to Apache, and in so doing had adopted a new life and culture that suited him perfectly. He died in 1914 at the Fort Apache Indian Reservation in Arizona, having lived out the duration of his life, from the age of thirteen, as an Apache.

Another prominent example of Apache assimilation and reinvention involves Merejildo Grijalva, a Mexican boy abducted from his home in Bacoachi, Sonora in March 1849 by a band of Chiricahua Apaches under Chief Miguel Narbona. Born about 1840, he would have been nine or ten years old—not much younger than Mickey Free at the time of his kidnapping and right on the cusp of the age at which the Apaches would


have killed him as a grown male enemy. Grijalva, who years later recalled that
“treatment of captives was necessarily harsh” among the Apaches, performed menial
chores as a servant until earning recognition among his fictive kinfolk as an interpreter,
first for Miguel Narbona as a part of his extended family and later for Chief Cochise.126
His role as an interlocutor made him an invaluable member of the Chiricahua tribe and
represented one of the single most significant tasks that captives fulfilled. His
assignment as Cochise’s interpreter led Grijalva to make acquaintance with Indian agent
Michael Steck during a parley at Arizona’s Apache Pass in 1859, at which point Steck
offered him a job as his own interpreter at the Fort Thorn Indian Agency in southern New
Mexico’s Rio Grande Valley. The young man at first declined, perhaps apprehensive
because of his own sense of dependency to Cochise and other Apaches with whom he
lived, but several months later he escaped and rode to Steck’s agency, eventually
becoming a scout for the U.S. Army.127

Mickey Free and Merejildo Grijalva represent two more well-known examples of
the means whereby captivity among indigenous tribes effected the victims. The two
men’s lives also typified the important role of captives as cultural intermediaries because
of their experiences amongst both Euro-Americans and Indians during their lifetimes. In

126 For oral histories regarding captivity among the Indians, see Alfonso Griego, *Voices of the Territory of
New Mexico: An Oral History of People of Spanish Descent and Early Settlers Born during the Territorial
Days* (Published by the author, 1985), 38-39, 55. Griego tells the story of a Mexican man taken captive by
Apache Indians in 1839, who was subsequently detained in a deep hole in the ground for an extended
period of time before making it home to the New Mexican settlements.

8. On the treatment of captives among the Apaches, see Ruth McDonald Boyer and Narcissus Duffy
Gayton, *Apache Mothers and Daughters: Four Generations of a Family* (Norman: University of
a testament to the commonality of Mickey Free’s and Merejildo Grijalva’s experiences, early Arizona pioneer Sylvester Mowry estimated in 1864—just three years after Mickey’s abduction—that one quarter of the Apache tribe consisted of “Mexican captives or their descendants.” 

Despite his unbridled hatred for Apaches and a tendency to malign them at every opportunity, Mowry’s enumeration likely underrepresented the actual number of captives and fictive kin living among the various tribal subgroups at that time.

Thus, when British-born author and adventurer George F. Ruxton observed in 1848 that Comanches and other Southwestern tribes had become the most feared enemies of Mexico’s northern states by virtue of “regularly organized expeditions . . . for the purpose of procuring animals and SLAVES,” he alluded to a tradition generations in the making. A decade later, one Anglo-American estimated that hundreds of Mexican captives, principally women and children, lived among the region’s nomadic tribes. “They make slaves of the former, and train the latter for warriors,” he wrote. “Now and then a captive escapes, but the great majority spend a lifetime with them, and drag out a most miserable existence.”

John Reid similarly noticed that the Indians he encountered during his military service almost invariably held captives, noting that warriors wedded the women and adopted the children as their own. “After remaining


130 William W.H. Davis, El Gringo, or, New Mexico and Her People (Santa Fe, NM: Rydal Press, 1938), 113.
with the Indians some months but few of these slaves manifest any inclination to escape, or to be released, from their captors,” Reid concluded with undisguised bafflement.\footnote{131} When Major B.L. Beall of the First U.S. Dragoons met with several Southern Plains tribes in 1849, he likewise reported that most captives married into the tribe and had children, whereupon they became “perfectly satisfied” and lost any inclination to escape. “Even if offered their liberty,” Beall wrote, most captives “would doubtless refuse to leave a nation with which they have so many ties.”\footnote{132}

Another early witness, French scientist Jean Louis Berlandier, traveled extensively with military expeditions in Texas and northern Mexico during the 1830s and noted that a prisoner taken during a raid and adopted into the perpetrating tribe “generally recognizes as his father the man who kidnapped him and takes him as his family.” Presupposing Reid’s later observation, Berlandier conjectured that the reason for captives being disinclined to escape involved marital and kinship bonds—each a form of contrived cultural and social dependency—and had little to do with close oversight on the part of their captors.\footnote{133} According to Josiah Gregg in 1844, longtime captives among the

\footnote{131} Reid, Reid’s Tramp, 176-77, emphasis in original.

\footnote{132} B.L. Beall to J.H. Dickerson, March 12, 1849, RG393, M1102, LR, DNM, Roll 1. See also George E. Hyde, ed., Life of George Bent: Written From His Letters (Norman, OK: University of Oklahoma Press, 1968), 68-69; Bailey, Indian Slave Trade in the Southwest, 135-36. As late as 1884 Navajo agent John H. Bowman observed that captives among that tribe, when set free, “immediately took the shortest trail back to the ‘hogans’ of their masters, and are there now.” Bowman to Price, September 3, 1884, in 1884 Annual Report of the Commissioner of Indian Affairs (Washington, DC: Government Printing Office, 1884), 136. Many persons claimed that Indian captives held in the Mexican settlements likewise did not wish to be repatriated. One observer noted in 1868 that, “[b]ut one in fifty of them desire to leave their civilized life for a renewal of the barbarous and uncivilized life of their tribe.” Report on Navajo Indians, Santa Fe New Mexican, August 6, 1868.

Comanches, regardless of ethnic origin, “often turn out to be the most formidable savages, combining the subtlety of the Mexican with the barbarity of the Indian.” In 1849 a U.S. military officer supported Gregg’s assertion when noting of the Plains tribes that, “The male portion of the captives have become perfectly barbarized, and in their mode of life and custom have assimilated themselves more or less completely with their captors.”

From a demographic standpoint, many tribes that incorporated Spanish and Mexican prisoners on an intimate level suffered debilitating illnesses as a result. Euro-American captives sometimes carried contagious diseases that could be spread among healthy tribe members with lower levels of immunity, a dynamic of slaving that many Native Americans either overlooked or simply remained unaware of. It was not just instances of treachery on the part of colonizers who strategically poisoned rations or knowingly issued infected blankets and clothing to spread the seeds of contagion; the sexual component of captive slavery also disseminated germs of destruction among otherwise healthy tribes. Bouts of cholera and smallpox frequently ravaged indigenous communities in the eighteenth and nineteenth centuries as a result of contact with Euro-Americans. Among the Comanches, for example, no less than seven instances of smallpox broke out between 1780 and 1851 and took a devastating toll on tribal populations. The earliest of those epidemics wrought havoc on New Mexico’s Rio

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134 Gregg, *Commerce of the Prairies*, 436.

135 B.L. Beall to J.H. Dickerson, March 12, 1849, RG393, M1102, LR, DNM, Roll 1.
Grande settlements as well, claiming the lives of hundreds of colonists and thousands of Pueblo Indians.\textsuperscript{136}

Furthermore, Indians of all groups—men and women alike—were sometimes afflicted with sexually transmitted diseases, which began to appear throughout tribal villages as a result of intimate contact with infected captives. U.S. Army Assistant Surgeon E.P. Longworthy made note of this in an 1853 report to Congress concerning New Mexico’s climate and health conditions. “The mountain Indians of New Mexico are seldom sick,” he observed, but “venereal diseases are sometimes found among them, and are often contracted from Mexican women.” Captive raids resulted in women being absorbed into the tribe and “adopted as wives and serfs . . . thus disseminating the seeds of the disease.” Longworthy noticed that several Indians he examined suffered from gonorrheal ailments and blamed the promiscuous cross-cultural slave trade as the most direct cause.\textsuperscript{137}

Because none of the Southwestern tribes kept written records, there are no accurate estimates of the total number of captives they took during this period. Nor are

\textsuperscript{136} On the 1785 epidemic, see Pedro Vial and Francisco Xavier de Chavez, “Diary of Trip from San Antonio to the Comanche Villages to Treat for Peace, November 15, 1785,” quoted in Kavanagh, \textit{Comanche Political History}, 102; Hamalainen, \textit{The Comanche Empire}, 178-79. For the 1780-81 smallpox bout that followed Juan Bautista de Anza’s defeat of Comanche Chief Cuerno Verde, see Fenn, \textit{Pox Americana}, 156-60, 209-15. For the effects of these epidemics on the Pueblos, see Bayer, \textit{Santa Ana}, 107, 109. For disease in the northern Spanish colonies, see Daniel T. Reff, \textit{Disease, Depopulation, and Culture Change in Northwestern New Spain, 1518-1764} (Salt Lake City, UT: University of Tah Press, 1991); for smallpox among the Shoshones with an emphasis on the slave trade, see Colin G. Calloway, “Snake Frontiers: The Eastern Shoshones in the Eighteenth Century,” in \textit{Annals of Wyoming} 63 (September 1991), 88-89. On Indian slave raiding and the outbreak of smallpox epidemics in the Southeast, see Paul Kelton, \textit{Epidemics and Enslavement: Biological Catastrophe in the Native Southeast, 1492-1715} (Lincoln, NE: University of Nebraska Press, 2007), 101-159.

\textsuperscript{137} Richard H. Coolidge, \textit{Statistical Report on the Sickness and Mortality of the Army of the United States, from January 1830 to January 1855} (34\textsuperscript{th} Cong., 1\textsuperscript{st} Sess., Senate Exec. Doc. 96), 417; see also Anderson, \textit{The Indian Southwest}, 223.
there any reliable enumerations of Indian illnesses and deaths suffered as a result of sexual relationships with Spanish, Mexican, or American captives. Just as hundreds of indigenous women and children underwent religious conversion through baptism, a comparable number of Euro-American captives similarly experienced ceremonial spiritual transformation among their captors. The lack of data in these areas unfortunately makes it impossible to compare statistics. One thing that seems clear, however, is that captives held among tribes did not experience the same rigors of servitude and dependency as Indian abductees absorbed into Spanish and Mexican society. Following their journey to a Comanche village in 1785, Pedro Vial and Francisco Xavier de Chavez reported that the Indians were “of a rational mind, from which arises much generosity . . . even with [their] captives,” of whom, according to tribal elders, few had ever attempted to escape. Major James W. Abert once noticed, much to his surprise, that a group of Comanches with whom he met in 1845 divided a gift of tobacco evenly among tribe members and a Spanish captive who seemed “perfectly at ease” with his situation. Captives held among the Chiricahua Apaches could often claim a similar experience. “Most times when Apaches took a child or took a woman as a slave, the newcomer was not mistreated,” explained tribal elder Narcissus Duffy Gayton. “Ideally, these women were like respected maids or helpers [who] assisted with daily chores.” In traditional Apache parlance, in fact, no synonym existed for the English

138 Pedro Vial and Francisco Xavier de Chavez, “Diary of Trip from San Antonio to the Comanche Villages to Treat for Peace, November 15, 1785,” quoted in Kavanagh, Comanche Political History, 102.

word “slavery,” the closest corollary being a term for captives meaning “they had to live with them.”

The fact that some Spanish and Mexican captives declined opportunities for repatriation to their biological families further attests to their oft-benign treatment and the Indians’ powerful and enduring assimilative procedures. Not only in the Southwest, but in other geographic regions as well, many captives believed their situation as servants to indigenous peoples to be less harsh than that of black slaves belonging to white masters in the South. Even so, Mexican captives did flee from their Apache captors on several occasions, suggesting that their treatment was not always that benign. In 1855, Indian Agent Michael Steck received no less than six liberated captives at his Fort Thorn agency. In February of that year, two boys aged fourteen and sixteen escaped from their captors and sought protection from Steck who, after providing the “nearly naked” runaways with clothing, reunited one of them with his father in Mesilla and allowed the other to remain at the post, “as he had no friends to return to in Mexico.” Three months later, two more captives showed up at the Southern Apache Agency after absconding from their Mescalero Apache captors. In each instance, Steck contacted

140 Boyer and Gayton, *Apache Mothers and Daughters*, 27.

141 See Gregg, *Commerce of the Prairies*, 250, 436.


Mexican authorities in Chihuahua in hopes of repatriating them to their friends and families.

Witnesses sometimes reported the brutal treatment of captives among both the Apaches and the Comanches, and the fact that some of them sought refuge at nearby Indian agencies demonstrates that they experienced enough hardship to induce their attempted escape. One Indian agent claimed that the Apaches “live mainly by plundering and robbing both Old and New Mexicans,” during which depredations they sometimes killed those who resisted and took all others captive. These captives, the agent wrote, were subjected to barbarous treatment before being sold or traded to the Comanches, “where they fare no better.” Some of those carried away during raids did indeed endure harsh conditions but nevertheless found themselves incorporated into tribes through marriage and fictive kinship obligations. In 1838 Josiah Gregg encountered a Mexican woman held captive among the Comanches but, despite her father offering money for ransom, she refused to abandon the tribe. Claiming that she held filial responsibilities among her captors, she declined the opportunity to return to her natal society. Lamenting the intercultural strife that resulted from captivity, a Mexican resident of Chihuahua in 1842 bemoaned of the Apaches and Comanches that, “those

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144 Report of Michael Steck, May 18, 1855, ibid; see also Report of Michael Steck, January 27, 1859, ibid.


human beasts have no other guide than the power of their passions; they raze our fields, steal our fortunes, [and] convert our innocent children into miserable and stupid slaves.”¹⁴⁷ When prominent civic leader Donaciano Vigil addressed the New Mexico Assembly in June 1846—just two months prior to the American invasion of the province—he similarly acknowledged the large number of Mexican captives occupying Indian camps. He expressed particular concern about “young Mexican women who serve the bestial pleasures of the barbaric Indians,” asserting that the national government should provide Nuevomexicanos with a liberal supply of arms and ammunition in order to protect themselves from Indian attacks that, according to Vigil, occurred on an almost weekly basis.¹⁴⁸

Chiricahua Apache oral history and tradition acknowledges instances of brutal treatment, albeit only in rare circumstances. One such tale involves a Mexican “Slave-girl” of the famed Chief Victorio. Although staunchly loyal to her captor Victorio, she curtly refused to serve other men in the tribe, including the elderly headman Loco. One Apache described the events that ensued:

For some reason, Loco was alone in his wickiup. His fire was going out.
He needed kindling wood.
“Slave-girl,” he called. “Get me some wood.”
The woman ignored him.
Again, “Get me some wood!”

¹⁴⁷ Quoted by Ana María Alonso, *Thread of Blood: Colonialism, Revolution, and Gender on Mexico’s Northern Frontier* (Tucson, AZ: The University of Arizona Press, 1995), 45; see also James H. Carleton to W.A. Nichols, October 1, 1855, RG393, M1120, LR, DNM, Roll 4; James H. Carleton to Mr. White, October 15, 1855, ibid., regarding several young Mexican captives who escaped captivity among the Comanches and turned themselves in to Carleton at the military post of Hatche’s Ranch in east-central New Mexico. Carleton expressed apprehension that the Comanches may have sent the boys as spies.

“No. I don’t have to serve you. I am not your captive. I belong to Victorio.”

Loco was livid. He grabbed his spear, rushed to the girl, and stabbed her through the chest.\textsuperscript{149}

Contrarily, some observers claimed that many captives—particularly those from Plains tribes—achieved full rights and privileges among their Native overseers following demonstration of distinguished behavior, either in battle for males or in domestic servitude for females.\textsuperscript{150} So too did captives fulfill a diplomatic need among Indian tribes and Spanish colonists; because of lingering kinship and linguistic ties to their former cultures, they became indispensable emissaries of peace and negotiation between indigenous and Euro-American peoples throughout the Southwest and served as interlocutors when improvised sign language did not suffice.\textsuperscript{151} Women proved especially adept at brokering important accords because of their femininity, which bore less hostile implications than male masculinity and allowed them a more congenial atmosphere in which to negotiate.\textsuperscript{152} In later years, U.S. army officers employed former captives for the same purposes; in 1853, for example, Major Henry Lane Kendrick at Fort

\textsuperscript{149} Boyer and Gayton, \textit{Apache Mothers and Daughters}, 28-29. The same informant described a subsequent event when Chief Loco repeatedly whipped a female slave. Ibid., 29.


\textsuperscript{151} See, for example, “An Account of Events Concerning the Comanche Peace, 1785-1786,” in Thomas, ed. and trans., \textit{Forgotten Frontiers}, 296; and a statement by Frédérick Leclerc of April 28, 1838, noting that he found among the Comanches in central Texas “a poor Mexican boy of about twelve years of age who could serve as interpreter.” See “LeClerc’s Description of the Comanches, April 28, 1838,” in Malcolm D. McLean, ed., \textit{Papers Concerning Robertson’s Colony in Texas}, Vol. 16 (Arlington, TX: The University of Texas at Arlington Press, 1990), 447. On Indian slaves as interpreters and guides for French wayfarers in the Southwest, see Mapp, \textit{The Elusive West and the Contest for Empire}, 252-54, esp. notes 23-25.

\textsuperscript{152} Barr, \textit{Peace Came in the Form of a Woman}, esp. 276-85; see also Sherry Robinson, \textit{I Fought A Good Fight: A History of the Lipan Apaches} (Denton, TX: University of North Texas Press, 2013), 54.
Defiance indicated that a recovered captive, Jose Pablo Montoya, might prove useful “as a guide and interpreter” in the event of war with the Navajos.  

As a result of the widespread detribalization of Indian captives, many became acculturated into Spanish (and later Mexican) society and, as noted, refused opportunities for repatriation later in life. In some instances colonists preferred to obtain Indian children under a certain age to ensure such an outcome. Writing of Apaches in 1789, Commandant General of Interior Provinces Jacobo Ugarte y Loyola observed that many older captives who had been taken as youth did not “retain any memory of their Country or [have the] evil intention to return as adults to search for their relatives.” He therefore stressed the importance of acquiring only Apache children under seven years of age, because these would be more likely to develop a sense of dependency and remain with their captors. “Little by little,” Ugarte y Loyola wrote in a simplistic explanation of the Spanish assimilation process, these captives would “become instructed in our customs, acquire Christian instruction, and breathe purer air.”

Over the course of many years, such acculturation tactics proved highly successful among not only Apache captives but those of other tribes as well. One Indian agent, writing of Paiute slaves in 1852, noted that “these Indians . . . after being adopted into a family have seldom if ever been known

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153 H.L. Kendrick to S.D. Sturgis, June 14, 1853, RG393, M1102, LR, DNM, Roll 7.

to return to their own Country and people.”

In a partial explanation of New Mexico’s society of dependency, many abductees attached themselves closely to their new adoptive families, who in turn perceived captives as fictive kinfolk. This created a scenario where each one viewed the other as a foster-type family member, rather than a master or a slave in an inegalitarian household.

In a similar vein, Indians also concentrated their slave raids on women and younger children for the very same reasons as those alluded to in Ugarte y Loyola’s correspondence. Like other tribes, Navajos often traded their captives to New Mexican colonists in order to divert slave raids away from their own communities, but they retained many enslaved women and children within the tribe to satisfy their own labor and kinship needs. Just as Spaniards and Mexicans utilized servants, so too did the Navajos and other tribes, who regularly subjected enemy prisoners to servitude. By tradition the Navajo tribe was matrilineal and women acted as the primary property holders. Once enslaved within the tribe, many female captives “were assigned the typical women’s duties,” which included sheep herding and weaving, in order to offset intratribal disparities between the available labor force and the amount of work to be completed.

Among the Navajos, the extent to which the tribe either retained captives or traded them to colonists depended largely on the geographic location of particular

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155 Greiner to Lea, May 19, 1852, in Abel, ed., *Official Correspondence*, 537.


subgroups. Those clans residing farther from the Spanish settlements were less likely to
travel long distances to barter their captives and therefore retained them with greater
regularity than did other bands, particularly that of Chief Sandoval and his followers
(known as the Diné Ana’aii) living between the Rio Puerco and Mount Taylor near the
village of Cebolleta.\textsuperscript{158} Tribal oral histories allude to this disparate group as the “Enemy
Navajos,” and elders recounted in the 1970s that Sandoval’s clan “caused trouble” for the
remainder of the tribe during the previous century.\textsuperscript{159} Because of their proximity to slave
markets in the Rio Grande valley, the Diné Ana’aii almost invariably traded any captives
they obtained for their own enrichment.\textsuperscript{160} Ironically, many of Sandoval’s captives came
from fellow Navajo clans with which he carried on a continuing internecine warfare.
Neighboring Navajos often raided his sheep herds and he and his followers, in turn,
attacked their more westerly homelands for livestock and slaves. Hiram Walter Read, a
Baptist missionary passing through Cebolleta in 1851, recorded that Sandoval appeared
in town “to sell some captives of his own nation” and that the chief received thirty dollars
for an eighteen-year-old man.\textsuperscript{161} Members of the tribe had factionalized as early as 1825
and, by the time American troops arrived at mid-century, intratribal animosity had
escalated dramatically, leading one observer to write that Navajos residing in the Canyon

\textsuperscript{158} See Brooks, \textit{Captives \\& Cousins}, 212-13, 251, 297.

\textsuperscript{159} Roessel, ed., \textit{Navajo Stories of the Long Walk Period}, 184, 202.

\textsuperscript{160} Brugge, \textit{Navajos in the Catholic Church Records}, 130; Bailey, \textit{Indian Slave Trade in the Southwest}, 99-
100; Clifford E. Trafzer, \textit{The Kit Carson Campaign: The Last Great Navajo War} (Norman, OK: University of Oklahoma Press, 1982), 36; McNitt, \textit{Navajo Wars}, 26-51, 168.

Review} 17:2 (April 1942): 133.
de Chelly and Chuska Mountain regions seemed “extremely desirous of taking his [Sandoval’s] scalp.”

Navajo society recognized the concept of slavery (naalté), but there is little evidence to suggest that violently coerced labor had deep cultural roots within the tribe. Because those captives not sold or traded back to their New Mexican progenitors were assimilated into tribal families, they oftentimes lived on an equal social level as other Navajos, acting primarily as shepherders. The tribe developed such an effective method of cultural amalgamation through familial adoption and dependency that most captives held among the tribe exhibited no inclination to return to their original homes. When U.S. troops trekked into Dinétah in 1849, officers met with one Mexican captive, Jose Ignacio Anañe, who had spent the previous seventeen years amongst the tribe and spoke “like a native born Navaho [sic]—having all their characteristics in dress, conversation, and manners.” Having risen to prominence among his captors after undergoing Navajo methods of assimilation, Anañe had two wives and three children and displayed no desire “to be restored to his people again.”

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162 Bartolomé Baca to Commandant General, March 5, 1825, New Mexico State Records Center and Archives, Frank McNitt Collection, Serial #10678, Folder 26; Daniel Chandler to Lafayette Mc Laws, April 23, 1851, RG393, M1102, LR, DNM, Roll 3. Chandler was stationed at Cebolleta, where the U.S. Army maintained a military post and where Sandoval’s band resided.

163 Brugge, Navajos in the Catholic Church Records, 118-19. For slaving characteristics among the Navajos generally, see Brooks, Captives & Cousins, 241-50. On differential uses of the term naalté, see ibid., 244. On Navajo slavery during the Spanish and Mexican colonial eras, see McNitt, Navajo Wars, 3-91, esp. 13-17, 88-89; Bailey, Indian Slave Trade in the Southwest, 73-89. Among the Chiricahua Apaches, the term “slave” was one of Euro-American origin. As one tribal member explained, “the word used for captives of this kind was not ‘slave’—this is a term applied first by whites and only later by Apaches.” Boyer and Gayton, Apache Mothers and Daughters, 27.

delivered two Hispano captives to the commanding officer at Fort Defiance in January 1858 in compliance with recent treaty stipulations, both abductees “elected to remain with the Navajos” and vehemently opposed repatriation to their Mexican families. The post commander, Major Electus Backus of the Third Infantry, honored their request and allowed them to remain with their adoptive Navajo clans. One of the captives had been with the tribe so long that he could not remember his Mexican birth name.165 As late as the 1880s, a Navajo Indian agent observed that most captives held among the tribe did not wish to be liberated and compared the situation to “guarding a jail to keep criminals from breaking in.”166

One characteristic of captivity that Indian tribes and Spanish colonists held in common involved community leaders owning the majority of slaves. In 1858, Navajo agent Samuel Yost likened Indian servitude to Southern slavery and alluded to wealth disparities within the tribe, explaining that, “the ricos have peons or slaves, just as they have in the South, except they are Indians.”167 Among the Navajos, approximately one hundred men formed the materially wealthy class of headmen and retained as many as seventy-five percent of all captives, with some individuals holding as many as fifty each to tend sheep herds. Similarly, among the Spanish and Mexicans, landowners comprising


166 John H. Bowman to Commissioner of Indian Affairs, undated correspondence (1880s), quoted in Bailey, Indian Slave Trade in the Southwest, 136.

167 “Samuel Yost to James L. Collins, September 9, 1858,” Santa Fe Weekly Gazette, October 2, 1858.
New Mexico’s social and economic elite possessed as high as seventy to eighty percent of all Indian slaves in the province.\textsuperscript{168}

As with the Navajos, so too did captive women play an important role as laborers in Comanche and Pawnee societies, fulfilling camp duties and completing important chores such as tanning buffalo hides. They also helped to reinvigorate tribal populations as devastating disease epidemics and perpetual warfare gradually took a demographic toll.\textsuperscript{169} Among the Pawnee specifically, captive women fulfilled spiritual needs through the sacrificial violence of the Morning Star Ceremony, which involved the execution of a young girl as a means of restoring cosmic balance between male and female powers.\textsuperscript{170} As Comanche men began to achieve greater success on buffalo hunts—primarily as a result of their increasing talent astride horses and improved weaponry—the number of hides to be tanned increased exponentially and the amount of labor exceeded that which one spouse could possibly complete for her husband. Thus, many warriors took numerous wives who, in turn, enlisted tribal captives to assist in camp chores.\textsuperscript{171} This

\textsuperscript{168} Statement of Navajo Agent Henry L. Dodge, in i\textsuperscript{bid.}, December 31, 1853. Dodge estimated the Navajo population at that time to be 8,000, with 2,000 warriors and tribal livestock holdings approaching 15,000 horses and 100,000 sheep. See also Brooks, Captives & Cousins, 293-95.

\textsuperscript{169} Hamalainen, “The Politics of Grass,” 200. Hamalainen contends that large-scale captive-taking among the Comanches did not begin until the early nineteenth century, when three smallpox epidemics ravaged Comanche communities and necessitated the incorporation of captives into the tribe to address demographic needs. Gary Clayton Anderson maintains that Comanches began raiding Plains Apaches for captives in the 1720s and the practiced proliferated from that point on, extending thereafter to incorporate Caddos, Wichitas, and other Southern Plains tribes into Comanche society. See Anderson, The Indian Southwest, 220-21.

\textsuperscript{170} Brooks, Captives & Cousins, 10-19.

sexual division of labor obligations within simple egalitarian societies like those of the Comanches and the Apaches constitutes a brideservice model of marriage and kinship relations, one in which tribemembers effectively incorporated captives as surrogate spouses and servants in order to maintain a sustainable localized community.\footnote{Collier, \textit{Marriage and Inequality in Classless Societies}, 15-70, esp. 15, 17; on the role of captives within Apache societies, see Anderson, \textit{The Indian Southwest}, 133-36.}

Navajo men sometimes wedded captives as well, at which point they became a recognized member of the tribe and, like their children whom the tribe sold or traded, underwent a process of detribalization and assimilation. In Southwestern indigenous societies, the majority of captives—both New Mexicans as well as Indians from enemy tribes—found a greater level of acceptance and equitable treatment compared to Indian captives held in the Rio Grande settlements. In many cases, Euro-American captives among nomadic tribes became members of that group in social stature, whereas Indian children reared in New Mexico’s society of dependency could hope for little more than to achieve detribalized genízaro status.\footnote{Hall, “The Rio de la Plata,” in Guy and Sheridan, \textit{Contested Ground}, 160.}

Beginning with the first Euro-American explorers in the sixteenth century, and extending well into the mid-1800s, reciprocal systems of captive slavery characterized intercultural relations throughout the Southwest. In the earliest years, Spaniards utilized the \textit{encomienda} system as a coercive labor device, until the Pueblo Revolt of 1680 redirected indigenous enslavement to peripheral nomadic tribes. The multilateral conscription of Indians and Spaniards as slaves became the norm starting in the early 1700s and lasting well beyond the 1846 American conquest. As these systems evolved,
so too did a corresponding evolution of Southwestern cultures occur as a result of interethnic relationships, giving rise to a stratified hierarchy of dependency in Spanish communities that demoted mixed-blood inhabitants and upheld the prestige of more pure-blooded elites. Thus, by the time American imperialists began arriving in the 1800s, systems of involuntary servitude were firmly entrenched in local society and culture and had become as common among New Mexican and indigenous communities as chattel slavery in the South’s nineteenth century Cotton Kingdom. The arrival of Americans in New Mexico, however, would gradually alter these preexisting regional systems of coerced servitude, primarily as a result of sectional struggles that catapulted issues of slavery in the West to the forefront of public and political discourse.
CHAPTER 3

INDIAN CAPTIVITY IN THE ERA OF AMERICAN SOVEREIGNTY

In November 1846, Lieutenant Richard Smith Elliott of the Laclede Rangers—a Missouri cavalry unit attached to General Stephen W. Kearny’s Army of the West—had a revealing conversation with a Mexican teamster in Santa Fe. Asked whether the Hispano population favored American rule, the man told Elliott, ‘los pobres sí, los ricos no’ (the poor people yes, the rich people no). In explaining this, he stated “that the reason why the rich were dissatisfied, was that they could not oppress the poor as they had heretofore done—frequently requiring the laboring classes to toil from early dawn until dark . . . and giving them scarcely food sufficient to keep body and soul together.”¹ Lieutenant A.B. Dyer similarly observed in February 1847 that the priests and other wealthy or influential men remained inimical to political change, primarily because they knew it would upend the egregiously inegalitarian social order under which they enjoyed free reign.² An unnamed newspaper informant put it even more bluntly when writing that, “the lower classes lived too long in a state of abject slavery, dependence, and ignorance, to be at once capable of the benefits conferred on them by the change of government.”³ The people of New Mexico thus found themselves divided in their support of the American conquest, with slavery and dependency being the primary motivating factors behind this divergence in perspectives. Indebted peons and Indian captives hoped that American


² A.B. Dyer to Col. Talcott, February 17, 1847, New Mexico State Records Center and Archives, Misc. Letters and Diaries, Box 1, File 5.

democracy might one day free them from bondage, while their masters understood that that same political ideology could very well undermine the system of involuntary labor and society of dependency that they relied on for social status and economic prosperity.

As New Mexicans variously hoped and feared, the system of captive slavery that developed over the course of three centuries began to wane following the arrival of American troops in 1846. After New Mexico’s conquest by Kearny’s troops in August of that year and the subsequent implementation of the Kearny Code (a set of civil regulations that his officers devised), the territory became subject to the laws of the United States. At that time, national slavery debates proliferated and required the undivided attention of federal officials. Ultimately, the appointment of Anglo-Americans to fill many of New Mexico’s political offices would have a pronounced impact on indigenous slavery and the regional societies of dependency it propagated. The increasing vigor with which the United States military implemented and enforced Indian policy in the West likewise altered the fundamental characteristics and intrinsic severity of slaving practices.

Whereas the task of avenging Indians’ captive raids fell primarily to civilian militias during the period of Mexican sovereignty, this no longer held true after the mid-century American conquest. In 1853, territorial Governor William Carr Lane revealed the lofty goals of civil and military officials in a letter to Michael Steck, the newly-appointed agent for the Utes and Jicarilla Apaches. The Southwestern tribes, Lane

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instructed, “shall eschew violence and bloodshed, and that the law of retaliation shall be forever annulled.”

By the early 1850s, increasing numbers of U.S. troops in the region made it increasingly difficult for Indians to execute raids, and tribes therefore began to concentrate on pilfering livestock rather than taking captives, who could be a burden during hasty retreats to tribal homelands. Indians did continue to strike the settlements, but they had to exercise greater selectivity when choosing their targets because many of the populated areas now boasted a more pronounced military presence in the form of infantry, dragoon, and artillery troops. With permanent army outposts at Abiquiú, Albuquerque, Cebolleta, Doña Ana, Las Vegas, Los Lunas, Rayado, Santa Fe, Socorro, and Taos, the Indians’ propensity to take captives decreased as they necessarily concentrated on stealing livestock for subsistence purposes. In 1851, when Colonel Edwin V. Sumner oversaw a complete reorganization of the military department, troops were redistributed to newly-established forts constructed in the heart of Indian homelands. Fort Defiance monitored the Navajos, Fort Union watched over the Southern Plains tribes, Fort Massachusetts policed Ute country; and Forts Fillmore and Webster supervised southern New Mexico’s Apacheria.

As the commanding officer at Fort Defiance pointed out in 1853, the placement of troops closer to Indian villages and

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5 William Carr Lane to Michael Steck, February 12, 1853, Center for Southwest Research, Inventory of the Michael Steck Papers, Series 1, Roll 1.

6 Sumner undertook this reorganization pursuant to orders from the secretary of war, who instructed him to “revise the whole system of defense . . . and rigidly enforce all regulations having reference to the economy of service.” Charles M. Conrad to Edwin V. Sumner, April 1, 1851, in Annie H. Abel, ed., *The Official Correspondence of James S. Calhoun While Indian Agent at Santa Fe and Superintendent of Indian Affairs in New Mexico, 1849-1852* (Washington, DC: Government Printing Office, 1915), 383.
encampments had a “controlling influence” and discouraged captive-taking during depredations.\textsuperscript{7}

Contrarily, the trend of raiding Indian villages for captives did not wane among New Mexicans; civilians continued to exact a heavy toll in this regard and in so doing

\textsuperscript{7} H.L. Kendrick to W.A. Nichols, November 13, 1853, RG393, M1102, LR, DNM, Roll 7.
perpetuated the tradition of captivity and blood feuding. The 1850s and 1860s would be a tumultuous time for relations between New Mexicans and the surrounding tribes, with increasing violence becoming standard and continuous military campaigns inflicting a tremendous demographic toll on the territory’s peripheral Indian groups. The extent to which this multilateral warfare carried on after the American occupation is evidenced by the frequent proclivity of Southwesterners to memorialize Congress on the subject, doing so on numerous occasions and continually highlighting such grievances as the fact that “hostile Indians penetrate the country in every direction and rob, and kill, and carry into captivity” New Mexico’s women and children.8 These civilians’ independent pleas to federal politicians mirrored the many resolutions that local legislators approved relative to the issue. During the 1849 constitutional convention at Santa Fe, representatives adopted numerous instructions for New Mexico’s delegate to present in Congress, one of which bewailed the fact that “many of our citizens of all ages and sexes are at this moment suffering all the horrors of barbarian bondage, and it is utterly out of our power to obtain their release from a condition to which death would be preferable.”9 A similar 1852 declaration read: “This territory has been a continual scene of outrage, robbery, and violence carried on by the savage nations by which it is surrounded . . . our citizens . . . are daily massacred before our eyes . . . our wives and daughters violated, and our children carried into captivity.”10

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8 Undated 1851 memorial to Congress, RG46, Territorial Papers of the U.S. Senate, Roll 14 (New Mexico, 1840-1854).
10 Territorial Legislature Joint Resolution, January 6, 1852, ibid.
In response to such entreaties, Texas Senator Thomas Rusk implored his fellow lawmakers to take immediate action to thwart raiding and captive-taking. The statesman’s concern owed in part to the fact that his Texan constituents had long suffered similar hardships at the hands of many of the same tribes. Speaking before Congress in June 1850—just three months before New Mexico and Utah officially became U.S. territories—he described the hazardous circumstances under which residents of that region lived. Captive raiding, he noted, “is not only continued from day to day, but is increasing from day to day, by the culpable neglect of this Government to protect its citizens there.” Rusk asked his colleagues to take whatever action necessary in order to protect women and children “from being carried off and made slaves to savage Indians.”\footnote{Congressional Globe, 31st Cong., 1st Sess., June 6, 1850, p. 1144.} The senator, however, overlooked the reality that New Mexicans, as newly-christened American citizens, were equally guilty of his allegations and themselves abducted many Indian captives. The federal government ultimately did take action to counteract the intercultural animosity that characterized the region, sending large numbers of troops to garrison several of the larger villages and implementing new Indian policies. But these initiatives, while partially effective, proved insufficient in preventing slave raids altogether.

Whereas previous Spanish and Mexican governments maintained only a nominal military force in New Mexico (the presidial garrison at Santa Fe rarely exceeded 100 troops and oftentimes boasted only a fraction of that amount), the U.S. military eventually dispatched thousands of soldiers to the West, hindering Indians’ ability to raid
settlements for plunder and captives.\textsuperscript{12} Thus, a combination of political policy and military force acted in conjunction to limit—and eventually eliminate—slave raiding in the Southwest after 1846, albeit very gradually, as attested to by the fact that New Mexicans continued to memorialize Congress well into the 1860s in hopes of securing additional military protection.

During the earliest years of American occupation, the predatory warfare carried on between Hispano civilians and independent Indian tribes hamstrung the U.S. Army’s ability to enforce Indian policy. After 1846, American troops permanently occupied New Mexico in order to guard the civilian inhabitants from Indian raiding and depredations, protection from which General Kearny had promised to them during his conquest. “From the Mexican government, you have never received protection,” he declared as he stood atop a roof in the village of Las Vegas. “The Apaches and Navajos come down from the mountains and carry off your sheep, and even your women, whenever they please. My

government will correct all this.” Kearny’s specific mention of women being carried away as captives during the course of raids speaks to the commonality of the practice. His pledge to counteract such behavior, however, indicated that he underestimated the severity of raiding at the midpoint of the nineteenth century. His colleagues, in fact, employed Indians for their own use while at Santa Fe, with one officer admitting that “a slave of the house, a captive when young taken from the Utah tribe,” made his bed each night, while another lieutenant enjoyed the service of “a few female serfs” when dining. Even the man Kearny appointed to serve as New Mexico’s first civil governor, Charles Bent, had an Indian servant named María Guadalupe Bent in his household, and he also owned a black slave named Dick, who was severely wounded on January 29, 1847 at the Battle of Embudo south of Taos. So common were Indian slaves in New Mexico in the mid-1800s that even the army officers charged with suppressing captive raiding benefited from the services of such abductees at their posts.

In a testament to the importance that residents of the Southwest placed on quelling Indian raids, Mexican diplomats insisted that a clause (Article 11) be included in

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the 1848 Treaty of Guadalupe Hidalgo relative to the repatriation of captives held among tribes.\textsuperscript{16} The stipulation traced its precedent to an 1832 treaty of commerce between the United States and Mexico, which contained an article mandating that both nations endeavor to repatriate captives taken during Indian raids.\textsuperscript{17} As historian Brian DeLay points out, U.S. diplomats grossly underestimated the extent to which reciprocal slave raiding occurred in the region, and American officials in both the civil and military branches of government found themselves burdened with the task of locating and redeeming captive women and children. As U.S. bureaucrats soon learned, many captives had been assimilated into tribes as servants and fictive kin and possessed little if any desire to return to their original homes. Nor did administrators fully appreciate the scope of captivity; only after they began attempting to enforce Article 11 did Americans realize that a considerable number of tribes, whose homelands covered a broad geographic area, habitually took captives during raids in northern Mexico. Upon transporting those captives across the newly-formed international boundary, Indians often traded them to other Native groups and thus many abductees vanished in the commerce and kinship networks of the Southwest.\textsuperscript{18}


\textsuperscript{17} “Treaty of Amity, Commerce, and Navigation, between the United States of America and the United Mexican States, concluded on the 5th of April, 1831,” 22\textsuperscript{nd} Cong., 1\textsuperscript{st} Sess., Senate Exec. Doc. No. 11.

Attempting to secure the return of Mexican captives on the Southern Plains in 1849, Indian agent Thomas Fitzpatrick and Major B.L. Beall of the First Dragoons gained firsthand familiarity with captive raiding and slave trading among regional tribes. Having parleyed with chiefs representing the Apaches, Arapahoes, Cheyennes, Comanches, and Kiowas at Bent’s Fort in March of that year, the two officers discovered that members of all five tribes regularly commingled in camps along the Arkansas River and that their captives openly participated in tribal ceremonies and raids, in addition to serving as laborers and fictive kin. Beall informed his superiors in Santa Fe that, “to obtain the Mexican captives by peaceable means was a thing impossible,” a sentiment that Fitzpatrick corroborated when proclaiming himself “quite certain” that the Indians would never turn over any captives without ransom being paid. Liberating the slaves by armed force, he conceded, “will not only cause the death of some of the prisoners but will drive them once more into an inveterate state of hostility.”

Beall and Fitzpatrick held their council at Bent’s Fort on the eve of James S. Calhoun’s arrival in New Mexico to serve as the territory’s first Indian superintendent, and their letters to Santa Fe thus served as a harbinger of impending frustrations for federal officials. As the new head of Indian affairs, Calhoun bore responsibility for overseeing the repatriation of as many Mexican captives as possible in compliance with Article 11. Although only periodically successful in his endeavors, Calhoun was not entirely at fault for the government’s wholesale failure to fulfill its treaty obligation,

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19 B.L. Beall to J.H. Dickerson, March 12, 1849, RG393, M1102, LR, DNM, Roll 1 (emphasis in original); Thomas Fitzpatrick to B.L. Beall, ibid., February 24, 1849. Beall named 42 Indians, all of whom he represented as chiefs, with whom he met in council at Bent’s Fort.
inasmuch as negligible funding and lukewarm bureaucratic support continually hamstrung his exertions toward that end.\textsuperscript{20}

The efforts of Calhoun and others to return women and children held in captivity frequently sparked hostilities between Americans and Indian tribes, exacerbating an already precarious relationship between the two groups. In December 1849, Major Enoch Steen of the First Dragoons, commanding the military post at Doña Ana in southern New Mexico, met with a delegation of Mescalero Apaches who sought to negotiate a peace treaty. The major immediately seized two of the chiefs, Santos and Buffalo, and assured the others—using hybridized Spanish and hand gestures as the regional \textit{lingua franca}—that he would hang the prisoners unless the tribe returned three captive Mexican boys taken earlier that year. The Indians eventually complied with his demands and the two chiefs were set free, but not before Steen muddied the waters on what had promised to be a peaceful diplomatic interchange.\textsuperscript{21} Just a few months later the veteran army officer met with a group of Gila Apaches and nearly duplicated his blunder when he demanded that they surrender two captive Mexican boys, Teofilo and Mateo Jaramillo, who had been taken from their families at Doña Ana several months earlier.\textsuperscript{22}

\textsuperscript{20} For Calhoun’s attempts to return captives to their Mexican families, see Calhoun to Orlando Brown, March 15, 1850, in Abel, ed., \textit{The Official Correspondence of James S. Calhoun}, 161-62; Calhoun to Orlando Brown, March 31, 1850, ibid., 181-83; Calhoun to John Munroe, April 18, 1850, ibid., 184-85; Calhoun to Luke Lea, July 28, 1851, ibid., 390-91; Calhoun to Luke Lea, August 22, 1851, ibid., 401.

\textsuperscript{21} Steen to McLaws, December 9, 1849, RG393, M1102, LR, DNM, Roll 2.

Similar and equally aggravating situations—all traceable to Article 11—arose throughout southern New Mexico during the early 1850s. John Russell Bartlett, serving as international boundary commissioner at Santa Rita del Cobre in 1851, unabashedly snatched two Mexican boys, José Trinfan and Saverro Heradia, from their Chiricahua Apache captors during the tribe’s visit to his camp. His offer to compensate the Indians with a few gifts offended their leaders and fanned the flames on an already shaky relationship between the two parties.23 A year later, an officer at nearby Fort Webster proclaimed that he had altogether ceased offering presents in return for captives and instead had begun simply confiscating them from the Apaches by force.24 While such officials understood it as their lawful duty to return abducted women and children to Mexico, they did not fully appreciate the kinship ties and feelings of dependency that had been forged through years of bondage and thus, in all likelihood, did not realize the cultural ramifications of their actions, which effectively widened the rift between two already disparate polities. As noted, this misunderstanding often jeopardized peace negotiations between the two groups. In April 1855, during a conference with Mescalero Apaches at Dog Canyon in the Sacramento Mountains of southeastern New Mexico, Colonel Dixon S. Miles observed that one chief had a captive Mexican boy from the

23 Shortly afterwards Bartlett reclaimed a third Mexican captive, Inez González, who he later returned to her family in Santa Cruz, Sonora. See Bartlett, Personal Narrative I, 303-12; Cremony, Life Among the Apaches, 53-61; Bartlett to Stuart, February 19, 1852, RG75, OIA, M234, LR, NMS, Roll 546; Sweeney, Mangas Coloradas, 234-35; William S. Kiser, Dragoons in Apacheland: Conquest and Resistance in Southern New Mexico, 1846-1861 (Norman: University of Oklahoma Press, 2012), 83. When Apache Chief Mangas Coloradas negotiated a treaty with Colonel Edwin Vose Sumner and Indian Agent John Greiner at Acoma Pueblo on July 11, 1852, he purportedly traded at least one captive (Jesús Arvisu, taken in a raid at Bacoachi, Sonora in 1851) to the Navajos en route to the rendezvous point, probably anticipating that the American officials would demand that he relinquish claim to the boy upon arrival. See Sweeney, Mangas Coloradas, 258.

24 Sweeney, Mangas Coloradas, 295.
village of Manzano “tied up” in plain view of the troops. Miles asked Chief Palanquito to affect the boy’s release, but, unlike Steen and Bartlett before him, opted not to reclaim the captive forcefully, recognizing that such action would have “disturbed the whole affair of peace.”

Nor did it seem to dawn on many American officials that Mexicans below the border held hundreds—perhaps thousands—of Indian captives themselves. Less than a year before Bartlett met with the Chiricahuas at Santa Rita del Cobre, Sonoran soldiers ambushed a large band of Apaches near the town of Janos in Chihuahua. In the melee that followed, they took sixty-two captives and promptly redistributed them among the populace as slaves. Still, despite this ongoing trend, the eleventh article contained no mandate requiring that Mexican officials reciprocate by repatriating Indian captives, an incongruous circumstance that understandably confused and perturbed the Apaches when confronted about their own captives.

Just as Indians resisted the attempts of officials to reclaim their captives, so too did residents in northern New Mexico defy such efforts. As Governor Calhoun noted in 1850, “unless the Mexicans are paid for such captives . . . very few of them will be released.”

Much to the delight of U.S. officials, the dilemma arising from the Treaty of Guadalupe Hidalgo would prove to be short-lived. In an ironic paradox, Mexican leaders

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25 Dixon S. Miles to Michael Steck, April 3, 1855, Center for Southwest Research, Inventory of the Michael Steck Papers, Series 2, Roll 1.


27 James S. Calhoun to Orlando Brown, March 31, 1850, in Abel, ed., Official Correspondence, 183.
came to realize the counterproductive nature of Article 11, as American efforts to repatriate captives often meant paying ransoms (in the form of gifts rather than currency) in order to secure their release. The issuance of such presents did little more than encourage a wholesale amplification in captive-taking; once Apaches, Comanches, and others discovered the lucrative nature of the business, they capitalized by abducting even more captives to exchange for various goods at U.S. military posts.28

The most egregious example of this illicit trade involved the officers at Fort Webster and the surrounding Gila Apaches in southwestern New Mexico. When James Gadsden began meeting with Mexican dignitaries in 1853 to negotiate the treaty that bore his name, he was under pressure to ensure that his countrymen cease paying ransoms for captives. He wrote to General John Garland, commander of the Military Department of New Mexico, expressing deep concern about officers at Fort Webster who purportedly allowed illicit trade with nearby Apaches and repeatedly purchased Mexican prisoners from them.29 Garland and his civil government colleagues worked quickly to stem the tide on what promised to be a controversial issue in Gadsden’s upcoming treaty negotiations. Governor David Meriwether informed the Apache agent at the fort, James Smith, that the purchase of captives “can never be tolerated,” pointing out that such action would only encourage the Indians to take more prisoners, and instructing him to “reclaim and if necessary take by force any captives belonging to Mexico.” Under no


29 James Gadsden to John Garland, October 8, 1853, RG393, M1102, LR, DNM, Roll 7.
circumstances, however, was agent Smith to issue or authorize any type of indemnities for the Indians.\textsuperscript{30} The assistant adjutant general forwarded Gadsden’s communication to the commanding officer at the post, Major Israel B. Richardson, and ordered that he explain the alleged commerce in captives at his garrison.\textsuperscript{31} The major reported that, to his knowledge, only four Mexicans had been secured at Fort Webster, two of whom were forcibly taken from the Apaches in conformity with the department’s preferred method, although such confrontational tactics remained uncodified as official policy. As for the other two, a boy and a girl, Richardson blamed another embattled Indian agent, Edward H. Wingfield, for authorizing their ransom.\textsuperscript{32} General Garland brought closure to the matter when, on Christmas Day 1853 (just five days before the Gadsden Treaty was signed), he submitted a final report with copies of the testimony from all parties involved, including the commanding officers at both Fort Webster and nearby Fort Fillmore.\textsuperscript{33} The entire debacle cast light on the seemingly endless controversy surrounding captive-taking among both Indians and Mexicans and the inability of civil and military officials to curb the practice, despite the recent shift in sovereignty to the United States.

\textsuperscript{30} David Meriwether to James Smith, October 30, 1853, ibid. In another letter to Smith, the governor wrote, “your policy of purchasing Mexican prisoners from the Indians is deemed highly objectionable, as such a course would but stimulate the Indians to make other captives with a view to their sale.” Meriwether to Smith, December 5, 1853, Center for Southwest Research, Inventory of the Michael Steck Papers, Series 1, Roll 1.

\textsuperscript{31} W.A. Nichols to Israel B. Richardson, December 15, 1853, RG393, M1102, LR, DNM, Roll 7.

\textsuperscript{32} Richardson to Nichols, December 19, 1853, ibid. Michael Steck, who replaced Wingfield as agent at Fort Webster, reported the four captives “are all comfortably situated [at the Fort Webster agency] and not costing the government anything except a trifle for clothing.” Chihuahua Governor Angel Trías promised Steck that he would send agents to take custody of the captives and return them to their families in Mexico. Michael Steck to William Carr Lane, August 13, 1853, Center for Southwest Research, Inventory of the Michael Steck Papers, Series 1, Roll 1.

\textsuperscript{33} Garland to Gadsden, December 25, 1853, ibid.
Once Article 11 was finally abrogated with the ratification of Gadsden’s treaty in 1854, civil and military administrators placed less importance on reclaiming captives. This held especially true in the more southerly reaches of the territory, where Mescalero and Chiricahua Apaches took women and children from the northern Mexican states of Chihuahua and Sonora and, accordingly, the United States no longer had an obligation to protect such persons because of their Mexican citizenship. Contrarily, captives from the Rio Grande communities of northern New Mexico, despite being ethnically Hispanic, were legitimate American citizens and, as such, held certain rights that demanded action on the part of the federal government. In any event, localized efforts to free captives did continue to occur, primarily because a small handful of civil and military officials saw the diplomatic and humanitarian benefits of such action. When Pablo Melendres, a former alcalde (mayor) and prominent citizen of the Mesilla Valley, purchased a Sonoran boy from a band of Apaches in 1858, Captain Richard S. Ewell of the First Dragoons wrote the department commander and asked that he “lay the matter before the governor, as it is understood that Melendrez [sic] bought the captive for a peon and [his] restoration would have an excellent effect upon the Mexicans” from whom he had been taken.

34 Article II of the Gadsden Treaty, signed December 30, 1853 and ratified several months later, nullified Article XI of the Treaty of Guadalupe Hidalgo. See Miller, Treaties and Other International Acts, Vol. 6, 296.

35 Richard S. Ewell to W.A. Nichols, August 10, 1858, RG393, M1120, L.R, DNM, Roll 7. It is interesting to note that Ewell referred to the captive being bought to serve as a ‘peon.’ Both Anglo Americans and Mexicans often used the terms ‘captive’ and ‘peon’ interchangeably, evidencing the close functional relationship between these two systems of servitude. Rafael Chacón, a New Mexican involved in the Comanchero trade, once stated that his trading expeditions included “Pueblo Indians, the Utes, or the Navajoes, [which] we were in the habit of carrying with us as peons.” Jacqueline Dorgan Meketa, ed., Legacy of Honor: The Life of Rafael Chacón, A Nineteenth-Century New Mexican (Albuquerque, NM: University of New Mexico Press, 1986), 115.
Throughout the 1850s and into the 1860s, New Mexican bureaucrats grappled with the task of captive repatriation but experienced little success in such pursuits. The military department found it extremely difficult to curtail slave raiding, due largely to the longstanding enmity between the Mexicans and the Indians. “This system of warfare will interfere very much with my [military] measures,” Colonel Edwin V. Sumner grumbled in 1851, asking that his counterpart Calhoun “abstain from sending any war parties of Mexicans” or civilian militiamen into the Indian homelands. Indeed, Sumner’s protest was not without merit; when taking office as the territory’s first civil governor, Calhoun suggested that militias be dispatched into Indian country as a means of augmenting the inadequate number of U.S. troops garrisoning the several military posts. By condoning such action, however, the governor (and several of his gubernatorial successors who likewise supported such a strategy) only perpetuated the captive-taking tradition.

Intercultural animosity proliferated as civilian-led expeditions focused not merely on chastising nearby Indians but also on attacking peaceful subgroups, often for the sole purpose of securing captives to sell as slaves in the New Mexico marketplace. Civilian


37 For Calhoun’s advocacy of militias, see James S. Calhoun to William L. Marcy, November 25, 1848, ibid., 13; Calhoun to E.V. Sumner, February 11, 1852, RG393, M1102, LR, DNM, Roll 4; Sumner to Calhoun, March 27, 1852, ibid.; L.R. Bailey, *Indian Slave Trade in the Southwest* (Los Angeles, CA: Westernlore Press, 1966), 107-108. The secretary of war denied Calhoun’s initial request to raise a militia, but eventually the territorial legislature passed resolutions condoning it and future Governors David Meriwether and Abraham Rencher likewise voiced support for such a strategy. See William L. Marcy to James S. Calhoun, December 7, 1848, in Abel, ed., *Official Correspondence*, 13; “Proclamation of Governor David Meriwether,” January 24, 1855, New Mexico State Archives and Records Center, Ritch Collection, Microfilm Roll 6; Abraham Rencher to Col. B.L.E. Bonneville, December 4, 1858, RG393, M1120, LR, DNM, Roll 8; “Militia Law of the Territory of New Mexico,” in 1851 laws and resolutions of the territorial legislature, RG46, Territorial Papers of the U.S. Senate, Roll 14 (New Mexico, 1840-1854); “An Act Amendatory to the Militia Law of the Territory of New Mexico,” in *Laws of the Territory of New Mexico Passed by the Legislative Assembly, Session of 1859-1860* (Santa Fe, NM: O.P. Hovey, 1860), 8-10.
warfare with the Indians would continue to create challenges in upcoming years for military officers attempting to discourage depredations, oftentimes counteracting federal treaty negotiations with territorial tribes and unwittingly contributing to endemic slave raiding. Not until 1864 would New Mexico’s governor issue a proclamation positively forbidding civilian militias from taking independent retributive action against Indians.\(^{38}\)

The difficulties that American troops experienced in their efforts to restrain Indian raiding and captive-taking during the first decade of occupation in New Mexico stemmed in large part from the inability of civil and military officials to reach an agreement over appropriate Indian policies, and the need to enforce Article 11 of the Treaty of Guadalupe Hidalgo only intensified that interdepartmental contentiousness. With the civil government (Bureau of Indian Affairs) devising Indian policy and the military (War Department) responsible for enforcing those measures, inherent ideological differences between the two disparate bureaucracies undercut attempts to conceive a mutually agreeable course of action.\(^{39}\) The unintended consequence was that, throughout much of the Southwest, captive enslavement continued with minimal abatement for many years following the American conquest, despite several U.S. officials having proclaimed an aversion to the practice and pledging to halt it through a mixture of reform-minded policy initiatives, judicial coercion, military action, and multilateral diplomacy.

Traveling through the territory five years after Kearny’s conquest and at the height of Article 11 confusion, western explorer Daniel Jones noted that New Mexico’s


\(^{39}\) See Kiser, \emph{Dragoons in Apacheland}, esp. 3-12.
Indian slave trade continued practically unhindered. He observed that New Mexicans made annual voyages to trade with Navajos and Utes and, during the course of these commercial expeditions, unscrupulous traders frequently bartered for Indian slaves among the tribes they encountered. “All children bought on the return trip would be taken back to New Mexico and then sold, boys fetching on an average $100, girls $150 to $200,” he explained. According to Jones, exploitative Mexican slave traders “were fully established and systematic in this trade as ever were the slavers on the seas” and targeted Southern Utah’s starving Paiutes, who had no qualms about swapping a child for a horse and then killing the animal for food.40

Many masters placed a monetary trade value on their Indian servants, whom they sold and traded with greater frequency than the indebted Mexican peons being similarly held in bondage. The practice of placing a pecuniary valuation on human subjects dated back to the early Spanish colonial era. In the eighteenth century, Fray Francisco Atanasio Domínguez reported that captive “pagan Indians, of both sexes” frequently changed hands in the open marketplace. “Two good horses and some trifles” could be exchanged for an “Indian girl twelve to twenty years old,” while male captives typically brought less.41 Additionally, the “domestication” of indigenous captives increased their value in this market, providing an incentive for assimilation through baptism and further exacerbating the frequency with which masters initiated intimate interethnic

40 Jones, Forty Years Among the Indians, 47-48. On Indians selling and trading their children into slavery, see Sondra Jones, “‘Redeeming’ the Indian: The Enslavement of Indian Children in New Mexico and Utah,” in Utah Historical Quarterly 67 (June 1999): 220-41, esp. 223-25.

41 Fray Francisco Atanasio Domínguez, The Missions of New Mexico, 1776: A Description by Fray Francisco Atanasio Domínguez, with other Contemporary Documents, ed. and trans. Fray Angelico Chavez and Eleanor B. Adams (Albuquerque, NM: University of New Mexico Press, 1956), 252.
relationships. The practice of selling and trading captive Indians continued well beyond the initial American occupation of New Mexico in 1846. “There is no law of the Territory,” Superintendent of Indian Affairs Michael Steck confessed in 1864, “that legalizes the sale of Indians, yet it is done almost daily, without an effort to stop it.”

New Mexico’s gender-based captive exchange rate favored females as the more valued commodity, not only because of their usefulness as domestic servants but also because of their appeal as potential wives and child bearers. This characteristic remained mostly unchanged well into the territorial era. Writing in 1850, Governor Calhoun attested to the value of women as both servants and wives, noting that men purchased them based in part upon their physiognomy. “The value of captives depends upon age, sex, beauty, and usefulness,” he explained. “Good looking females, not having passed the ‘sear and yellow leaf,’ are valued from fifty to one hundred and fifty dollars each,” while men typically brought only half that amount, a testament to the value that masters placed on a servant’s sexual availability, regardless of ethnic origin. Private James Bennett of the First Dragoons, stationed at various New Mexico military posts throughout the 1850s, was surprised to learn that Indian captives brought to Santa Fe were “sold as slaves,” with prices ranging from 100 to 400 dollars’ worth of trade goods each.

Although New Mexico fell under the auspices of the United States government in 1846, it would be several years before this had any noticeable impact on Indian slave

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42 Michael Steck to William Dole, January 13, 1864, RG75, OIA, M234, LR, NMS, Roll 552.


44 James A. Bennett, Forts and Forays: A Dragoon in New Mexico, 1850-1856 (Albuquerque, NM: University of New Mexico Press, 1948), 19.
trading, primarily owing to the lack of cooperation between civil and military leaders in their enforcement of policy initiatives. Furthermore, many early territorial officials coming from the South remained partial to the slaveholding cause and refused to interfere, essentially sanctioning the practice through their ambivalence and silence. Because he came from the slave state of Georgia, Governor Calhoun became the target of numerous accusations that he not only ignored the existence of Indian slavery, but promoted it through his policies. Much of his personal correspondence, however, refutes such allegations; in letters to the commissioner of Indian affairs, Calhoun frequently complained of the ongoing exchange of captives, especially among the Comanches and Navajos, and admitted that he found himself unable to devise a means of suppressing the trade.45

Although a Southerner by birth, Calhoun professed an overall disenchantment with New Mexico’s slave trade, likening it to the peculiar institution existing in his home state. “All will agree that this revolting trade should be stopped,” Calhoun wrote in a letter to Commissioner of Indian Affairs Orlando Brown, but the proposed methods of doing so differed widely. The new governor believed it his duty to reclaim captives whenever possible and indicated that he expected the government to reimburse him for any ransoms paid to liberate such persons.46 Despite this proclaimed abhorrence of

45 For Calhoun’s views on Comanche slave trading, see Rister, Border Captives, 53-58; Kavanagh, Comanche Political History, 338-43, 381, 383. Calhoun also temporarily housed William G. Kephart, an agent for the American and Foreign Anti-Slavery Society, at his home in 1850. Had Calhoun been a pro-slavery man, it seems unlikely he would have allowed an abolitionist to stay with him. See Lawrence R. Murphy, “Antislavery in the Southwest: William G. Kephart’s Mission to New Mexico, 1850-1853,” in Southwestern Studies 54 (1978): 15.

captive enslavement, Calhoun rarely purchased the freedom of any servants during his
time as governor, usually doing so only through the recompense of intermediaries who
brokered such transactions in his stead. On one rare occasion in October 1849, Calhoun
procured five former Mexican slaves from the Navajos, of whom all but one readily
consented to return to their natal family.\footnote{James S. Calhoun to William Medill, October 1, 1849, 31st Cong., 1st Sess., House Exec. Doc. No. 17, pp. 204-205. For additional examples of ransomed Mexican captives, see Abel, ed., \textit{Official Correspondence}, 183.} On that occasion he did not offer any form of ransom to the tribe, and it appears as though the headmen surrendered the captives merely as a gesture of good faith and to avoid being the targets of future military action.

When negotiating treaties with New Mexico’s tribes, Calhoun followed the lead of his many predecessors who, since Mexican independence in 1821, had repeatedly included clauses mandating the return of captives. This held especially true with the Navajos, who brokered numerous peace accords with Mexican officials prior to the 1846 American occupation. In 1805, following a massacre at Canyon de Chelly in which soldiers killed 115 Navajos and captured thirty-three others, tribal leaders met with Governor Joaquín Real Alencaster to arrange an accord that would allow for the mutual exchange of captives and prisoners.\footnote{Joaquín Real Alencaster to Nemesio Salcedo, May 15, 1805, in New Mexico State Records Center and Archives, Frank McNitt Collection, Serial #10678, Folder 8; Fernando Chacon Treaty Proposals, March 27, 1805, ibid. For a Navajo oral history recounting the massacre, see Ruth Roessel, ed., \textit{Navajo Stories of the Long Walk Period} (Chinle, AZ: Navajo Community College Press, 1973), 188-89.} Seventeen years later, during the first year of Mexican rule, Governor Facundo Melgares arranged a treaty mandating that all captives held among the tribe be delivered to the governor in Santa Fe. Should the Navajos wish to recover their own kinfolk held in the New Mexican villages, however, they would be
required to “make a claim on the government” and hope that officials carried out the request.\textsuperscript{49}

It became clear by 1841 that New Mexicans rarely, if ever, complied with treaty requirements regarding captive repatriation. Whereas Navajos faithfully returned prisoners following each treaty, the tribe frequently complained that officials in Santa Fe failed to reciprocate. After two 500-man campaigns—composed of civilian militia and peon auxiliaries—marched into Navajo country in 1840 and collectively killed twenty-three warriors and captured fourteen slaves, tribal leaders agreed to meet with officials once again to discuss terms for peace.\textsuperscript{50} During an attempted negotiation at Jemez Pueblo in 1841, Navajos refused to make any agreements until their counterparts honored previous treaties and returned all women and children taken during the previous expedition. “They have handed over all of our people held captive by [their] Nation, this being the basis upon which true peace can be guaranteed,” wrote one fair-minded observer. “On delivering these to us, they have become convinced that your Excellency [the governor] does not want to turn over to them their captives . . . they state that on more than ten occasions they have handed over our captives and to them none have been returned.”\textsuperscript{51} In a process that had become woefully redundant, Mexican leaders again sought to meet with Navajo headmen three years later and somewhat audaciously proposed that the chiefs, “as proof of good faith,” return all captives detained among the

\textsuperscript{49} Treaty with the Navajos, November 11, 1822, New Mexico State Records Center and Archives, Frank McNitt Collection, Serial #10678, Folder 29.

\textsuperscript{50} Governor Manuel Armijo to Minister of War and Navy, October 3, 1840, ibid., Folder 10.

\textsuperscript{51} Rural Commandancy of Jemez to Manuel Armijo, March 14, 1841, ibid., Folder 26.
tribe. Contrarily, New Mexicans held themselves to no such obligation. Instead, Navajo families would be required to ransom captives on their own, insinuating that if the tribe wished to reclaim their kinfolk they would have to negotiate terms with each captive-holder on an individual basis and without the assistance of government officials.\footnote{Mariano Martinez to Señor Governor, February 26, 1844, ibid., Folder 10. On the incongruities in legal responsibilities and captive exchanges between Navajos and Euro-Americans, see Brian DeLay, “Blood Talk: Violence and Belonging in the Navajo-New Mexican Borderland,” in Juliana Barr and Edward Countryman, eds., \textit{Contested Spaces of Early America} (Philadelphia, PA: University of Pennsylvania Press, 2014), 234-35, 247, 250.}

As ninety-year-old tribal elder Frank Goldtooth recounted in the 1970s, the early nineteenth century was a time when \textit{Naakaii} (Mexicans) and Navajos “started raiding each other back and forth” for captives and slaves.\footnote{Roessel, ed., \textit{Navajo Stories of the Long Walk Period}, 151-52, 181, 232.} Medicine man Eli Gorman reiterated this when noting that the Navajos “lost many of their women and children who were captured by [enemy] tribes and by the White Men and Mexicans,” a reciprocal process that many \textit{Diné} would come to see as a causal factor in their subsequent confinement at the Bosque Redondo Reservation in the 1860s, despite the fact that these earlier conflicts involved Mexico rather than the United States.\footnote{Ibid., 199, 253-59.} Indeed, when Americans arrived in the 1840s, decades of bad faith and broken treaties between Navajos and New Mexicans precluded the ability of government officials to negotiate any meaningful peace agreements. Lieutenant James W. Abert visited dozens of New Mexico villages in 1846, where inhabitants repeatedly complained to him of hostilities with the Navajos. At José Chavez’s hacienda north of Socorro, for example, the “señor” informed the young officer that Navajos had recently captured his son, along with most
of his peons’ wives and children.\textsuperscript{55} An 1849 treaty between Navajos and U.S. officials typified the captive repatriation clause that appeared in almost every compact ever negotiated with that tribe. Article 5 stipulated that the Navajos must surrender all captives, regardless of ethnic or national origin, to military authorities at Jemez within one month of the agreement being signed and required that any Indian slaves being held in the Hispano villages likewise be turned over to the same officials for repatriation.\textsuperscript{56} A decade later, Colonel Benjamin L.E. Bonneville and Superintendent of Indian Affairs James L. Collins repeated, almost verbatim, this clause in yet another peace pact.\textsuperscript{57}

\textsuperscript{55} “Report of Lieut. J.W. Abert of his Examination of New Mexico in the years 1846-47,” in Report of the Secretary of War, February 10, 1848, 30\textsuperscript{th} Cong., 1\textsuperscript{st} Sess., Senate Exec. Doc. 23, p. 92.


\textsuperscript{57} See 1858 treaty with the Navajos, in RG75, OIA, NMS, T21, Roll 3; see also Frank McNitt, \textit{Navajo Wars: Military Campaigns, Slave Raids, and Reprisals} (Albuquerque, NM: University of New Mexico Press, 1972), 88-89.
Under such circumstances, Governor Calhoun would have been hard-pressed to offer ransoms even if he wanted to; when assuming office as superintendent of Indian affairs in 1849, the department advanced him a sum of $3,800 to be expended in New Mexico, of which a trifling $300 was earmarked to affect the release of Mexican captives.\textsuperscript{58} Commissioner of Indian Affairs William Medill admitted this amount to be negligible and instructed his agents to avoid paying ransoms altogether if possible, wisely noting that, “to make compensation would encourage a continuance of the practice of making captives.”\textsuperscript{59}

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  \item \textsuperscript{58} William Medill to James S. Calhoun, April 7, 1849, 31\textsuperscript{st} Cong., 1\textsuperscript{st} Sess., House Exec. Doc. No. 17, p. 195.
  \item \textsuperscript{59} William Medill to Adam Johnston, April 14, 1849, ibid., 188.
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Even so, agents in the field periodically paid tribes (usually in the form of horses or other goods) for the return of captives, a practice that drained government coffers and burdened the department with expenses that superintendents saw as unnecessary. When one agent, pursuant to the governor’s request, doled out twenty-five dollars apiece for two captives held by the Southern Cheyennes, he admitted the impropriety of doing so and afterwards stressed (somewhat hypocritically) that “we cannot establish the precedent of buying Mexican prisoners.”

As agent to the Utes in the 1850s, Christopher “Kit” Carson likewise offered ransoms but claimed to do so only in the name of humanity. In 1858, when two Muache Utes brought a captive Navajo woman to the Taos Agency, Carson “thought it better for the squaw to be with me than with the Mexicans or Utahs.” With that in mind, he gave two horses for her exchange and wrote to Superintendent of Indian Affairs James L. Collins requesting remuneration, offering to return the woman to her tribe if they would reimburse him. A month later, Carson again redeemed a captive, this time a young Apache girl being held in bondage with a local Mexican family; having been severely maltreated by her captors, she informed the agent that “it would be impossible for her to live with her mistress.” Whether he actually received

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60 John W. Whitfield to David Meriwether, September 29, 1854, RG75, OIA, T21, LR, NMS, Roll 2. Whitfield further stated that “if we were [to continue purchasing captives] . . . only to pay for what the [Cheyenne] Indians now have in my Agency it would bankrupt your Treasury – I am certain the Comanches and Kiowas have [an additional] one thousand.” Ibid.

61 Christopher Carson to James L. Collins, December 8, 1858, ibid., Roll 1.

62 Carson to Collins, January 12, 1859, ibid.
compensation from the department for ransoming these captives remains unknown, but certainly Carson’s superiors frowned upon the associated costs.63

New Mexico’s civic leaders became the center of controversy in 1851-1852 when rumors circulated that Governor Calhoun issued Indian slave-trading licenses to territorial residents. During his incumbency Calhoun granted dozens of trading licenses—both to Mexicans and to Pueblo Indians—but none of the vaguely-worded permits specifically sanctioned trade in human flesh.64 His accusers maintained, however, that as the territory’s leading civil official he had signed passes allowing slave traders to enter Utah Territory in search of Indian captives, presumably from the nonequestrian Paiute tribe. The Deseret News, a Mormon publication founded in 1850 as Utah’s first newspaper, informed its readers that Calhoun authorized rogue traders “to purchase Indian children as slaves, for the benefit of persons in New Mexico,” and slandered the governor as being “no better than an infamous kidnapper.”65 News of Calhoun’s supposed complicity in the Indian slave trade reached a broad audience when the National Era, an abolitionist weekly printed in Washington, D.C., published the article under a suggestive headline reading: “Scoundrelism in our Territories: Kidnapping Under a Governor’s License.”66

63 On Kit Carson’s Indian captives, see Tom Dunlay, Kit Carson & the Indians (Lincoln, NE: University of Nebraska Press, 2000), 200-204.

64 For Calhoun’s proclamation explaining his procedure for issuing Indian trading licenses—including his pledge that no licenses would be issued to trade with the Apaches, Navajos, or Utes, see Abel, ed., Official Correspondence, 105. He later rescinded this stipulation and began granting licenses for trade in Ute country, as evidenced by his issuance of permits to Pedro León and company. For trading licenses issued to Pueblo Indians, see D.V. Whiting to Lafayette McLaws, March 28, 1851, RG393, M1102, LR, DNM, Roll 3.


66 “Scoundrelism in our Territories: Kidnapping Under a Governor’s License,” National Era, February 26, 1852. Less than a month later New Mexico’s Congressional representative lambasted the newspaper for its
These newspapers referred to licenses that Calhoun issued on July 30 and August 14, 1851 to Pedro León and several companions, who traveled to Salt Lake County to trade with Ute Indians in that region.\(^\text{67}\) By the early 1850s León had established himself throughout northern New Mexico as a well-known slave dealer, having been involved in the business at least since the 1830s and being a frequent leader of militia campaigns into both Ute and Navajo country.\(^\text{68}\) Because the permits did not specify the meaning of the word “trading,” León’s group bartered not only in various goods but in slaves as well. Whether Calhoun deliberately omitted any reference to trading captives is not known, but the ambiguity of the passes in that regard made it difficult for critics to prove his complicity. By sanctioning trading voyages into Utah the governor did nothing new, inasmuch as New Mexicans had already been venturing into the Great Basin for over a century to trade and take Paiute captives back to the markets in Santa Fe and Taos.\(^\text{69}\) Most significantly, however, the permits failed to take into account the sovereignty of

\(^{67}\) Congressional Globe, 32nd Cong., 1st Sess., March 15, 1852, p. 754. Verbatim copies of the trading licenses are found in Sondra Jones, The Trial of Don Pedro León Luján: The Attack against Indian Slavery and Mexican Traders in Utah (Salt Lake City, UT: The University of Utah Press, 2000), 121-23.

\(^{68}\) Ibid., 53-59.

Utah Territory and therefore had no legal basis outside of New Mexico, placing the traders in an unenviable predicament when Mormon authorities confronted them.\(^70\)

The point from which most Great Basin traders such as León embarked was the New Mexican village of Abiquiú, situated atop a hill overlooking the Chama River northwest of Santa Cruz de la Cañada. By the time Calhoun assumed control of Indian affairs under the United States banner in 1849, Abiquiú’s population already boasted a considerable percentage of captive Indians, or *genízaros*.\(^71\) Just as Spanish and Mexican raiding parties departed Abiquiú to gather slaves, so too did bands of Ute Indians frequent the village in the eighteenth and nineteenth centuries to trade their own captives for horses and other commodities. As one scholar has noted, trading or otherwise transferring custody of young children accorded perfectly with the Southern Utes’ longstanding customs of human adoption and barter within the tribe.\(^72\) Writing in 1776, Fray Francisco Atanasio Domínguez observed that Utes arrived in Abiquiú every year between October and November to “celebrate their fair” and noticed that many of them brought “little captive heathen Indians” to trade with the settlers.\(^73\) Abiquiú occupied an

\(^{70}\) Jones, *The Trial of Don Pedro León Luján*, 62-64.


important position at the forefront of the ongoing Indian slave trade and its citizens had become heavily involved in the practice over a period of many decades. When Mormon colonizers arrived in the Salt Lake and Utah Valleys in 1847, they blamed these New Mexicans for the hostilities that arose with neighboring tribes. One Latter-Day Saint, Thomas Bullock, wrote of the Great Basin Indians that, “all they r fit for is Slaves . . . they r wild as Beasts – they r outrageous against White People, because the Spaniards killed many, & stole their children.”

The Paiutes, residing primarily in a region that now comprises eastern Nevada and west-central Utah, were the most susceptible to predatory raids and became the targets not only of Mexican slave traders but also of neighboring hegemonic Indian groups. Belonging to the same linguistic family as Ute neighbors, their distinction as Paiutes derived from the infusion of Spanish trade and slavery in the late 1700s. The sudden availability of horses and goods prompted some of these peoples to barter the only commodity they had available that piqued the interest of Spanish traders—their women and children. These trading arrangements propagated an intratribal hierarchy that differentiated between Ute and Shoshonean horse peoples and those who remained mostly pedestrian, the Paiutes, who ultimately became identifiable as a separate tribe.

By the 1850s, one observer noted of the Paiutes that, whenever in the company of traders, terrified women and children hid in bushes and weeds because “bands of Utes and


75 On Paiute and Ute slavery generally, see Bailey, Indian Slave Trade in the Southwest, 139-72.

76 Farmer, On Zion’s Mount, 31-32.
Mexicans had repeatedly made raids upon them and had taken their children to California and Mexico and sold them for slaves.”

Paiutes held a predetermined disadvantage in that they constituted, according to one contemporary witness, “the most destitute and degraded of all the Indian tribes” in the West. Mounted tribes like the Navajos and Utes easily preyed upon less mobile Paiute villages and rode away with captives, leaving parents and spouses helpless to reclaim their displaced kinfolk. In 1813, Spaniards met with a band of Timpanagos Utes who offered to sell seven presumably Paiute children that they held captive. Jesuit missionary Pierre-Jean De Smet, traveling west of the Rocky Mountains in the 1830s, piteously observed that tribemembers “offer their newly born infants to the whites in

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79 Dr. Garland Hurt, a former Indian agent in Utah, noted in 1859 that, “The Py-eeds are perhaps the most timid and dejected of all the tribes west of the Rocky Mountains, being regarded by the Utahs [Utes] as their slaves. They not infrequently take their children from them by force.” Garland Hurt to James H. Simpson, May 2, 1860, in James H. Simpson, Report of Explorations Across the Great Basin in 1859 (Reno, NV: University of Nevada Press, 1983, reprint), 462. On Utes taking captives from neighboring tribes, see also Lieut. J.W. Gunnison, The Mormons, or, Latter-Day Saints, in the Valley of the Great Salt Lake (Philadelphia, PA: Lippincott, Grambo & Co., 1852), 148-49. Some historians and ethnologists argue that the Utes were among the first nomadic tribes in the Southwest to obtain horses and subsequently played a significant role in dispersing them throughout the northern New Spain hinterland. This meant that the Utes held a decided advantage over neighboring Paiute and Shoshonean peoples from an early date, possibly as far back as the 1680 Pueblo Revolt. See Opler, “The Ute and Paiute Indians of the Great Basin Southern Rim,” in Leacock and Lurie, eds., North American Indians in Historical Perspective, 272-73; Virginia McConnell Simmons, The Ute Indians of Utah, Colorado, and New Mexico (Boulder, CO: University Press of Colorado, 2000), 29-30; Blackhawk, “The Displacement of Violence,” 733-35.

80 “Journey Made to the Timpanagos,” September 6, 1813, New Mexico State Records Center and Archives, Albert H. Schroeder Collection, Box 10749, Folder 1107.
exchange for some trifling articles.”  

Passing through Utah in the late 1850s, Dr. Garland Hurt also found the Paiutes’ plight to be deplorable and described the people as “so abject and degraded” that they thought little of trading their children to the Utes for “a few trinkets or bits of clothing.” The Utes would then transport these commodified juveniles to northern New Mexico, “where they find a profitable market for them among the Navajoes.”

Unlike the Apaches, Comanches, and Navajos, whose tribes boasted greater numbers of warriors with a more pronounced capacity to actively resist predatory incursions, the Paiutes’ enfeebled condition rendered them largely unable to defend themselves from slave raiders.  

George W. Armstrong, an Indian agent at Provo, informed his superiors in 1856 that the semisedentary Great Basin tribes had suffered noticeable demographic decline as a result of Ute raiders, who had become adept at “stealing their squaws and children and selling them as slaves to other tribes, as well as to the Mexican people.”

When federal officials approached the Southern Paiutes in 1865

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83 In 1846, New Mexico Governor Charles Bent estimated tribal populations as follows: Comanches, 12,000; Utes, 4,400; Navajos, 7,000. “Message of the President of the United States,” August 2, 1848, 30th Cong., 1st Sess., House Exec. Doc 76, p. 11. While estimates of tribal populations varied from one observer to the next, some generally accepted population counts during the 1850s are as follows: Apaches, 5,000; Comanches, 10,000; Navajos, 12,000. See Kiser, Dragoons in Apacheland, 42; Pekka Hamalainen, The Comanche Empire (New Haven, CT: Yale University Press, 2008), 303; McNitt, Navajo Wars, 299.

84 George W. Armstrong to Brigham Young, June 30, 1856, in 1856 Annual Report of the Commissioner of Indian Affairs, 234-235.
to negotiate a treaty, they refused to be relocated onto a shared reservation with enemy Utes because of their longstanding animosity towards that tribe.\textsuperscript{85}

According to New Mexico Indian agent John Greiner, the Paiutes themselves encouraged (albeit inadvertently) the slave trade by swapping their children for articles of subsistence, noting that “the Mexicans in time past carried on quite an extensive trade with these Indians for their children who make excellent house servants.”\textsuperscript{86} Paiutes thus found themselves increasingly susceptible to enslavement in New Mexican villages as the first half of the nineteenth century wore on. Not until New Mexico became a part of the United States at mid-century did the practice begin to taper off, although it continued to linger at the time Armstrong wrote in 1856. Many Anglo-Americans venturing into the Great Basin region after 1850 found themselves appalled by the violent exchanges that characterized the relationship between Utes and their less powerful Paiute and Shoshone neighbors.\textsuperscript{87}

Writing about the Paiutes in the late 1840s, western explorer T.J. Farnham noted that they faced enemies in all directions: “The New Mexicans capture them for slaves; the neighboring Indians do the same; and even the bold and usually high-minded old beaver-hunter sometimes descended from his legitimate labor . . . to this mean traffic.”\textsuperscript{88}

\textsuperscript{85} Simmons, \textit{The Ute Indians}, 128.
Another frontiersman, Uncle Dick Wootton, recalled during his travels circa 1838-39 that he frequently observed New Mexico traders buying Indian slaves in what is today southern Colorado and Utah.\textsuperscript{89} As these witnesses understood, the proclivity of western wayfarers to wrest Paiutes and other vulnerable semisedentary Indians from their tribal communities owed primarily to the value of such captives in Santa Fe and Taos. “The price of these slaves in the markets of New Mexico varies with the age and other qualities of the person,” Farnham explained, alluding to sexual availability and bodily strength when noting that younger captives fetched higher prices.\textsuperscript{90} He noticed that most raids against the Paiutes occurred in springtime, after the difficult winter months had further weakened the tribe. Once abducted, the captives “are fattened, taken to Santa Fe and sold as slaves . . . a ‘likely girl’ in her teens brings often £ sixty or £ eighty.”\textsuperscript{91}

Farnham’s use of the phrase “likely girl” carried significant meaning and implied a direct correlation between Indian slavery in New Mexico and chattel slavery in the Southern states. In nineteenth century parlance, professional slave traders and

\textsuperscript{89} Howard Louis Conard, \textit{Uncle Dick Wootton: The Pioneer Frontiersman of the Rocky Mountain Region} (Chicago, IL: W.E. Dibble & Co, 1890), 187.

\textsuperscript{90} Farnham, \textit{Life, Adventures and Travels in California}, 377. New Mexico Superintendent of Indian Affairs Michael Steck noted in 1864 that Indian slaves usually sold for “about $100,” but also stated that “frequently after becoming domesticated, they sell much higher.” Michael Steck to William Dole, January 13, 1864, RG75, OIA, M234, LR, NMS, Roll 552. For Indian slave prices in 1850s Utah, see Brian Q. Cannon, “Adopted or Indentured, 1850-1870: Native Children in Mormon Households,” in Robert W. Walker and Doris R. Dant, eds., \textit{Nearly Everything Imaginable: The Everyday Life of Utah’s Mormon Pioneers} (Provo, UT: Brigham Young University Press, 1999), 342.

\textsuperscript{91} T.J. Farnham, “Travels in the Great Western Prairies,” part 1, in Thwaites, \textit{Early Western Travels, 1748-1846}, Vol. 28, p. 249. Lofty as they might seem, these prices still paled in comparison to what African American slaves might fetch in a Southern slave auction; typically, blacks in the mid-nineteenth century Cotton Belt sold for five to six times the amount of an Indian slave in New Mexico. See Jones, \textit{The Trial of Don Pedro León Luján}, 142 n. 50.
auctioneers used terms like “likely girl” and “fancy girl” to indicate sexual availability when advertising upcoming slave auctions in local newspapers. Whenever a potential buyer read that a slave woman was “likely” or “fancy,” he could be fairly certain that she would be young, light-skinned, physically attractive, and would mount minimal resistance to forceful sexual advances. Upon being purchased, such women took on a twofold purpose in that they not only labored as slaves, but also provided sexual service and, in many cases, bore children and future slaves for their master.92 As Judge Kirby Benedict noted in 1865 when asked to testify about the nature of slavery in New Mexico, “A likely girl of not more than eight years old, healthy and intelligent,” would be valued around four hundred dollars, because “when they grow to womanhood” they might serve in sexual capacities.93 By using this terminology in reference to New Mexico’s Indian captives, Farnham and Benedict implicitly acknowledged two critical similarities between nineteenth century America’s regional systems of slavery. First, that Indian captives could be bought and sold like chattel slaves in the South, and second, that Hispano masters had sexual exploitation in mind when purchasing Indian girls.

While the Great Basin slave trade led to the development of a sizable interethnic community at Abiquiu, it also inflicted a corollary demographic and cultural impact on Indian groups. Paiutes typically camped in small cohorts organized around kinship structures, with women serving as gatherers for the remainder of the family. The fact that


many villages contained few women to begin with, coupled with the extent of Ute raiding, meant that new patterns of community responsibility developed within Paiute society. Such a drastic shift in demographics and labor expectations caused correlating modifications in community structures and, over a period of more than one hundred years of slave raiding, promulgated an internalized reconstruction and redefinition of Paiute kinship and social organization. It comes as little surprise that the slave trade had such a pronounced demographic impact on them when one considers that nearly half of all Paiute-born children grew up outside of tribal circles, and the majority of those who did remain with their natal families were males, whose gender made them less appealing to New Mexico purchasers.94

The slaving mission that Pedro León and his party undertook in 1851 signaled the culmination of nearly a century of Paiute victimization and represents one of the last identifiable cases of that tribe being specifically targeted for slaving purposes. Upon arriving in Utah Territory, León and his companions confronted Mormon authorities, who brought them before Governor Brigham Young. With their licenses sanctioning trade only in New Mexico, Young declined the traders’ request to renew the permits. He also refused to allow León’s company to deal with Indians, citing the invalidity of Calhoun’s passes outside of New Mexico and lecturing them on the moral reprehensibility of trading for Indian children. Young did, however, authorize them to barter briefly with Mormon merchants for various supplies before returning to New

Mexico. After being discharged, León promised that he and his men would immediately go home without any further dabbling in the slave trade.

After trading in Utah’s Sanpete Valley settlements for eight days, León returned to his camp, whereupon he discovered that Paiutes had driven off eighteen of his party’s animals during his absence. He immediately pursued and confronted the culprits, who refused to return the animals, but instead offered four girls and five boys as recompense. Thus, according to New Mexico Indian agent John Greiner, Pedro León and his party had not gone to Utah with the specific purpose of taking captives, but instead had been coaxed into it by circumstances beyond their control. In his defense of the slave traders, Greiner stated that the men accepted the captives only because they saw no other option, and insisted that León planned to deliver the children directly to the governor upon his return to New Mexico.

After learning that León had continued trading with the Indians and held Paiute children in his possession, Utah authorities promptly arrested and imprisoned his entire party for violation of the Indian Trade and Intercourse Act of 1834. All of the traders’ equipment, animals, and merchandise—along with the nine captives—were confiscated and, according to Greiner, the Indian slaves “were sold to the Mormons as servants, by

95 Jones, *The Trial of Don Pedro León Luján*, 7-8, 64-66.

96 Jones, *Forty Years Among the Indians*, 53. The author, Daniel Jones, served as an interpreter during the initial trial. See ibid., 50-53.


the Mormon authorities.”

Indeed, Mormons did sometimes keep Indian captives under the auspices of community laws; among Latter-Day Saints, as with many other colonizing groups, the possession of indigenous children within the household was viewed as a means of uplift through assimilation and acculturation. According to the *Book of Mormon*, North American Indians descended from an Israelite family in Jerusalem sometime around 600 B.C. and, as dark-skinned Lamanites, were directly related to the light-skinned Mormon colonizers of Utah. The responsibility thus fell to these nineteenth century pioneers to “save” their Lamanite Indian neighbors, a salvation which they sought to affect through direct purchase, domestic captivity, and religious conversion. When a young Paiute man showed up at Fort Defiance in 1859, for example, he informed the post commander that “the Mormons had baptized him into their church, and gave him a paper, certifying he was a Latter-Day Saint, and a good man.”

In a somewhat disingenuous perversion of the compensated emancipation scheme that some northerners advocated for the eradication of slavery in the South, Brigham Young himself declared in 1852 that Mormons had begun a grand experiment, “a new feature in the traffic of human beings” that essentially amounted to “purchasing them into freedom instead of slavery.”

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100 On the nature of these laws, see Cannon, “Adopted or Indentured,” in Walker and Dant, eds., *Nearly Everything Imaginable*, 341-42.


the practice, Solomon Nunes Carvalho, traveling with John C. Frémont’s 1853 expedition, witnessed firsthand this newly-sanctioned purchasing of Indian children. Following a treaty between Young and renowned Ute Chief Walkara, Carvalho observed that the governor bought two young Snake Indian captives from the Utes. The children had been reduced to a state of hopeless starvation and “were almost living skeletons.”

As Carvalho saw it, Young was merely engaging in an act of humanity and had saved the captive infants from certain death, although what became of them once they reached Mormon households remains unknown.

In a similar vein, and with an uncloaked expression of approval, Indian agent George Armstrong described a situation he witnessed in Utah’s Santa Clara River valley in 1857. A settler there, Jacob Hamblin, had “four apprenticed Pied [sic] children” herding sheep, spinning wool, and “attending to other household duties.” The children, all between ten and twelve years of age, had been in Hamblin’s possession for four years after being purchased from the tribe, although Armstrong downplayed the reality of their enslavement through his use of the less suggestive term “apprentice” when describing their status.

While official reports from Utah’s Indian agents sometimes alluded to Indian children serving in Mormon households, they avoided mentioning that those

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servants had been purchased but instead simply referred to them nonchalantly as laborers who were being transformed into “very useful members of society.”

The extent to which Mormons practiced slavery among the Indian children they bought or detained remains a matter of debate among scholars. Latter-Day Saints tolerated chattel slavery because, according to scripture, black persons descended from Cain and thus were damned to a lifetime of servitude. Contrarily, they saw Indians not as slaves or servants but as gentiles whose heathenism necessitated their salvation through purchase and incorporation into Mormon society. With this “humanitarian” mindset, Utah officials allowed citizens to buy or trade for captives among the various Great Basin tribes in order to salvage their souls through education and theological submersion, a view not altogether different from the Spanish Catholics in New Mexico who converted captives through baptism.

Within weeks of their capture, León and his party appeared before Mormon Judge Zerubbabel Snow in a Salt Lake City courtroom. A jury subsequently found the men guilty of trading without a valid license, the penalty being forfeiture of all personal property, including the Paiute captives. After the verdict, attorneys argued that the confiscated Indians should be sold to remunerate legal fees and court costs accrued

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106 Ibid. During his time as superintendent of Indian affairs in Utah, Brigham Young’s official reports made no mention of purchasing Indian children, and even the reports of his agents in the field were careful to avoid such terminology when referring to Indian children serving in Mormon households. See, for example, 1855 and 1856 Annual Reports of the Commissioner of Indian Affairs.

107 Blackhawk, Violence over the Land, 239-41; Jones, The Trial of Don Pedro León Luján, 100-104.


109 The original legal proceedings are contained in United States v. Pedro Leon et al., Doc. 1533 (microfiche), First Judicial Court of Utah. An in-depth analysis of the trial is found in Jones, The Trial of Don Pedro León Luján, 70-92.
during the proceedings. Judge Snow, however, refuted this notion based on various American legal precedents and instead allowed the children to be adopted into Mormon families.\footnote{Ibid., 81-82.}

Shortly afterwards, Utah’s territorial legislature used the ruling in this case as precedent to adopt a new resolution, entitled “An Act for the Relief of Indian Slaves and Prisoners,” outlawing Indian slavery in the territory while simultaneously sanctioning the purchase of indigenous children for adoption into Mormon households.\footnote{Acts, Resolutions, and Memorials, Passed at the Several Annual Sessions of the Legislative Assembly of the Territory of Utah (Great Salt Lake City, UT: Joseph Cain, 1855), 173-74.} Thus, Utah officials perceived the circumstances surrounding Pedro León’s arrest and conviction as a fortuitous opportunity to seek legal justification for a new law that both condoned the purchase, or indenture, of Indian children while concurrently banning the Indian slave trade and shutting Utah off to any further New Mexican expeditions.\footnote{Jones, The Trial of Don Pedro León Luján, 61.} The circumstances surrounding the León incident prompted Young to issue a proclamation in 1853 berating Mexicans generally and raising a thirty-man detachment of troops to patrol the countryside to ensure that no such persons returned to Utah. “There is in this territory, a horde of Mexicans, outlandish men,” the governor announced, noting that they had furnished the Indians with guns and ammunition in addition to their illicit trade in human flesh. Showcasing more ethnocentrism than pragmatism, the governor ordered fellow Mormons to “arrest and keep in close custody, every strolling Mexican party.”\footnote{Proclamation of Brigham Young, April 23, 1853, RG59, M12, U.S. State Department, Territorial Papers of Utah, Roll 1.}
More than anything else, the Pedro León case provides an example of the drastic cultural, ethnic, and legal changes that befell the western domain after it came under American control and highlights the impact of those alterations on preexisting institutions of servitude. Since the mid-1700s, New Mexicans had traveled into the Great Basin region to trade for slaves; so too had Indians from that section ventured into northern New Mexico settlements for the same purpose. Throughout the lengthy period of intercultural exchange prior to 1850, the entirety of the region in question comprised New Mexico, and no geopolitical boundary yet existed to separate that province from what ultimately became Utah. Thus it must have been incomprehensible to slave traders when told that regulations instituted by newly-arrived Mormon settlers prohibited such activity in what to them still constituted one and the same province, that of New Mexico. The extension of American laws regulating slavery and servitude in the territories had a similarly confounding effect on longtime residents of the Southwest, who either resisted or altogether ignored these sudden legal constraints upon their customary lifestyle.

With all of their animals now confiscated, Pedro León and his fellow traders left Utah as pedestrians on February 6, 1852, but did not return to the New Mexican settlements until April because of deep mountain snows that slowed their progress. Agent Greiner submitted León’s sworn statements to Commissioner of Indian Affairs Luke Lea, noting that he had “every confidence” in the truthfulness of the account. By the time León returned to New Mexico, the Deseret News had already broken the story and it had reached larger newspapers in the East, necessitating Greiner’s explanatory

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statements in defense of Calhoun. In issuing the trading passes, he contended, the
governor had acted in compliance with all government regulations pertaining to trade
with Indians. Richard Weightman, New Mexico’s congressional delegate, also
supported Calhoun. In a lengthy speech before the House of Representatives on March
15, 1852, he accused the newspapers of publishing unsubstantiated propaganda and
chided them for being “reckless and unscrupulous” in their reporting. Weightman
claimed that both he and Calhoun had been victims of conniving political enemies who
sought to undermine their influence, specifically naming the *Santa Fe Weekly Gazette*
and its staunch abolitionist editor William Kephart (of whom more will be heard in a later
chapter). Through the efforts of Kephart and others, rumors that Calhoun and
Weightman advocated the Indian slave trade in New Mexico reached national media
outlets, including even the *New York Herald*, which republished verbatim the accusatory
*Deseret News* article. Whatever the immediate repercussions, Calhoun never had to
vouch for his actions. In May 1852, with his health rapidly failing, he left Santa Fe for
Missouri and died in route, bringing an end to the controversy.

As late as 1868, appearing before a federal grand jury in a case concerning illegal
ownership of Indian slaves, Juan Jose Santistevan of Taos County testified that captives
continued to be the most convenient source of labor in northern New Mexico. A former

115 Ibid.


117 Ibid., 754-55.

118 On Calhoun’s failing health, see John Greiner to Luke Lea, May 19, 1852, in Abel, ed., *Official
Correspondence*, 537; Greiner to Lea, April 30, 1852, RG75, OIA, M234, LR, NMS, Roll 546.
slaveholder himself, Santistevan explained that “the Pah Utas [Paiutes] before the American conquest used to sell and trade their children to the citizens of New Mexico as slaves,” acknowledging that the descendants of these captives lived as servants among Hispano families throughout the northern settlements.\textsuperscript{119} Five years earlier, for example, Rafael Chacón, an officer in the New Mexico Volunteers at Fort Wingate, captured two young Paiute girls and subsequently sent one of them to his home as a servant for his wife. “This Indian girl I took care to have instructed in the Catholic faith in order to be baptized,” he recalled years later, lamenting the fact that the local priest did not immediately comply. More than a year passed before Bishop Jean Baptiste Lamy honored the request and saw that the young girl—who the Chacón family renamed María—received her holy anointment as initially demanded.\textsuperscript{120}

The statements of both Santistevan and Chacón reasserted the continuing endurance of a widely accepted doctrine of forced integration between Indian captives and Hispano captors during and after the Civil War. This cultural amalgamation evolved over many decades, eventually resulting in the phenomenon to which Santistevan referred, the widespread interspersion of familial blood lines. In the eyes of Santistevan and his contemporaries, Indians once held as slaves literally “became” Hispanic over the course of several generations of intermarriage, during which time levels of other dissipated with each passing generation. Baptism in the Catholic Church served as the


\textsuperscript{120} Meketa, ed., \textit{Legacy of Honor}, 230, 388n8.
symbolic means whereby captives were assimilated, making New Mexico’s system of indigenous servitude an adoptive institution. As such, Indian slavery resulted in fictive kinship bonds that differed substantially from the more socially and racially rigid system of black slavery that existed contemporaneously in the American South.121

By the 1860s, more than two hundred years of forced servitude and cultural integration had resulted in an extensive displacement of Indians from their families, and Euro-Americans from theirs. Captives experienced a coerced process of assimilation into their captor’s culture, a process oftentimes accompanied by a psychological transformation of human identity. Masters systematically modified a captive’s sense of community and kinship by eliminating vestiges of their former life, including language and religion. “As soon as a payutah [sic] child is brought into a Mexican family,” agent Greiner explained, “he is taught the Mexican language – the Lords’ prayer, baptized – considered a Christian and adopted.”122 The same could be said for captives of any other tribe who fell into servitude.

Indian captivity rose once again to the forefront of attention just prior to the Civil War, when New Mexico’s territorial legislature attempted to amend previous slave codes to apply also to “male or female Indians that should be acquired by barbarous nations.” Governor Abraham Rencher refused to sign the amendment into law and offered a detailed explanation of his reasoning in an annual message delivered before the legislature on December 6, 1860. His fallacious logic reflected the pro-slavery sentiment

121 Brooks, Captives & Cousins, 195.

that pervaded New Mexico politics during the antebellum era. Rencher explained that the proposed amendment “seemed to be based upon the supposition that male or female Indians, acquired from barbarous Nations, are slaves, which is not the case.” He also stated that New Mexican lawmakers had no legal power to enslave, informing his audience that “the Legislature can neither create, nor abolish slavery, they can only regulate it where it already exists,” a viewpoint that conformed with federal legal precedent relative to the political powers of territories. “The normal or native condition of all our Indian tribes is that of freedom,” Rencher proclaimed, “and they cannot, under our laws, be made slaves either by conquest or purchase.” Then, in a stark twist, the governor concluded with a contradictory and anomalous statement: “We may hold them as Captives, or peons, but not as slaves.”

In a single sentence, Rencher unwittingly summarized the entire basis of the misinformed rhetoric on New Mexican slavery. That very concept—that Indians could be captives or peons, but not slaves—would drive the misguided congressional and territorial debates on the institution for years to come. Americans held preconceived notions of what constituted slavery based on what they observed in the Southern states, and when arriving in New Mexico they failed to perceive involuntary servants in the form

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123 Fourth Annual Message of Governor Abraham Rencher, December 6, 1860, RG59, T17, New Mexico Territorial Papers, Roll 2. See also 1861 Executive Journal of Abraham Rencher in ibid; Santa Fe Weekly Gazette. December 6, 1860. On the legislature’s attempt to pass the Indian slavery amendment, see Mark Stegmaier, “A Law that Would Make Caligula Blush?: New Mexico Territory’s Unique Slave Code, 1859-1861,” in New Mexico Historical Review 87 (Spring 2012): 219-20. During the Confederate invasion of 1861-62, Brigadier General Henry Hopkins Sibley bluntly suggested that his government legalize the enslaving of Indians in the territory. Thus, had New Mexico fallen to Rebel forces it seems likely that the legislature’s previous attempt to sanction Indian slavery would have become a reality under the auspices of the Confederate government. Henry Hopkins Sibley to Samuel Cooper, May 4, 1862, The War of the Rebellion: A Compilation of the Records of the Union and Confederate Armies, Series 1, Vol. 9 (Washington, DC: Government Printing Office, 1880-1901), 512.
of Mexican peons and Indian captives as falling within their own cultural definition of slavery. At the most fundamental level, the purposes and motivations that sustained coercive labor systems in the Southwest differed little from the peculiar institution that existed in the American South. Ethnocentric ideologies and personal cultural biases against Indians and Mexicans rendered many of the newcomer Americans oblivious to the level and extent of involuntary servitude existing in local communities. In New Mexico, antebellum political biases favoring the Southern cause typically permeated territorial politics during the presidential administrations of Democrats Franklin Pierce (1853-1857) and James Buchanan (1857-1861), and many local lawmakers turned a blind eye to the presence of indigenous slaves in the communities around them.

In 1867, the U.S. government conducted an investigation of Indian affairs throughout the West, reporting there to be approximately two thousand Navajos and Utes held “as domestic servants in a state of bondage or slavery.”124 This number reflected captives from only two tribes, and failed to even mention the thousands of Mexican-American peons being held in servitude for repayment of their debts. Nor did the federal inquiry represent an accurate portrayal of such institutions because, by 1867, systems of coerced labor had already begun to diminish in prominence. In pre-Civil War years, the

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124 *Congressional Globe*, 39th Cong., 2nd Sess., February 19, 1867, p. 1571. Many of these were Navajos who became the target of raids following Utah’s ban on the Indian slave trade in 1852. That action effectively shifted raiding from Utes and Paiutes in Utah to the Navajos, who, residing almost exclusively in New Mexico, did not fall under the Mormons’ moratorium on the practice. See Jones, *The Trial of Don Pedro León Luján*, 95-96. Governor Henry Connelly estimated “about fifteen hundred or two thousand Navajoes [sic] held as slaves in the Territory,” while Judge Kirby Benedict noted that “calculations on the subject, estimate the number at various figures, from fifteen hundred to three thousand, and even exceeding that last number.” Statements of Henry Connelly and Chief Justice Kirby Benedict, July 4, 1865, in “Condition of the Indian Tribes,” 39th Cong., 2nd Sess., Senate Report No. 156, pp. 332, 326. Another visitor to Santa Fe in 1866 inquired among several prominent citizens and reported that estimates of Indian slaves ranged from two thousand to four thousand. James F. Meline, *Two Thousand Miles on Horseback: Santa Fe and Back* (Albuquerque, NM: Horn & Wallace, 1966), 120.
number of Indians held in captivity would have been significantly higher. A piece appearing in the *Santa Fe Weekly Gazette* in 1852, for example, postulated a far greater quantity of enslaved Indians residing in New Mexico. Taking a sardonic tone intended to capture the attention of seemingly oblivious Northern Free-Soilers and anti-slavery Whigs, the newspaper published a letter stating that, “There is in this country a state of things existing which is much more worthy of the efforts of your philanthropists, your Abolitionists, and your nigger-loving whites, than the question of slavery; and that is the fact that there are thousands . . . of Indian women and children who have been stolen from their families and sold into slavery, worse than *Southern Slavery.*”\(^{125}\)

In a reiteration of this harsh actuality, citizens of the territory reminded Massachusetts Senator Charles Sumner in 1867 that the reciprocal captive slave trade had been the root of animosity in the Southwest since time immemorial. “It was no unusual thing,” they informed Sumner, for the territorial newspaper to announce the loss of citizens “carried into captivity,” especially by the Navajos. They also admitted that New Mexicans retaliated by forming unsanctioned civilian militias that swept through Navajo country on equally violent raids, “taking all the women and children they could prisoners and bringing them to the settlements and selling them as slaves, or using them as such in their own household.”\(^{126}\) After three years in the Southwest, explorer James O. Pattie confirmed the reciprocity that characterized the culture of hatred between Hispanos and Natives, writing that, “the amount of robbery is about equal between the lower classes of

\(^{125}\) *Message on Slavery, Santa Fe Weekly Gazette*, July 20, 1852. (Emphasis in original).

\(^{126}\) “Peonage in New Mexico,” ibid., February 2, 1867.
New Mexicans and the Indians.”¹²⁷ So too did Colonel Edwin V. Sumner, commanding the Ninth Military Department in 1851, recognize the mutual acrimony that defined these intercultural relationships. “This predatory warfare has been carried on for over 200 years, between the Mexicans and the Indians,” he observed, “quite enough time to prove that unless some change is made the war will be interminable. They steal women and children . . . and in fact carry on the war in all respects like two Indian nations.”¹²⁸ Even army officers charged with chastising depredating Indians readily admitted that Hispano citizens acted wantonly in their interactions with tribes. After Mescalero Apaches stole a herd of stock and rode away with two captive Mexican boys from the vicinity of El Paso, Colonel Dixon S. Miles acknowledged that he had difficulty sympathizing with victims on either side. “The hatred and animosity which is nurtured between the Mescaleros and the Mexicans,” he wrote, meant that “they are constantly stealing and depredating on each other.”¹²⁹

By the mid-1800s, the Navajos had become the single-most-victimized tribe in the captive wars. When John Greiner met with several tribal headmen at Jemez Pueblo in 1852, their spokesperson informed the Indian agent that “three of our chiefs now sitting before you mourn for their children who have been taken from their homes by the Mexicans.” Claiming that over two hundred Navajos had been abducted and enslaved in recent years, one emotional chief declared that, “my people are yet crying for the children


¹²⁸ Edwin V. Sumner to Roger Jones, November 20, 1851, RG393, M1072, LS, DNM, Roll 1.

¹²⁹ Dixon S. Miles to Michael Steck, August 12, 1855, Center for Southwest Research, Inventory of the Michael Steck Papers, Series 2, Roll 1.
they have lost.” Greiner mailed a letter to the commissioner of Indian affairs in Washington, D.C., stressing the importance of securing a moratorium on such practices, but his efforts seem to have been in vain. Indeed his protestations entirely contradicted the views of military department personnel, many of whom remained at ideological odds with civil officials throughout the antebellum era. About the same time that Greiner sought to curtail captive raids, Major Henry Lane Kendrick, in command at Fort Defiance in Navajo country, wrote that the most efficient means of forcing that tribe into submission would be to take advantage of their fear that the federal government and U.S. troops might begin either assisting Mexican slave raiders or sanctioning their deeds. Granting such authorization to civilians would, according to Kendrick, be “at once wise and philanthropic” and, he believed, might occasion a more abrupt end to hostilities.

New Mexico Superintendent of Indian Affairs Michael Steck always kept the humanitarian interests of the Indians in mind when formulating policy and dealing with regional tribes. He suggested during the Civil War that the best way to facilitate peaceful relations between Natives and civilians would be to establish a permanent reservation for each tribe, which would allow the military to monitor activity and prevent raiding. Referring specifically to the Navajos, Steck wrote that such a policy would protect the tribe from Mexican slave raids and thus eliminate their retributive measures against the settlements. He believed that this outcome could be achieved simply by placing the Navajos on an agreeable reservation and detailing a body of troops to prevent reciprocal

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130 Greiner to Calhoun, January 31, 1852, in Abel, ed., Official Correspondence, 468.

131 H.L. Kendrick to S.D. Sturgis, June 14, 1853, RG393, M1102, LR, DNM, Roll 7.
violence and enslavement.\textsuperscript{132} When the government did pursue this policy initiative with the establishment of the Bosque Redondo Reservation in 1863-64, the ensuing hardship that Navajos endured—as the result of a federal government that was ill-equipped to feed and care for thousands of impoverished Natives, as well as the brutish policies of the anti-Indian military commander General James H. Carleton—proved Steck’s suggestion to have been overly optimistic.\textsuperscript{133}

The roundup of Navajos that began in 1863 under the auspices of Kit Carson exacted a heavy toll on the tribe and only exacerbated an already desperate set of circumstances. When New Mexican volunteers, allied with Ute warriors (traditional Navajo enemies), swept through the Navajo homelands, they aimed not only to crush the tribe into submission and displace them onto a faraway reservation, but also to acquire Navajo slaves.\textsuperscript{134} As Carson himself admitted in July 1863, his Ute auxiliaries joined the

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\textsuperscript{132} Michael Steck to Charles E. Mix, June 4, 1864, Center for Southwest Research, Inventory of the Michael Steck Papers, Series 2, Roll 3.

\textsuperscript{133} A rift developed between Carleton and Steck involving Indian policy and the administration of the Bosque Redondo reservation. Carleton’s military operations against the Comanches also angered Steck. In 1864, as a result of this feud between civil and military authorities, the commissioner of Indian affairs commissioned a private investigator, T.W. Woolson, to report on conditions in New Mexico. Carleton went so far as to address several of his letters to “Matthew Steck” rather than “Michael Steck”—an insulting affront in a formal communication, but one which Steck himself never acknowledged in his responses. For the bureaucratic fighting, see James H. Carleton to Matthew [sic] Steck, October 29, 1864, Center for Southwest Research, Inventory of the Michael Steck Papers, Series 2, Roll 4; Carleton to Steck, November 8, 1864, ibid. For the appointment of a special agent, see William P. Dole to T.W. Woolson, November 23, 1864, ibid.

\textsuperscript{134} Enmity between Navajos and Utes went back decades. In 1805, New Mexico Governor Joaquín Real Alencaster negotiated a treaty with members of the Navajo tribe but explained that, “because of it being risky . . . I justifiably omitted speaking to them of the Utes.” Joaquín Real Alencaster to Nemesio Salcedo, May 15, 1805, New Mexico State Records Center and Archives, Frank McNitt Collection, Serial #10678, Folder 8. By mid-century this hatred had reached unprecedented levels. In 1857 the commanding officer at Fort Defiance reported that Utes had recently killed eight Navajos near Canyon de Chelly and that Navajos, in turn, killed five Utes and “intend a campaign against the Utahs.” Henry L. Kendrick to W.A. Nichols, February 11, 1857, RG393, M1120, LR, DNM, Roll 6. Kendrick later observed the Navajos to be “more afraid of . . . the Capote Utahs than of the whole face of the U.S. government.” Henry L. Kendrick to W.A. Nichols, July 12, 1856, ibid., Roll 5. On the conflict between the two tribes see also Lorenzo Labadi to David Meriwether, October 20, 1856, RG75, OIA, T21, LR, NMS, Roll 2; John Ward to Samuel
expedition primarily to take captives, a pursuit in which they enjoyed considerable success. Because he so desperately needed their assistance as guides, Carson recommended to his superiors that the Utes be allowed to keep all Navajo captives in order to ensure their continued cooperation.\textsuperscript{135}

Evidence of Ute triumphs during these punitive expeditions can be gleaned from a census taken at their agency near Conejos, Colorado in the summer of 1865 that enumerated a total of 148 captives spread sporadically throughout local communities; of those, three-quarters (76\%) claimed Navajo ancestry.\textsuperscript{136} That so many Navajo captives would turn up in the vicinity of the Ute agency just two years after Carson’s scorched-earth campaign lends credence to the fact that many Ute warriors had been successful during those expeditions and, upon returning home, traded or sold their captives to local residents. Notah Draper, an elderly Navajo man, was the grandson of one such captive taken by Utes during the Carson campaign. After being held in captivity for some time, Draper’s grandmother “was sold to the Naakaii (Mexicans),” with whom she spent the next ten years. When the woman finally reunited with her tribe after more than a decade


\textsuperscript{136} McNitt, \textit{Navajo Wars}, 442-46; on the role of Utes during Carson’s campaign, see Clifford E. Trafzer, \textit{The Kit Carson Campaign: The Last Great Navajo War} (Norman, OK: University of Oklahoma Press, 1982), 80-82.
in captivity, “the people called her Naakaii Asdziaan (Mexican Woman),” and under that name she lived the remainder of her life among the Navajo people.\textsuperscript{137}

New Mexicans—both militiamen who participated in Carson’s campaign as well as civilian noncombatants—likewise seized the opportunity to take captives. Small parties preyed upon the Navajos during their “Long Walk,” striking the defenseless Indians as they trekked solemnly eastward towards the woebegone reservation set aside for them on the windswept plains of southeastern New Mexico. In one telling incident, the commanding officer at Fort Wingate reported that a young Navajo girl staggered into the post after the group with whom she travelled was attacked by citizens who killed all the males and captured the women and children to be “sold into peonage.” The girl had been held captive in a village north of Jemez Pueblo before escaping and making her way to the fort, where an officer cared for her while awaiting further instructions from headquarters “with regard to her future disposal.”\textsuperscript{138} The fate of her family members, like that of so many captives, remained a mystery.

One Navajo oral history, told in the 1970s by eighty-five-year-old Chahadineli Benally, detailed the experiences of a young Indian girl that a party of New Mexicans took into captivity. As the story goes, a young girl and boy were picking potatoes in a


\textsuperscript{138} E. Butler to Cyrus DeForrest, May 5, 1867, RG75, OIA, T21, LR, NMS, Roll 8. This Fort Wingate should not be confused with the later Fort Wingate located thirteen miles east of Gallup at Ojo del Oso (Bear Spring). The first Fort Wingate, established as a base of operations during Carson’s Navajo campaigns, was located at Gallinas Springs about five miles south of the present town of Grants, New Mexico. See Robert Julyan, \textit{The Place Names of New Mexico} (Albuquerque, NM: University of New Mexico Press, 1996), 137. Navajo oral histories are replete with stories of women and children being taken or sold into captivity during the Long Walk. For a classic collection of tribal oral histories, see Roessel, ed., \textit{Navajo Stories of the Long Walk Period}. 
field near Black Mesa at Canyon de Chelly when a band of Mexicans spotted them, forced them onto their horses, and rode away. “They traveled across deserts, plains, mountains and rivers,” passed near Mount Taylor, and continued eastward into the Rio Grande settlements, where the raiding party split up and headed to their homes. The Navajo girl was taken to the home of her captor, where she developed a bond with the family members, learned to speak Spanish, and became the adopted daughter of the woman living in the household. When others attempted to sell the Navajo captive to slave traders, the adoptive mother refused. The storyteller related an extensive tale of her harrowing escape—made more difficult because she carried an infant child with her—back to Navajo country.139 This generalized Navajo account of a single woman serves the purpose of instilling a sense of collective memory among tribe members regarding the rigors of captivity that so many women and children faced as a result of reciprocal slave raiding and the U.S. Army’s scorched earth campaigns in the mid-nineteenth century.

General William Tecumseh Sherman arrived at the Navajos’ Bosque Redondo Reservation in May 1868, five years after the removal campaigns commenced, with instructions to discuss a treaty with tribal leaders that would relieve them and their followers from the suffering associated with their internment. Having already spent nearly half a decade in confinement at the loathsome and sickly reservation, officials assumed that the tribe would happily accept any terms the government offered allowing them to return to their homelands. The federal agents who spoke with the Navajo headmen at Fort Sumner must have been surprised, then, when the subject of captives

139 Roessel, ed., *Navajo Stories of the Long Walk Period*, 57-74, quotation on 58.
took center stage during the negotiations. Barboncito, one of the most influential Navajo chiefs of the time, wasted little time in addressing the topic. On May 29, during the second day of deliberations, the elder headman minced no words when informing General Sherman that, “I want to drop this conversation now and talk about Navajo children held as prisoners by Mexicans.” The veteran army officer might have been taken aback by Barboncito’s straightforwardness, but he addressed the concern with commendable alacrity and resolve. Through a translator, Sherman informed him of the United States’ recent war to end slavery and assured him that federal mandates against involuntary servitude would be implemented in New Mexico to ensure that Navajo women and children would be released from bondage. In a significant demonstration of the impact that Reconstruction era anti-slavery legislation would have on the Southwest, Sherman specifically referenced the 1867 congressional Peon Law (see chapter 7) when explaining to the Indians that, “if any Mexican holds a Navajo in peonage,” the offending party would be subject to imprisonment in the territorial penitentiary. He assured tribal leaders that military personnel would work diligently to affect the release of captives, promising that “our government is determined that the enslavement of the Navajos shall cease and those who are guilty of holding them as peons shall be punished.”

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140 “Proceedings of Council, May 28, 29, 30, 1868,” in J. Lee Correll, *Through White Men’s Eyes: A Contribution to Navajo History*, vol. 6 (Window Rock, AZ: Navajo Heritage Center, 1979), 137-38; see also Report on Navajo Indians, *Santa Fe New Mexican*, August 6, 1868. Like many Anglo-Americans, Sherman conflated the term “peon,” which applied only to indebted Mexicans, with Indian captivity and slavery. Recent scholars have perpetuated this conflation, adding to the confusion surrounding the two systems of slavery. See, for example, Laura E. Gómez, *Manifest Destinies: The Making of the Mexican American Race* (New York, NY: New York University Press, 2007), 111, where the author writes that, “Congress in 1867 directly prohibited Indian slavery and the practice of Indian peonage.” For Navajo accounts of the peace treaty, see Roessel, ed., *Navajo Stories of the Long Walk Period*. 

The final treaty, consummated on June 1, 1868 when twenty-nine Navajos and ten federal officers affixed their marks and signatures, contained a clause explicitly addressing the captive trade. In Article 9 the Navajos agreed that they would “never capture or carry off from the settlements women or children.” In return, they secured a pledge from the U.S. government that it would take steps to terminate the enslavement of Indians. Furthermore, members of the tribe would be allowed to search New Mexico settlements for their captive children.\(^{141}\)

Unlike Mexican leaders prior to 1846, U.S. officials did in fact take action to enforce treaty obligations to the Navajos. On July 27, 1868, Congress adopted a joint resolution that authorized Sherman “to reclaim from peonage the women and children of the Navajo Indians, now held in slavery in the Territory.”\(^{142}\) The general ordered an investigation in August to determine the extent to which Navajos remained in bondage throughout the settlements. He instructed Major General George W. Getty, commanding the Military District of New Mexico, to explain the circumstances to Navajo headmen and ensure they understood that henceforth their people would be permitted to scour New Mexico’s towns and farms in search of “missing women and children supposed to be held in bondage.”\(^{143}\) With Indian slavery thus becoming “pretty much broken up,” Sherman


\(^{143}\) “William T. Sherman to George W. Getty,” *Santa Fe New Mexican*, September 26, 1868.
wrote President Ulysses S. Grant informing him that the previously interminable Navajo Wars would likely come to an abrupt end. 144

These efforts notwithstanding, the stigmatizing effects of captivity lingered. For some Navajos, it would be many years before they returned to their families in Dinétah. In 1872, a group of approximately one hundred women and children arrived at Fort Defiance, having been emancipated from their life of bondage in the Rio Grande settlements. Even so, Indian agent Thomas Varker Keam reported that he continued to receive complaints “almost every day from relatives of others, who say they are kept by the citizens against their will.” He suggested that a special agent be appointed to accompany the principal Navajo chiefs as they traveled throughout New Mexico’s villages in search of captive kinfolk. 145 Despite the cooperation of local and federal officials, it remained difficult, if not impossible, to secure the liberation of all captives, a clear indication that systems of involuntary servitude had a long-lasting impact on Southwestern culture.

As the Santa Fe Weekly Gazette suggested in 1852, continuous sectional debates in Congress that hinged upon the definition and appropriateness of Mexican peonage and Indian captivity marred the first fifteen years of New Mexico’s existence as a U.S. territory. Despite increasing transparency on the institutions as a result of published travelogues, scientific reports, and political debates, the longstanding practice of capturing and holding Indians as slaves did not immediately dissipate with the arrival of

144 Sherman to Ulysses S. Grant, June 7, 1868, in Correll, Through White Men’s Eyes, vol. 6, p. 45.

Americans, nor did Indian slave raids on the settlements cease. Within twenty-five years of New Mexico becoming a United States territory, however, both practices had disappeared almost entirely.

The path to freedom for indigenous slaves would be a long and tedious one, inciting controversy and violence throughout the territory much like chattel slavery did in the contemporaneous South. New Mexican slaveholders clung to their captives with tremendous vigor, just as Southern masters refused to loosen their grasp on African American slaves. In the process, questions repeatedly arose among Easterners as to the exact nature and characteristics of involuntary servitude in the Southwest. Drawing upon reports from military officers, correspondence with New Mexico officials, the published travelogues of Santa Fe merchants and Western explorers, as well as mere hearsay in the national capital, lawmakers would further convolute definitions and perceptions of Indian slavery and debt peonage in the years following the Mexican-American War. In so doing, they affirmed the importance of New Mexico’s involuntary labor systems within the context of abolition, sectionalism, and popular sovereignty, and the discourse surrounding peonage and captivity during the antebellum era would prove critical for post-Civil War reformulations of free labor ideology.
CHAPTER 4
DEBT PEONAGE IN THE NINETEENTH CENTURY SOUTHWEST

In 1855 a New Mexican peon named Cruz Marqués filed a lawsuit against his master, José Manuel Angel, in the San Miguel County District Court. The unfortunate debtor servant alleged that Angel had violently taken hold of him and tied him up, much the same as a kidnapping victim might experience. The plaintiff’s attorney, seeking a guilty verdict against the abusive patrón that might result in the liberation of the peon and the forgiveness of his debt, declared that “it is no excuse for Angel that Marques was his servant, for either the assault, or [for] putting the chains upon him.” Despite these efforts, a jury ruled in favor of the master and remanded Marqués to his service.¹

Just a decade earlier, when New Mexico remained a province of the Mexican Republic, such a trial never would have occurred in the first place. The U.S. conquest of New Mexico at midcentury brought with it the implementation of American jurisprudence and the imposition of ideological principles regarding servitude that counteracted previous Mexican laws. At the same time, American influence in the Southwest placed Indian captivity and Mexican peonage firmly within national debates over the political and economic viability of slavery. Although Cruz Marqués lost his case, his efforts elicited important comparisons between chattel slavery and traditional forms of involuntary servitude in the Southwest, ones that would inform political and legal ideology during the antebellum and Reconstruction eras.

¹ Cruz Marqués v. José Manuel Angel, October 3, 1855, at New Mexico State Records Center and Archives, San Miguel County District Court Records, Serial #13533, Folder 1, Case #24.
Scholars draw differing distinctions between various forms of involuntary servitude and, to be sure, important differences did exist, especially in the nineteenth century Southwest. Strict constructionists have maintained that “lifetime servitude [and] inheritable status” comprised “the two attributes of true slavery,” an opinion that emphasizes the study of black slavery in the South while marginalizing other forms of human bondage.² Owing to the more openly visible nature of chattel slavery on the North American continent, a tendency developed among historians to view that institution as the “true” form of slavery and consequently led to the scholarly neglect of similar systems of labor—including debt peonage and Indian captivity—that existed contemporaneously. Indeed, as Robin W. Winks has noted, “scholars have been too inclined . . . to accept legal definitions and to ignore other, quasi- or extra-legal forms of slavery.”³

Anthropologists define slavery as a “social system based on the exploitation of a class of producers or persons performing services.” By contrast, servitude is described as “exclusive dependence on a master or lord independently of all kinship ties” and serfdom as an “exploitative social system based on the extraction by an aristocratic class of a rent in labour or in product.”⁴ Contrary to hereditary chattel slavery, peonage involved a contractual agreement (almost always verbal) between creditor and debtor, making it a negotiated relationship of servility and dependency at the outset, although this shared

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³ Ibid., 165.

power dynamic quickly and permanently shifted in favor of the master. Debt peonage, therefore, comprised a hybridized form of slavery, servitude, and serfdom, drawing characteristics from each while also bearing certain traits inimitable unto itself. Indebtedness did not always bind a person to servitude, nor did one’s status as a servant necessarily imply that they owed money. The extent to which a debtor could be considered enslaved depended in part upon the disposition of the creditor and the pervasiveness of their social and communal authority. The most significant defining characteristic of peonage involved a landowner’s capacity to control the mobility of workers through the projection of social power and psychological hegemony.

Direct comparisons between peonage, serfdom, and slavery arose periodically in the antebellum U.S., both in newspaper accounts as well as during congressional debates. Debt bondage, according to one editorialist, differed from African slavery only insofar as “it applies to all colors, shades and complexions, from the pure white to the sooty African.” In New Mexico, the writer noted, “the creditor has as much command over the

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labor of the debtor, as the Southern slaveholder has over that of the negro.”8 One U.S. Senator proclaimed peonage to be nothing more than “modified slavery,” prompting his colleague to add that “it is a system of serfdom worse than the Russian system ever was.”9 When the German doctor and botanist Adolph Wislizenus passed through the Southwest during the Mexican-American War, he described the feudalistic aristocracy that prevailed there and pitied “the great number of human beings attached to these haciendas [who] are, in fact, nothing more than serfs.”10 George Ruxton, an English adventurer in the Southwest, made a similar comparison when writing in 1848 that the relationship between Mexican landholders and laborers “is a species of serfdom, little better than slavery itself.”11 And when U.S. Representative John J. Hardin of Kentucky described Mexico and its people to a friend just months before his death at the Battle of Buena Vista in 1847, he disparagingly wrote that, “they are a miserable race, with a few intelligent men who lord it over the rest, ¾ of the people or more are Paeons [sic] and as much slaves as the negroes of the South.”12

8 “Important from New Mexico—Slavery and Peonage,” in New York Herald, July 18, 1850. The article referred to New Mexico’s proposed 1850 statehood constitution, which stated that the rights of citizenship should be conferred on all “free, white, male inhabitants,” a phrase that only thinly veiled its true intention of omitting all slaves and peons from full rights as citizens. Ibid; see also Journal of the Convention of the Territory of New Mexico (1849), p. 9, in William Jenkins Skinner, comp. and ed., Records of the States of the United States of America, New Mexico, 1849-1910, Class C, Constitutional Records, Microfilm Roll 1.


In drawing such simplistic comparisons between peonage and other systems of involuntary labor, these observers ignored the social and racial environment of the time and the disparities between geographic regions and cultures. One must consider both peonage and slavery within the temporal context of mid-nineteenth-century North America, recognizing that persons of that era sometimes drew sharp distinctions between the two systems and, just as frequently, attempted to distort their characteristics to fit the political, economic, or social necessity of the situation at hand. From the moment of American occupation, Anglo newcomers routinely misunderstood debt bondage as it existed in the Southwest. In September 1846, Brigadier General Stephen W. Kearny, along with Colonel Alexander W. Doniphan and other assistants, wrote the first set of civil regulations for New Mexico, known as the Kearny Code and modeled closely off of Missouri’s state laws. The drafters of the document dedicated twenty-two sections to an elaborate explanation of the circumstances whereby a creditor could sue a debtor, clearly ignorant of the true nature of master-servant relations there, as no peon had ever enjoyed privileges of due process or the right to a fair trial. Many New Mexicans, in turn, habitually misrepresented their system of servitude to these outsiders in order to perpetuate their own economic aspirations and simultaneously appeal to both pro- and anti-slavery interests. So too did many Easterners misapply notions of chattel slavery to the Southwest in an attempt to advance sectional ideologies. In so doing, they misconstrued the debate on slavery in the western territories.

The differences between peonage and slavery often depended on the persons attempting to define them. Sectionalism influenced and skewed viewpoints, as did individual economic interests, political persuasions, and moral sensibilities. By New Mexicans’ own admission, involuntary servitude—in both Mexican peon and Indian captive forms—had existed since Spanish colonial times, but it had never been clearly defined, and local residents showed little urgency in providing a specific description of the system.\textsuperscript{14} This quickly changed once the region became a part of the United States. With the slavery issue at the forefront of congressional interchange during and after the Mexican-American War, the admission of new territories incited tremendous strife among lawmakers. When Americans ventured into New Mexico for the first time, those who expected to see chattel slaves instead found large numbers of Hispanic peons and Indian captives serving the same purpose.\textsuperscript{15} Between the time of New Mexico’s inception as a U.S. possession in 1846 and the outbreak of the Civil War in 1861, the need to define peonage in unambiguous terms, with an emphasis on its relation to more familiar forms of servitude, became important at both the local and national levels of government.

Perhaps the most all-encompassing and succinct description of peonage in New Mexico comes from a descendant of one of the first Spanish colonial families, whose ancestors comprised a part of the elite landholding element of society into the early

\textsuperscript{14} See, for example, “Peonage in New Mexico,” \textit{Santa Fe Weekly Gazette}, February 2, 1867, stating, “this is a system of purely Spanish origin . . . when the United States acquired the Territory of New Mexico they acquired with it this system, together with the evils and inhumanities that had aggregated themselves to it through at least two centuries of practice.”

\textsuperscript{15} Sondra Jones, \textit{The Trial of Don Pedro León Luján: The Attack against Indian Slavery and Mexican Traders in Utah} (Salt Lake City, UT: The University of Utah Press, 2000), 1.
twentieth century. In a collection of Hispano oral and family histories that she compiled in the 1940s and 1950s, Fabiola Cabeza de Baca wrote, “in feudal times, there were many poor people who became indebted to the ricos, and the rich were never at a loss to find men to be sent with flocks of sheep.” In colonial and territorial New Mexico, she explained, herding was among the few methods of employment outside the household. As a consequence, “if a man became indebted to a rico, he was in bond slavery to repay,” and few peons ever questioned the legitimacy of the system that perpetuated their servitude. As a result of such machinations, “entire families often served a patrón for generations to meet their obligations.” Cabeza de Baca described several crucial elements of New Mexican peonage, including its comparability to slavery, types of work performed, the sense of dependency that developed between master and servant, and the hereditary nature of the institution. She implicitly revealed one reason why large outbreaks of violent resistance never occurred—because of family obligation and a sense of honor—and her use of the terms rico and “poor people” acknowledge the social hierarchy and levels of other that undergirded the entire system. Lieutenant James W.

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16 Fabiola Cabeza de Baca, *We Fed Them Cactus* (Albuquerque, NM: University of New Mexico Press, 1954), 6. On the use of the term “feudal” to describe New Mexico, see Thomas D. Hall, *Social Change in the Southwest, 1350-1880* (Lawrence: University Press of Kansas, 1989), 157-59, 179. In a work of historical fiction, José Ortiz y Pino III portrays New Mexico’s patrón-peon relationship as one based upon “respect for authority and loyalty to those whom they served.” The author praises the social relationships that formed from the system, but also acknowledges that, “in some cases the Patrón system was abused and people were forced to live in an enslaved condition.” Ortiz y Pino III, *Don José: The Last Patrón* (Santa Fe, NM: The Sunstone Press, 1981), un-paginated foreword. One of the earliest scholarly analyses of New Mexican peonage, written in 1962, takes a romantic tone and describes it as a utopian relationship of mutual respect, neglecting to account for the coercion and abuse the characterized the system. See Clark S. Knowlton, “Patrón-Peon Pattern among the Spanish Americans of New Mexico,” in *Social Forces* 41 (October 1962): 12-17.

Abert of the Army Corps of Topographical Engineers referenced this disparity between “the rico of the village” and the poor masses when he travelled through New Mexico in 1846, drawing a direct parallel to the relationship between slaves and plantation owners in the South and noting of Nuevomexicanos that, aside from the wealthy few, “no one else owns a single sheep.”

Debtor servitude among partideros, or sheep herders, emerged as the predominant form of peon labor in colonial New Mexico beginning in the late 1700s and endured into the late 1800s, with partido contracts between patrónes and landless shepherds being, according to one business historian, “largely for the purpose of gaining undue profits at the expense of the small rancher [or peon] whose debts had placed him in a defenseless position.” The fact that the Spanish never enacted laws either establishing or regulating this type of coercive labor (in contrast to the encomienda and repartimiento systems) makes it impossible to determine its precise date of origin in the northern provinces of New Spain. A widespread system of debt servitude involving sedentary and semi-nomadic Indians, as well as indigent citizens, developed in South and Central America during the seventeenth century, largely as a result of Spain’s abolition of the repartimiento system and the subsequent need to devise new methods of labor.

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The practice does not seem to have spread into New Mexico until much later, due primarily to the availability of captive Indian slaves. While there is no discernible moment in time when debt peonage appeared in New Mexican villages, there are hints of its establishment as early as 1778, and strictures on the relationship between masters and servants in Mexico’s 1824 constitution indicate that it had become fully developed by that time.

Colonial New Mexico’s social environment and geographic location further abetted the proliferation of involuntary servitude, as the province’s location, far-removed from Spanish commercial centers in Southern Mexico and Central America, promulgated a predominantly subsistence economy contingent upon localized labor contracts and kinship obligations. Fray Juan Agustín de Morfí offered one of the earliest allusions to peonage in 1778 when he delineated the process whereby persons became indebted and bound to servitude. Morfí noted that, contrary to residents of the more southerly Spanish colonies, New Mexicans almost invariably incurred debts well ahead of their harvests, selling agricultural provisions on credit as far as six years in advance. In the event that unfavorable weather conditions—or a multitude of other ecological factors—rendered a

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landowner’s crop insufficient to fulfill those preconceived debts, they found themselves unable to repay the amount owed. Under such circumstances, a peon “must mortgage his future in order to live” and support his family. The frequent instability of northern New Mexico’s predominantly agrarian and pastoral economy thus ensured the perpetual indebtedness of many citizens.  

The friar also delineated the conniving manner in which the upper class and clergy guaranteed the interminable subjectivity of the peasantry. Catholic priests charged exorbitant amounts for marriages, baptisms, and funerals, to the extent that most individuals had to secure a third party loan to pay for such services. Under such circumstances, a person would necessarily go into debtor servitude in order to have a child baptized, get married, or bury a family member. ^{22} Price-gouging creditors charged four to five times the wholesale cost of goods, a tactic that worked in tandem with continuously compounding interest to ensure that debts grew larger with time. “The initial debt is truly the tie that binds him to servitude from which he finds it impossible to escape for the rest of his life,” Morfí wrote in 1778. Even Pueblo Indians, despite having discouraged Spanish overzealousness with their successful 1680 uprising, sometimes found themselves subjected to forced labor through the same mechanisms. “In this way, a man who yesterday lacked a square of cloth to cover himself, today is forced by necessity to enter domestic service much to his shame,” Morfí observed, “and the poor

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^{21} Marc Simmons, ed. and trans., *Father Juan Agustín de Morfí’s Account of Disorders in New Mexico, 1778* (Isleta Pueblo, NM: Historical Society of New Mexico, 1977), 15-16.

Indian... becomes a virtual slave.”

Western explorer Zebulon Pike noticed in 1810 that the Pueblo Indians “may properly be termed the slaves of the state, for they are compelled to do military duty, drive mules, carry loads, or in fact perform any other act or duty of bondage” that their masters demanded of them. Pike’s observations, however, conformed to a common misconception among nineteenth century travelers in New Mexico, inasmuch as very few Pueblo Indians actually served as slaves to the Hispanic colonists at that time. The majority of the Native servants Pike and others described actually came from outlying nomadic tribes and were simply mistaken for Pueblo Indians.

Describing the provincial economy as it existed in 1803, Governor Fernando de Chacón informed the commandant general in Chihuahua that a mere twelve to fourteen Hispano merchants controlled the bulk of New Mexico’s commercial operations, and they did so almost exclusively on a credit-based system. This extensive over-issuance of credit, according to Chacón, resulted in “many losses and arrears in the collection of credit accounts, since these are regularly extended to the poorest people and at excessive rates.”

His description marks the embryonic beginnings of what would become one of New Mexico’s principal labor systems over the next sixty years. Peonage provided the

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23 Simmons, ed. and trans., *Father Juan Agustín de Morfi’s Account of Disorders in New Mexico*, 15-16, 27.


perfect complement to the preexisting regime of Indian slavery and bolstered the labor
force in a province experiencing economic and demographic expansion. For landowners
and merchants, debt peonage and Indian slavery provided two alternative yet similar
means of obtaining labor within their society of dependency. In a predominantly pastoral
and agrarian economy, a plentiful supply of uncompensated tribute-paying workers
ensured sustainable profits and, recognizing this, patrónes exploited the productive
capacity of captive Indians and indebted citizens at every opportunity.26

The establishment of the Santa Fe Trail in 1821 and subsequent commercial
intensification between New Mexico and Missouri recalibrated the economic dynamics of
peonage and captive servitude and widened the gap between rich and poor in the
Southwest.27 During the Industrial Revolution of the early nineteenth century, these
processes coincided with similar economic and demographic expansions in the Deep
South, where the rapid emergence of a so-called “Cotton Kingdom” forever altered the
nature and intent of chattel slavery. In both instances, varying levels of market
integration precipitated changes in slaving practices and increasingly reoriented servitude
towards economics, in addition to preconceived kinship obligations and social relations.28

26 On New Mexican elites and their economic dominance, with an emphasis on pastoralism, see John O.
Baxter, Las Carneradas: Sheep Trade in New Mexico, 1700-1860 (Albuquerque, NM: University of New
Mexico Press, 1987), esp. 42-44.

27 Weber, The Mexican Frontier, 211; Susan Calafate Boyle, Los Capitalistas: Hispano Merchants and the
Santa Fe Trade (Albuquerque, NM: University of New Mexico Press, 1997); Montgomery, The Spanish
Redemption, 34-39; Max L. Moorhead, New Mexico’s Royal Road: Trade and Travel on the Chihuahua
Trail (Norman, OK: University of Oklahoma Press, 1958), 55-75; Frances Leon Swadesh, “The Social and
Philosophical Context of Creativity in Hispanic New Mexico,” in The Rocky Mountain Social Science

28 Brooks, Captives & Cousins, 208-57, esp. 215-16.
By 1824—just three years after the first American merchants arrived in the provincial capital of Santa Fe—caravans consisting of up to 100 men and “almost every kind of dry goods” imaginable were setting out for Santa Fe on a semiannual basis.\textsuperscript{29} Pleased that trade with New Mexico had steadily increased each year for the previous decade, Secretary of State Lewis Cass reported in 1832 that, “the circulating medium of Missouri now consists principally of Mexican dollars” and praised the increasing number of citizens partaking in such commerce.\textsuperscript{30} Mindful of the benefits to be incurred, Missourians memorialized Congress requesting various legislative and diplomatic protections for the overland trade, proclaiming that “our citizens have found it among the most lucrative employments in which they can engage.”\textsuperscript{31} With profits surging higher each year, beginning at a mere $15,000 worth of merchandise in 1822 and reaching the six-figure range before the end of that decade, it comes as little surprise that American merchants would seek political aide in perpetuating the Santa Fe trade.\textsuperscript{32}

Just as exported raw materials that Southern slaves harvested proved a boon to the industrializing Northern economy throughout the antebellum era, so too did the labor of New Mexico’s involuntary servants, who produced “sheep, copper, tobacco, buffalo robes, and dressed skins,” directly benefit the Missouri—and, by extension, the

\textsuperscript{29} “Petition of Sundry Inhabitants of the State of Missouri,” February 14, 1825, 18\textsuperscript{th} Cong., 2\textsuperscript{nd} Sess., House Exec. Doc. No. 79, p. 6.

\textsuperscript{30} Report of Secretary of War Lewis Cass, February 8, 1832, in “Message from the President of the United States,” February 9, 1832, 22\textsuperscript{nd} Cong., 1\textsuperscript{st} Sess., Senate Exec. Doc. No. 90, p. 33.


\textsuperscript{32} Gregg, \textit{Commerce of the Prairies}, 332.
American—economy. This effectively diverted the produce of northern New Mexico to external markets and transformed the region from a mostly localized structure to a largely export-driven business model, contingent upon continental commercial forces and driven by the capitalistic nature of the Santa Fe trade and its Missouri merchants. By 1825, one observer estimated that New Mexico’s northern communities took in profits exceeding $300,000, a phenomenal sum in a province previously unaccustomed to the circulation of such vast amounts of specie and material wealth. Accordingly, peonage and captive slavery took on added importance after 1821, helping to explain the expansion of those systems over the ensuing three decades. With added incentive for profits and a new market for their goods, New Mexicans no longer needed servants solely for subsistence purposes and to demonstrate social standing, but instead sought to accumulate wealth through the coerced productivity of dependent captives and peons.

To fully appreciate the intricate social connection between Indian slavery and debt peonage, one must realize that the former antedated the latter by almost two centuries, yet both coexisted into the mid-1800s. The social implications of preexisting Indian slave systems in provincial New Mexico are clearly manifested in the subsequent emergence of debt peonage. In a prime example of compelled ethnogenesis, captive Indian slaves in the Spanish colonies frequently became subject to involuntary sexual

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34 See Brooks, Captives & Cousins, 222-23, 239.

relationships with their captors and produced mixed-blood offspring.\textsuperscript{36} As Brigadier General James H. Carleton, commanding the New Mexico military department, noted in 1865, “[Indian] servants do not intermarry much with the Mexicans, but the women bear children from illicit intercourse. The offspring of this intercourse are considered as \textit{peons}.”\textsuperscript{37} Carleton’s statement hints at the ethnic interconnectedness of captivity and peonage: Indian slaves gave birth to mixed-blood children who often grew up to become a part of New Mexico’s lower class and incurred debts for subsistence, thus becoming peons once they reached adulthood.

Over a two hundred year span—beginning with Spanish colonization in 1598 and extending into the early 1800s—New Mexican society evolved into a system of caste-based communities and households and, by the end of the eighteenth century, few identifiable pure-blooded Spaniards remained. It was the mixed-blood \textit{mestizos}, \textit{genizaros}, and \textit{coyotes} that comprised the lowest class in New Mexico’s society of dependency and who most frequently fell into debt with Anglo merchants and Hispano hacendados.\textsuperscript{38} Thus the sexual relationships that occurred between Spanish colonists and


\textsuperscript{37} Statement of Brigadier General James H. Carleton, July 3, 1865, in “Condition of the Indian Tribes,” 39\textsuperscript{th} Cong., 2\textsuperscript{nd} Sess., Senate Report No. 156 (Washington, DC: Government Printing Office, 1867), 325. Emphasis in original. The territorial governor, writing more than a decade earlier, noted that captivity and peonage seemed to be synonymous. In regards to redeemed captives, he asked: “What should be done with [them]? If they remain in the Territory, the probability is, they will become peons for life.” James S. Calhoun to Luke Lea, August 27, 1851, in Annie H. Abel, ed., \textit{The Official Correspondence of James S. Calhoun While Indian Agent at Santa Fe and Superintendent of Indian Affairs in New Mexico, 1849-1852} (Washington, DC: Government Printing Office, 1915), 406.

\textsuperscript{38} \textit{Coyote} referred to a person of Spanish and either Indian or black ancestry, although as phenotypes became increasing blurred over many years so too did the definition of the term in contemporary New Mexican society. See Adrian Bustamante, “‘The Matter Was Never Resolved: The ‘Casta’ System in Colonial New Mexico, 1693-1823,’” in \textit{New Mexico Historical Review} 66 (April 1991), 154-56.
Indian slaves produced the mixed-blood classes that would, by the early 1800s, comprise the majority of indebted servants. By the late eighteenth century, Southwestern labor regimes had become a bifurcating system of mostly involuntary servitude, expanding in two separate yet not dissimilar directions in order to subject a greater number of persons to a lifetime of dependent bondage.

Following the installation of an American government infrastructure and the implementation of a territorial legislature and court system, certain legal privileges became available to New Mexico’s captive slaves and debt peons. As is often the situation with legal issues, however, the lower classes seldom possessed the pecuniary resources or personal empowerment to try a case in court. This held especially true with peons, whose masters took care to ensure that illiterate servants would not be able to successfully broadcast their grievances or enlist a confidante to file the necessary paperwork with a local magistrate. An 1867 letter to congressional leaders from several New Mexico residents conceded that “peonage is a pernicious system [with] degrading influences,” but they also claimed that debtor servitude could not be eradicated because the victims “willingly submit to it and make no effort to avail themselves of the provisions of laws which are passed for the exclusive benefit of persons in their condition.”

What the authors fallaciously assumed, however, was that peons had knowledge of these laws (indeed many did not) and that they possessed the monetary resources and personal fortitude necessary to try the case in court—which many likewise

lacked, having already spent so many years in financial and social degradation. Those rare instances in which litigation did appear before New Mexico’s judiciary often saw favorable rulings for the peon, causing one to wonder what the impact might have been had such trials occurred more frequently.

There is some continuity in the legal aspects of involuntary servitude in New Mexico, dating back to the Spanish colonial era and extending through the Mexican national phase. As early as 1747, a case appeared before Governor Joaquín Codallos y Rabal involving an alleged escape attempt by Pedro de la Cruz, a genízaro servant from Isleta Pueblo south of Albuquerque. Antonio Martín, the master whom de la Cruz served, claimed that the man had devised a plan to escape and return to the Comanche tribe from whence he had previously been abducted and enslaved. In a trial that lacked judicial evenhandedness due to the demoted status of the enslaved party, the governor ruled in favor of the master, thus perpetuating de la Cruz’s servitude.

Perhaps the most remarkable aspect of this eighteenth century trial is that it even occurred in the first place. While Spanish law did allow Indians to invoke legal protections, in New Mexico those methods applied only to sedentary Puebloan peoples and typically involved land use and access to resources. Because of ongoing conflict

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between Spaniards and nomadic Indians, few avenues of justice presented themselves to
non-Pueblos, and widespread prejudices emanating from numerous levels of other
discouraged servants and slaves from seeking relief through Spanish legal apparatuses.
Even after the 1846 American occupation, legal restraints on lower class peons and
Indian slaves made it difficult for them to bring their cases before a judge, and only on
rare occasions did such a procedure play out at the judicial level. As late as 1867,
Wisconsin Senator James R. Doolittle spoke of both Mexican peons and captive Indians
when explaining that, “not knowing their rights, not being in a position to go into court to
assert their rights, or not having a desire to do so, they were generally remaining in the
families of their masters.”\textsuperscript{43} The continuity that characterized the legal subjugation of
New Mexico’s bondsmen thus spanned three sovereignties and almost two centuries; not
until the eve of the Civil War would servants begin to achieve some semblance of legal
empowerment through America’s judicial infrastructures.

New Mexico’s supreme court heard two cases in 1857 that pertained to peonage,
both trials representing the first of their kind not only in the territory, but in the entire
United States. One trial, Marcellina Bustamento v. Juana Analla, pertained to
illegitimate children conceived between masters and servants and the legal right of the
mother to give the child to the master as a gift.\textsuperscript{44} The second and more prominent hearing
provided the first legal interpretation of peonage. Chief Justice Kirby Benedict wrote the

\textsuperscript{43} Congressional Globe, 39\textsuperscript{th} Cong., 2\textsuperscript{nd} Sess., February 19, 1867, p. 1572.

\textsuperscript{44} See Marcellina Bustamento v. Juana Analla, January 1857, in Charles H. Gildersleeve, Reports of Cases
Argued and Determined in the Supreme Court of the Territory of New Mexico from January term 1852 to
opinion in that 1857 case, *Mariana Jaremillo v. Jose de le Cruz Romero*, and in so doing he established an important legal precedent on debt bondage that would resonate into the twentieth century and inform rulings in the Jim Crow South.

Born in Connecticut in 1811, Benedict attended law school in Natchez, Tennessee, where he attained fluency in French and Spanish. He went on to practice law in Decatur, Illinois, where he met and befriended a young Abraham Lincoln in 1832. Benedict and Lincoln rode circuit together in the state’s Eighth Judicial District, visiting various county seats to hold court sessions. In 1850, a newspaper editorialist condescendingly wrote of Benedict that he “has never been a deep thinker and, in his arguments, he depends almost entirely upon the resources of a rich and powerful imagination.” Yet his ruling in 1857 relative to peonage contradicted this assertion, as he diligently researched preexisting Spanish and Mexican laws before rendering the court’s decision. Although not an ardent abolitionist, Benedict did entertain a pro-North ideology in the years leading up to the Civil War, which he incorporated into his ruling on the case. Furthermore, his longtime personal and professional association with Lincoln doubtless influenced his viewpoints on such issues as human bondage. Several of his decisions while serving on the territorial supreme court were sympathetic to Indian

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and Hispano rights, with *Jaremillo v. Romero* being a case in point. In 1865, Benedict testified before a federal investigative committee and proudly proclaimed that he had ruled in favor of involuntary servants on multiple occasions, specifically citing two proceedings (one in 1855, the other in 1862) involving writs of *habeas corpus* and explaining his rationale in liberating the slaves in both instances.\(^{47}\)

![Figure 3. Judge Kirby Benedict.](image)

The territorial high court, vis-à-vis Benedict, highlighted several of the most controversial issues surrounding peonage, including the applicability of former Spanish and Mexican laws and the legality of subjecting a minor to debt bondage. *Jaremillo v.*

Romero arose from relatively simple circumstances that were not at all uncommon in antebellum New Mexico, but which rarely ascended to the forefront of public discourse. Benedict began by noting the uniqueness of the circumstances, understanding that the relationship between masters and servants, as commonly found in the Southwest, had never been examined within the context of American jurisprudence. He foreshadowed the ultimate ruling by drawing a direct parallel between New Mexican peonage and Southern slavery, noting that debt bondage operated upon “similar relations between masters and servants as are found to be established between the master and his slave in different states of the Union.”

The plaintiff in the case, Jose de la Cruz Romero, filed suit against his former peon, Mariana Jaremillo, claiming that she owed him $51.75 at the time she “abandoned the work of service to her master,” or, in other words, ran away. The initial case appeared before the local justice of the peace in Bernalillo County, with judgment rendered in favor of Romero. The transcript showed that Jaremillo failed to appear in court, at which time the presiding authority sentenced her to twenty-six months of additional servitude in recompense for the loan plus interest. The case subsequently went to district court, where a judge mandated that the defendant not only pay the plaintiff the original amount owed with interest, but also added court costs to her mounting debt. If she defaulted, Jaramillo could “be held to serve her said master” until the obligations were repaid in full, with interest continuing to accrue. This final judgment reached the


49 Ibid., 192-93.
territorial supreme court on appeal in January 1857, eight years after the justice of the peace heard the initial complaint in 1849.\(^{50}\) The appeal hinged on a technicality—the failure to adhere to due process on the part of the justice of the peace who first heard the case. Jaremillo’s council attributed her absence at the initial 1849 hearing to her not having been notified of the proceedings, thereby rendering nugatory the judgment against her. In the court’s decision to entertain the appeal, Benedict emphasized the “unscrupulous disregard which too often prevails . . . as to the legal rights of the unfortunate, the peon and the feeble, when contesting with the influential and more wealthy.”\(^{51}\)

In the preliminary 1849 hearing, two witnesses testified in favor of the creditor. The first, Francisco Ortiz y Delgado (prefect of Santa Fe County), stated that Romero approached him to help reclaim a servant girl whose father, Jose Jaramillo, had taken her back home. Herein arose one of the primary points of contention, the legitimacy of Mariana—a minor at the time—to serve as a peon in recompense for her father’s debt. The second witness was Ambrosio Armijo, justice of the peace in Bernalillo County, before whom Romero had first appeared requesting assistance in the apprehension of his peon.\(^{52}\) The court reviewed these two witness statements but questioned their validity and scoured previous legal definitions of debt bondage, tracing the documentary record as far back as Spanish colonial times in search of guiding precedent.\(^{53}\)

\(^{50}\) Hunt, *Kirby Benedict*, 109-11.


\(^{52}\) Ibid., 200.

\(^{53}\) Ibid., 201.
with the territory remarked similarly upon the misadministration of justice in previous eras. William Becknell, credited with blazing the Santa Fe Trail in 1821, wrote a year later that the lingering effects of colonial era authoritarianism remained evident “in the servility of the lower orders to the wealthy,” plainly referencing the continued existence of debtor servitude within a hierarchical social system that revolved around slavery.\(^54\) Four decades later the trend remained little changed. In 1867, several U.S. senators testified to the continued service of peons to wealthy masters and pointed out the unmistakable continuity stemming from the earlier Spanish colonial era.\(^55\)

In analyzing preexisting laws, the court found that “vassals and vassalage had ceased to exist under the Spanish monarchy,” and in subsequent years Mexican authorities had declined to reinstitute slavery. After a careful examination, the justices failed to locate any Spanish or Mexican provisions relating to “the specific denomination of the peon,” although the law books contained numerous measures “clearly marking out the legal rights and duties of masters and servants.”\(^56\) In this, Benedict and his colleagues made an important observation about preexisting statutes and their validity once New Mexico became a part of the United States. During the Mexican national era, lawmakers had not viewed slavery as being synonymous with debt bondage and frequently distinguished between the two by citing servitude as a voluntary agreement between two parties for the satisfaction of a pecuniary debt. This explanation, however, neglected to


\(^{55}\) *Congressional Globe*, 39\(^{th}\) Cong., 2\(^{nd}\) Sess., February 19, 1867, pp. 1571-72.

address the widespread system of Indian slavery, which Mexican legislators disregarded in their decrees. Lawmakers almost invariably comprised the propertied class of citizens, many of whom held peons and Indian slaves themselves. Many of them intentionally omitted peons and captive Indians from master-servant laws, as it would have counteracted their own economic interests to include any such regulatory provisions.

The court proceeded to examine the legislative acts of New Mexico following its inception into the Union. In 1851, the legislature enacted its first law relative to masters and servants. The code regulated labor contracts between two or more individuals, mandating that the terms of any agreement between creditor and debtor be enforced by civil officials and stressing that such arrangements stemmed from the “free and voluntary will” of the parties involved. The decree contained numerous provisions governing debt bondage. One directive declared that parents could not contract the services of their children to others in order to satisfy a debt, while another stipulation allowed a master to enlist the aid of authorities in pursuing runaway servants.57 These final two regulations pertained directly to the case at hand. The defendant had run away, thus willfully abandoning her debt and her bondage and entitling Romero to file suit for recompense. Furthermore, Jaremillo was a minor who had been contracted out in fulfillment of her father’s debt.

The case ultimately hinged upon whether or not the young girl’s bondage had been legally executed by the creditor, this being a predetermining factor in the legitimacy of Romero’s claim for compensation. If Jaremillo had been held illegally in servitude,

57 Ibid., 198-99.
then the plaintiff would lose his case. In the final judgment, both witness testimonies from the 1849 trial were reviewed and summarily dismissed as inadequate evidence for the legitimacy of Romero’s claim. Benedict called attention to the failure of the justice of the peace to notify Jaremillo of the proceedings and therefore concluded that she had been denied her right to due process of law. In further reference to the prefect’s dereliction of duty, the court pointed out that a victory for Romero would set a dangerous precedent, one that would allow “whosoever within the territory [to] be made a debtor and sent into servitude, should an unscrupulous man and an ignorant and faithless prefect or probate judge devise mischief together.”

The judiciary also ruled that Jaremillo, as a minor, “was no party to the transaction” in which the debt had been established between her father and Romero. The court emphasized that the initial pecuniary debt belonged to her father alone, reiterating that “a child cannot be held bound, without his own consent, to serve a third person in payment of his father’s debt beyond his minority.” This outcome countermanded preconceived customs of debt bondage that allowed, and often even encouraged, the pawnship and servitude of younger family members—especially women and girls—who might be more readily coerced into sexual liaisons with their masters and creditors.

58 Ibid.
59 Ibid., 191-204.
By issuing broad statements about the nature of peonage and the discreet cooperation of territorial officials and slaveholders in upholding the practice, Benedict engaged in a certain amount of *obiter dictum*, going beyond the necessary explanation of legal precedent to sustain the court’s decision and instead offering sweeping allegations with profound judicial ramifications. In so doing, Benedict mirrored the actions of Chief Justice Roger B. Taney in the infamous *Dred Scott* decision of that same year, but in an antithetical way. Whereas Taney’s court came down strongly on the side of proslavery interests by opining broadly on the national slavery issue and citizenship, Benedict’s court established itself as the face of anti-slavery judicial activism in territorial New Mexico when it spoke of corruption and collusion among peon-holders and law officers. Benedict, in a sense, was New Mexico’s version of Taney, but from the opposite ideological perspective.  

The territorial supreme court’s decision in *Marcellina Bustamento v. Juana Analla* accorded with Benedict’s ruling on the Jaremillo case, offering further protection for minors and attacking the hereditary nature of peonage. In that trial, Judge C.J. Deavenport ruled that Catalina Bustamento, a child born illegitimately to her master (Carpio Bustamento) and his servant (Juana Analla), could not be held as a peon merely because of the servile status of her mother. His legal spouse, Marcellina Bustamento, claimed that the girl belonged to her as a servant and that she had raised her at the behest of Analla, the birth mother. Deavenport ruled that the biological mother, despite her

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62 The practice of a master assuming custody of a servant’s children for the purpose of passing them down as property to their own heirs long predated this court ruling. See, for example, Ralph Emerson Twitchell,
marginalized status as a peon, retained legal guardianship over her child and that neither the father nor the surrogate mother could claim ownership of the girl as a servant. As the father, Bustamento could “maintain and educate” the child in a patriarchal capacity, but could not do so under the guise of servitude or peonage. The defense countered that the girl had not been asked whether or not she wished to remain under the charge of Carpio and Marcellina Bustamento, contending that the child’s wishes should supersede all other concerns. Recognizing the lopsided power dynamic between authoritative master and subservient child—the third level of other—Deavenport rejected the notion that she could testify as to her own wishes, stating that the child’s young age and dependent status precluded her as a reliable witness.63

Deavenport thus protected the bond between biological mother and child, and in so doing he rendered a stunning blow to a tradition of hereditary servitude and fictive kinship that had proliferated in New Mexico for generations. Because it undermined the transmissible nature of debt peonage, the decision served as a form of gradual emancipation, inasmuch as it prohibited one of the causal factors of dependency and servitude—responsibility for a parent or family member’s debt—that sometimes led to youngsters becoming peons themselves. Like the congressional abolition of the transatlantic slave trade in 1807, which U.S. politicians believed would occasion the slow multi-generational decline of chattel slavery in the South, Deavenport’s ruling on hereditary dependent status provided a legal framework through which future New

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Mexico legislators might ultimately eliminate peonage entirely, and the case represented a juridical turning point for the region’s slavery-induced society of dependency.

The Bustamento case also spoke to the sneaky mechanisms whereby masters attempted to sustain peonage as a hereditary institution of bondage. New Mexicans portrayed slavery as emanating from either the just war doctrine and military conquest in the case of Indian captives, or from indebtedness where peons were concerned. The territory’s 1851 master-servant act seemingly codified the absence of inheritable enslavement, but officials seldom enforced that provision of the law until the Bustamento proceedings. Prior to the late 1850s, debt peonage worked in such a way that a peon’s children often became servile dependents within the same household, and when their parent died, they might even inherit the debt and servitude obligation of their mother or father. Furthermore, because New Mexico’s hierarchical social system left so little room for upward social or economic mobility, the child of a peon was almost invariably born into poverty and, by extension, a state of servitude. In a roundabout way, then, debt peonage resembled chattel slavery in regards to inheritable status, although in the legal realm the specific conditions allowing for this remained much hazier for peons than for black slaves in the South.

In rendering these important decisions the court maintained accordance with preexisting Mexican laws, one of which held that minors under fourteen years of age could not enter into contracts because of juvenile incapacity. The rulings also reflected a provision in the 1851 master-servant law dictating that parents could not contract out

the labor of their children for the repayment of debt. Because Jaremillo was underage when coerced into bondage, her contractual obligation to Romero became nugatory based on her legally-recognized incapacity to be a party to such an agreement. Similarly, because of Catalina Bustamento’s status as a minor at the time of the 1857 ruling, the simple fact that she was born to a peon mother did not automatically condemn her to a life of servility. The provision of the 1851 master-servant act pertaining to children had gone largely ignored prior to these two cases, primarily because the ambiguity of the clause allowed for its easy circumvention by swarthy creditors and masters, but also as a result of salutary neglect on the part of most county prefects and justices of the peace.

In summarizing the judgment in the Jaremillo case, the court wrote the most concise legal definition of debt bondage in New Mexico up to that time. The justices explicitly noted that the word ‘peon’ had been conveniently avoided in all previous territorial proceedings, which substituted the less suggestive term ‘servant’ instead. In so doing, public officials—many of whom belonged to the peon-holding class—avoided the negative connotation associated with the term ‘peon,’ acting in their own self-interest to preserve an institution from which they derived economic benefits and social prestige.

“Personal interests to a wide extent have been and still continue interwoven with this system,” the court acknowledged. “It is seen to be carefully regulated by the legislature.” The ruling defined peons as “a class of servants in New Mexico, bound to

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65 Section 4 of the law stipulated that “fathers of families are not permitted to bind out their children to serve” in repayment of a debt incurred by someone else, and that “if the parent contracting die[s] the son shall not be obliged to continue serving.” See “Law regulating contracts between masters and servants,” in RG46, Territorial Papers of the U.S. Senate, Roll 14 (New Mexico, 1840-1854).

personal service for the payment of debts due their masters,” noting that no existing law specifically referred to this dynamic of servitude and concluding that “the term ‘peon’ is now used as synonymous with ‘servant.’” Thus, under the auspices of the American judicial system, New Mexico’s institution of debt bondage finally received a strict legal definition in 1857. Yet this did little to actively regulate or prohibit the practice, nor did it address the altogether separate issue of Indian captivity and slavery. It did, however, represent a rare victory for the territory’s destitute lower class and provided a basis for future legislative proceedings, which would become more commonplace with the onset of the Civil War, implementation of emancipatory federal laws, and enforcement of Reconstruction policies.

These two cases provided clear definitions of a highly ambiguous labor regime, highlighting the continuum of debt bondage across time and space while also illuminating the most controversial issues surrounding it. In the years that followed, local and even federal officials often referred to Benedict’s decision when describing peonage, especially those seeking to abolish the practice altogether.68 The territorial supreme court remained highly consistent in rulings relative to the subject; ten years after the Jaremillo proceedings, the judiciary ruled once again in favor of a peon, Tomás Heredia of Doña Ana. Declaring that the 1851 master-servant act “is involuntary servitude in the meaning and intent of the Constitution and the laws of Congress, and [is] therefore prohibited,” the territory’s highest court struck down any notion that a person could be held in bondage

67 Ibid., 190.

and likened it to the type of false imprisonment that a writ of *habeas corpus* protects against.\(^69\)

The cases that arose in New Mexico involving peonage, while relatively few in number, revealed the development of a more republicanized legal culture that first emerged during the period of American sovereignty, one that became increasingly available to indebted servants as time wore on and free labor ideology gained a stronger foothold in the national consciousness. Like freedmen in the post-Civil War South, who asserted political agency in part through strategic use of local laws and customs, aggrieved peons in the Southwest followed legal mechanisms in pursuit of relief from an enslaved condition. In so doing, they not only contributed to the legislative processes that eventually propagated their freedom, but also made their cause more broadly known and placed themselves in a position to claim the civil and political rights incumbent upon all Americans following ratification of the Fourteenth and Fifteenth Constitutional amendments.\(^70\) Furthermore, the enduring importance of Benedict’s 1857 ruling can be gleaned from the fact that the first two federal cases involving debt peonage—one in a Georgia district court in 1899 and another in the U.S. Supreme Court in 1905—both cited *Jaremillo vs. Romero* in rendering their decisions, specifically referencing New Mexico

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\(^69\) Tomás Heredia vs. José María García, Dec. 4, 1865 in Third Judicial District Court of New Mexico, and appeal, January 26, 1867, in New Mexico Territorial Supreme Court, all contained at New Mexico State Records Center and Archives, U.S. Territorial and New Mexico Supreme Court Records, Box 3, No. 36. See also “The Supreme Court on Peonage,” *Santa Fe Weekly Gazette*, February 2, 1867.

as the point of origin for peonage in the United States.\textsuperscript{71} Forty years after the fact, territorial court rulings on debt bondage resonated in the legal realm and continued to serve as a point of departure for judges when hearing litigation relative to peonage. Thus, New Mexico courts established important standards on debt bondage that would inform future legal philosophy in the United States.

Whereas slavery in the South typically involved Euro-American masters and African American servants, involuntary labor in the Southwest entailed multiple cultures, including Spaniards (and later, Mexicans) and the numerous Indian tribes inhabiting the region. Debt peonage among vecinos (citizens) spawned from the earlier encomienda system of labor first introduced in New Mexico in the mid-1500s. Once that system became legally and economically untenable, Euro-American colonists began to seek an alternative means of obtaining servants and did so most often by exploitatively extracting labor from captive Indian women and children and, later, from indebted citizens of lower financial standing. Masters slyly manipulated these systems in such a manner that prevented Indian slaves from escaping and peons from ever fully repaying their debt, thus perpetuating their servitude for, in many cases, the duration of their lifetime.\textsuperscript{72}

These two forms of servitude not only coexisted in the Southwest, but also interacted with one another on an intricate level, because both systems fulfilled fundamental economic, social, cultural, and demographic necessities within both indigenous and colonial communities. Historian James Brooks explains that Indian


\textsuperscript{72} See Jones, The Trial of Don Pedro León Luján, 24-25, 30-35.
captivity and Hispano peonage “shared patriarchal structures of power and patrimony that contrast sharply with the racial divisiveness and labor exploitation around which more familiar forms of Euramerican enslavement of Africans functioned.”73 This kinship component of human bondage proliferated to a larger degree in the Southwest—where racial prejudice was less pervasive—than in the antebellum South, where the spread of African slavery in place of indentured servitude propagated increasing racism towards blacks beginning in the late 1600s and early 1700s, and therefore led to many misconceptions among Easterners not familiar with the region.74

While Indian slavery and Mexican debt peonage might seem like two inherently disparate institutions, they were in fact quite similar in operation and remained inextricably linked through kinship bonds and interethnic blood lines. Many peons, comprising the lower social and economic classes, could trace their ancestry back over many generations to Indian slaves who cohabited with and bore offspring to Spanish colonists. Enslaved Indian women served as the primary progenitors of New Mexico’s mestizo and genízaro groups, who composed the majority of the indigent residents who fell into debt and became peons. Thus, Indian slaves who underwent assimilative processes of miscegenation represented the beginning of the mixed-blood racial castes that almost invariably encompassed the servile element of Southwestern society. Indian slavery and Hispano peonage were therefore closely connected. Not only did both

73 Brooks, Captives & Cousins, 34.

represent institutions of involuntary human bondage that would later, in American times, be compared to chattel slavery in the South, but they also bore a cause-and-effect relationship upon one another. In other words, the enslavement of Indians and their subsequent coerced sexual relationships with Spanish overlords resulted in the emergence of a mestizo class that was perceived as socially and ethnically inferior and that ultimately became the impoverished persons who served colonial elites, reaffirming the prestige of their masters within the communal hierarchy.

Due to the availability of an indigent, socially subordinate class of peon laborers, racial or chattel slavery never gained a foothold in New Mexico.75 One U.S. Representative referred to debt bondage as “a most wretched system,” expressing his aversion to both “negro slavery” as well as peonage and requesting that Congress take action to ban both systems throughout the United States.76 The assertion that peonage resembled chattel slavery in principle and practice was nothing new among Northern Free-Soilers. Twenty years earlier, another congressman had announced that Mexican peons “are in a worse condition of slavery than our negroes, and would be happy to change places with them,” a belief that coincided with Lieutenant James W. Abert’s observation in 1846 that “the major portion of the people live not one bit better than the negroes on a plantation in our southern States.”77 One Northerner, claiming in 1850 that she resided along the Rio Grande south of El Paso and writing under the pseudonym Cora

76 Ibid., 39th Cong., 2nd Sess., February 19, 1867, 1571.
Montgomery, observed that the average peon’s “sad, downcast air, is in strange contrast with the ever-cheerful buoyancy of the blacks; even [the peon’s] singing has the wail of death in its slow, melancholy notes.” The supposition that peons would happily trade places with blacks met with skepticism on many fronts. It did, however, indicate a recognition on the part of politicians that peonage involved a different race than chattel slavery, which helps to explain why the institution persevered even beyond the emancipation of African American slaves in 1865.

South Carolina Senator John C. Calhoun echoed these sentiments when he told Congress that “the Puros [referring to peons and Indian captives collectively] are as much slaves as our negroes, and are less intelligent and well treated.” His stance mirrored that of many pro-slavery citizens inasmuch as he did distinguish between peonage and chattel slavery, but he mistakenly believed New Mexico’s forms of servitude to be far worse than that practiced among his own Southern brethren. The assertion that captives and peons suffered greater hardships than did African American slaves in the Southern states had little basis in fact. During a visit to Santa Fe in the 1860s, James Meline overheard a conversation between a Hispano man and an Anglo-American official, who he did not identify by name. “The question was as to the condition of the Indian children sold [to the Mexican settlers],” Meline related in his memoirs. “The official presented their position as we used to be accustomed to hear slave-holders speak of that of their

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slaves – they were very happy, well cared for, well fed, treated kindly, and all the usual bosh talked south of Mason and Dixon’s line.” The New Mexican purportedly replied, “You know as well as I do, sir, that although they are sometimes kindly treated, it is generally the reverse, and, get round the matter as you may, they are, after all, slaves, and nothing but slaves.”

According to John Ayers, a Union soldier stationed in New Mexico during the Civil War, peons suffered far worse at the hands of their masters than did slaves in the South. If one ran away, for example, they could be punished in a variety of ways. “It was worse than slavery,” Ayers opined, “for slaves had a mercantile value, while if a peon died his place was at once filled with no loss but the small debt he was working out.”

Another observer, comparing the two forms of labor in 1850, believed “The Peon Slavery of Mexico” to be “much more repugnant” than the Southern chattel system, while a correspondent for Harper’s Weekly went even further when writing in 1859 that “peonage is a state of servitude a thousand times worse than our slavery.” Of course, such purported variations between the chattel system and debtor servitude depended on the perception of the beholder; millions of whipped and bleeding black slaves in the antebellum South would likely have refuted the claim that New Mexico’s peons had it worse.

Because of the slavery issue’s resounding importance during the first half of the nineteenth century, Anglo-American travelers and merchants passing through New

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81 Ayers, “A Soldier’s Experience in New Mexico,” 261.

Mexico almost invariably mentioned the presence of debt bondage, oftentimes comparing it to the more familiar system of racial slavery. Immediately after Mexico gained its independence in 1821, the Santa Fe trade exposed the region to outsiders for the first time, resulting in an influx of American explorers, fur-trappers, and merchants into the province. This occasioned the publication of many diaries and travelogues explicating the eccentricities of peonage, providing a lens through which to view the institution as seen through the eyes of witnesses already familiar with similar forms of involuntary servitude in the South. To be sure, many such anecdotes stemmed from an ethnocentric nativist rhetoric that mongrelized New Mexicans for their physiognomy and polyethnic background. Nevertheless, such accounts are instructive and reveal the common Anglo-American mindset towards inhabitants of the Southwest during the antebellum era.83

One military officer, John C. Reid, traveled through New Mexico in the mid-1850s and observed that peonage encompassed “the most numerous class of Mexicans.”84 Because of the large number of peons inhabiting the territory—one passerby in the late 1850s described that form of labor as “universal” throughout New Mexico—it would have been hard for visitors to overlook their presence.85 They could easily be distinguished by their manner of dress, reminiscent of any financially destitute person subjected to a life of peasantry. International Boundary Commissioner John Russell


84 Reid, *Reid’s Tramp*, 143.

Bartlett wrote in 1852 that peon men, like most New Mexicans at that time, wore short jackets, oversized white pants with slits on both sides, and a serape or blanket over their shoulders. Women exhibited a similar simplicity of dress, as merchant Josiah Gregg attested to when writing that “the ordinary apparel of the female peasantry” included a flannel petticoat and a *rebozo*, or scarf. In many ways a peon’s meager ensemble was not unlike the tattered and dirty clothing that black slaves wore on Southern plantations.

Abolitionist, sectionalist, and ethnocentric ideologies had a profound influence on travelers’ perceptions of the Southwest and its inhabitants. Lieutenant Philip St. George Cooke, accompanying General Stephen W. Kearny’s expedition of military conquest in August 1846, could find nothing positive to say about the territory and its engrained systems of servitude. With the addition of New Mexico to the American domain, he lamented that, “The great book of American citizenship [is] thus thrust . . . upon eighty thousand mongrels who cannot read, - who are almost heathens, - the great mass reared in real slavery, called peonism.”

By the time Cooke wrote in 1846, systems of bondage had existed in the region for centuries. As he witnessed them, however, they differed significantly from the chattel slavery that typified labor in the Southern states.

After the Mexican-American War, varying definitions of slavery and peonage became commonplace in national political debates. Representative Richard S. Donnell of North Carolina claimed in 1848 that the two systems bore little resemblance to one


87 Gregg, *Commerce of the Prairies*, 152.

another, declaring “peon slavery” to be a condition of contractual labor between creditors and debtors, a dynamic that did not exist in the South, where slaves were unable to negotiate the terms of their servitude.\textsuperscript{89} Massachusetts Senator Daniel Webster, an ardent opponent of slavery in the territories, likewise distinguished between the two labor regimes, stating in an 1850 congressional speech that he understood peonage to be “a sort of penal servitude” in which a man voluntarily sold himself into slavery by accepting the contractual conditions of the initial loan of goods or money. His point, however, was not to opine on the specifics of peonage, but rather to demonstrate that this preexisting system of servitude would render “African slavery, as we see it among us, as utterly impossible” to exist in the Southwest.\textsuperscript{90} Years later, in 1861, New Mexico congressional Representative Miguel A. Otero forcefully denied all negative connotations of debt bondage. His defense of the institution came in direct response to a newspaper editorial in the anti-slavery \textit{New-York Daily Tribune} that lambasted both peonage as well as New Mexico’s predominantly mixed-blood population.\textsuperscript{91} “I deny that peonage, as it exists in New Mexico, is a modified slavery, or any slavery at all,” he lectured, describing it as “a system of apprenticeship or temporary voluntary servitude” with no degrading or oppressive characteristics whatsoever. Otero deceptively assured critics that peonage had no adverse effect on one’s social or political status, drawing sharp distinctions between

\textsuperscript{89} \textit{Congressional Globe}, 30\textsuperscript{th} Cong., 1\textsuperscript{st} Sess., July 29, 1848, Appendix, 1060-1061.

\textsuperscript{90} Ibid., 31\textsuperscript{st} Cong., 1\textsuperscript{st} Sess., March 7, 1850, p. 480.

\textsuperscript{91} On the Otero-Greeley feud, see Mark Stegmaier, “New Mexico’s Delegate in the Secession Winter Congress, Part 1: Two Newspaper Accounts of Miguel Otero in 1861,” in \textit{New Mexico Historical Review} 86 (Summer 2011), 385-92; Mark Stegmaier, “New Mexico’s Delegate in the Secession Winter Congress, Part 2: Miguel A. Otero Responds to Horace Greeley, and Greeley takes Revenge,” in \textit{New Mexico Historical Review} 86 (Fall 2011), 513-23.
debtor servitude in New Mexico and chattel slavery in the South, which unquestionably did undermine the agency of unfree blacks.92

As both Donnell and Otero rightfully claimed, peonage involved citizens holding one another in servitude for fulfillment of a pecuniary debt. This system, arguably voluntary inasmuch as a person willingly placed themselves in arrears when becoming party to such transactions, differed from that in which Euro-American colonists and Native American tribes took captives from one another and subjected them to a lifetime of slavery and cultural assimilation.93 It also contrasted sharply with indentured servitude in the early Mid-Atlantic colonies. In New Mexico’s creditor-debtor system, the peon had little hope of ever fully repaying their debt, and thus frequently found themselves bound for life. After spending time in northern New Mexico during the late 1850s, American journalist Albert D. Richardson observed of peons that, “cases where one liquidated his debts and became free were very rare.”94 In 1850, army inspector George A. McCall observed the frequency with which many a Hispano “inextricably involved himself as the debtor of his employer,” and in so doing became “a peon for life.”95 Another antebellum military officer explained that, regardless of the amount that a peon owed, masters were entitled to their labor until contented that the debt and all interest had been covered. “Should the debtor die without satisfying the debt, his wife and children


93 Sunseri, Seeds of Discord, 39.

94 Richardson, Beyond the Mississippi, 239.

are required to assume its payment,” he wrote, “and thus generation after generation, are liable for a debt contracted between persons whom they never saw.” Of all federal politicians, the anti-slavery Pennsylvania Representative Thaddeus Stevens put it most pithily when he chided those of his colleagues who had “become enamored of peonage . . . which saves the poor man’s cow to furnish milk for his children, by selling the father instead of the cow.”

As political debates and witness testimony eventually revealed, cultural custom as well as Mexican law upheld the right of a master to exploit a peon’s family members by retaining them in bondage after his or her demise, in the event that a debt remained unpaid. According to preexisting colonial-era statutes, the wife and children of a deceased peon inherited their debt and could be held in servitude to satisfy such obligations. Creditors interpreted this clause loosely in order to apply it to their individual situations. Peonage often emanated from unwritten but mutually understood contracts, which, being legally ambiguous, provided masters with sufficient impetus to apply the law as they saw fit. This also allowed for minors to be bound to labor in repayment of a parent’s debt, a common occurrence until the aforementioned 1857 court rulings decreed otherwise.

Peons fulfilled a variety of chores depending on gender, age, and necessity; women and children typically performed menial household duties, while men served as

96 Reid, Reid’s Tramp, 144.


98 Schmidt, The Civil Law of Spain and Mexico, 96.
herdsmen and, in the more fertile river valleys, as field hands at planting and harvest
time. At Lucien B. Maxwell’s sprawling ranch along the upper Cimarron River, for
example, eyewitnesses in the 1850s and 1860s reported seeing hundreds (one source even
claimed thousands) of Mexican peons and Indian slaves toiling side-by-side in fields
spanning miles up and down the valley, making Maxwell’s operation one of the largest
and most profitable in the territory.\(^99\) Colonel Henry Inman, an army quartermaster in
New Mexico, wrote that Maxwell’s peons “were as much his thralls as were Gurth and
Wamba of Cedric of Rotherwood,” but noted that he generally treated them with
kindness.\(^100\) Furthermore, when American troops entered New Mexico in 1846, they
noticed many impoverished Hispanics toiling in the crudely developed gold mines
southeast of Santa Fe. At the village of Tuerto, Lieutenant James W. Abert observed that
men, women, and children congregated around pools of water at the mining pits, where
they used “wooden platters or great horns” as makeshift gold pans. He later reported that
“even the life of the poor pastores [herders] is much preferable to these diggers of
gold.”\(^101\)

(Kansas City, MO: Frank T. Riley Publishing Co., 1913), 108; Lawrence R. Murphy, *Lucien Bonaparte
Maxwell: Napoleon of the Southwest* (Norman, OK: University of Oklahoma Press, 1983), 111-12;
Lawrence R. Murphy, *Philmont: A History of New Mexico’s Cimarron Country* (Albuquerque, NM:
University of New Mexico Press, 1972), 101; María E. Montoya, *Translating Property: The Maxwell
Land Grant and the Conflict over Land in the American West, 1840-1900* (Berkeley, CA: University of
the Pikes Peak Region* (Glorieta, NM: Rio Grande Press, 1970), 169. Another observer placed the number
of peons on Maxwell’s estate at about 500. Henry Inman, *The Old Santa Fe Trail: The Story of a Great

\(^100\) Inman, *The Old Santa Fe Trail*, 374.

\(^101\) “Report of Lieut. J.W. Abert of his Examination of New Mexico in the years 1846-47,” in Report of the
Secretary of War, February 10, 1848, 30th Cong., 1st Sess., Senate Exec. Doc. 23, p. 35.
In the 1840s and 1850s, New Mexicans participating in the burgeoning Comanchero trade also took their peons with them to serve during the journey to and from the South Plains, where they met with Comanches, Kiowas, and Cheyennes to trade for horses, mules, buckskins, and other utilitarian items. Rafael Chacón, a twenty-three-year-old from a prominent New Mexican family, recalled that in 1856, following a trade fair, a Comanche Indian confronted his party and stole a bridle from the horse that his peon rode. 102 While the nameless servant was unlucky in losing the bridle (which almost certainly belonged to Chacón and, having been stolen, would have been added to the peon’s mounting debt), he nevertheless ranked among the more fortunate of New Mexico’s lower class, inasmuch as his journey to the South Plains—even as a servant—temporarily alleviated him from the monotonous daily routine he experienced while serving either in one of the settlements or on a hacienda.

There eventually arrived a time in the life of a peon when, due to advanced age or illness, their productivity waned and the master no longer had a use for them. “One of the most objectionable features of the system,” according to one witness, “is that the master is not obliged to maintain the peon in sickness or old age.” Once a servant became too ill or too old to work, many masters simply sent them on their way “like an old horse who is turned out to die,” or, as a Harper’s Weekly correspondent put it in 1859, “turn[ed] him upon the world perfectly helpless.” 103 Exemplifying the astounding

102 Jacqueline Dorgan Meketa, ed., Legacy of Honor: The Life of Rafael Chacón, A Nineteenth-Century New Mexican (Albuquerque, NM: University of New Mexico Press, 1986), 107; see also Gregg, Commerce of the Prairies, 257.

103 William W.H. Davis, El Gringo, or, New Mexico and Her People (Santa Fe, NM: Rydal Press, 1938), 98-99; “Incidents of Travel on the Teluantepec Route,” in Harper’s Weekly, January 15, 1859. See also Cooke, The Conquest of New Mexico and California, 61.
power imperatives of New Mexico’s *patrónes*, the ability of masters to subvert a servant’s kin into bondage for satisfaction of outstanding debts only exacerbated this practice, as creditors could simply impress one’s family members into service once the initial debtor became too enfeebled to work themselves. Furthermore, creditors could easily manipulate the system in a manner which ensured that the peon could never earn his or her freedom. According to George Ruxton, advances on wages would be issued to a prospective peon, who then became legally bound to serve the lender until the debt was satisfied, although creditors typically applied interest in such a manner that prevented this from happening, meaning that “the debtor remains a bondsman to the day of his death.”

As Ruxton knew, the law had supported masters in their human property interests since Spanish colonial times. Mexican edicts passed in the 1820s and 1830s provided additional protective measures for masters, enabling them to hold debtors in servitude and force their subjective obedience. Touring New Mexico in 1856, territorial Secretary William W.H. Davis similarly pointed out that the decree upholding peonage “is dignified with the title of ‘Law regulating contracts between masters and servants.’ This is all well enough on paper, as far as it goes, but the statute is found to be all upon the side of the master.”

Members of General Kearny’s expedition of conquest witnessed firsthand the harsh realities of peonage. On October 6, 1846, Lieutenant William H. Emory, accompanying the campaign south of Socorro, New Mexico, recorded in his diary that a

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young boy, serving the troops as a mule-driver, “was today claimed by his creditor or
master.” According to Emory, the lad owed the man sixty dollars and had thus fallen into
forced labor to fulfill the pecuniary obligation. In the 1840s, sixty dollars constituted an
enormous debt (about $1860 today), one that the child could never plausibly repay. The
entire institution disgusted Emory, an anti-slavery man who would go on to serve in the
Union Army during the Civil War. “The poor debtors thus enthralled for life, for a debt
of $60,” he concluded, “constitute, as a class, the cheapest laborers in the world.” He
went on to observe that “the price of the labor for life of a man was, in the case we have
stated, $60, without any expense of rearing and maintenance in infancy or old age, the
wages covering only a sum barely sufficient for the most scanty supply of food and
clothing.”

Peons did sometimes receive compensation for their work, but the meager
earnings went towards satisfying the debt owed, with the remainder being so little that,
when accompanied by compounding interest, the system ensured permanent bondage. In
an 1848 speech to Congress, Representative Donnell noted that masters could release
peon from their terms of servitude, but rarely did so because they instead managed the
debt in such a manner that even a lifetime of labor could not repay the perpetually
increasing amount owed. Josiah Gregg also alluded to such strategies, writing that
peonage “acts with terrible severity upon the unfortunate poor,” whose paltry wages were

107 Ross Calvin, ed., Lieutenant Emory Reports: Notes of a Military Reconnaissance from Fort
Leavenworth, in Missouri, to San Diego, in California (Albuquerque, NM: University of New Mexico
Press, 1951), 87.

insufficient even to clothe and feed themselves, much less pay down their debt. This practice continued even beyond the Civil War, when Congress finally addressed the subject. “A very small debt with interest, where the peon has a family to support and the creditor supports him, amounts to a servitude for life,” explained one politician in February 1867.

According to Gregg, the average adult male earned between two and five dollars per month, depending on the “generosity” of the creditor. Women received much less, typically between fifty cents and two dollars. These stipends, however, never came in the form of hard currency, but were instead issued in the form of “articles of apparel and other necessities at the most exorbitant prices.” All food, clothing, and other essential provisions had to be procured from the creditor himself, who often managed a small store where a peon had to purchase these items, making it “an easy matter to keep him always in debt.”

As one observer noted of the ricos, “the key to their wealth [is] a store of necessaries for their dependent laborers . . . at their own prices they manage to keep the poor peons always in debt, and this legally binds them and their families to endless

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109 Gregg, *Commerce of the Prairies*, 166.


This practice had its origins in colonial Central America, where, according to Viceroy Villamanrique in 1590, indebted peons and Indians could purchase on credit “shoes, hats, stockings, and other objects at exorbitant prices; as a result, they never get out of debt and die like prisoners after spending twenty years or more” in servitude. The proclivity of masters to charge exorbitant prices for goods had the intended consequence of at least maintaining—and oftentimes increasing—a peon’s debt and perpetuating the term of servitude. Once a person accumulated any amount of debt, they almost invariably became a servant for life.

Some masters occasionally lent a peon’s services to others, but the extent to which an illicit trade in human servants occurred in the Southwest is difficult to gauge. The Taos and Santa Fe marketplaces frequently saw the exchange of Indian slaves, but much less so Hispano peons. Such transactions occurred with far less regularity than in the American South, where slave auctions were common and individuals made a living out of the practice. Nevertheless, peons did sometimes revert from one master to another. Utah’s 1852 law relative to masters and servants allowed that “servants may be transferred from one master or mistress to another” with the permission of a local probate court. Similarly, while a creditor in New Mexico could not sell a peon outright, he

112 Cooke, The Conquest of New Mexico and California, 61; see also Susan Calafate Boyle, Los Capitalistas: Hispano Merchants and the Santa Fe Trade (Albuquerque, NM: University of New Mexico Press, 1997), 7-8.

113 Quoted by Chevalier, Land and Society in Colonial Mexico, 283.

114 Gregg, Commerce of the Prairies, 166.

115 See, for example, Walter Johnson, Soul by Soul: Life Inside the Antebellum Slave Market (Cambridge, MA: Harvard University Press, 1999).

116 “An Act in Relation to Service,” Section 7, in Acts, Resolutions and Memorials Passed by the Sessions of the Legislative Assembly of the Territory of Utah (Great Salt Lake City: B.R. Young, Printer, 1852).
could still transfer the person “just as he would a mule or a horse,” making it a system “of the most wretched and degrading character.” Samuel Ellison, a resident of New Mexico beginning in 1848 who served as secretary to several territorial governors as well as Supreme Court clerk, recollected many years later that peons constituted “as much an article of trade as a horse or a sheep.” Ellison, however, seems to have drawn little distinction between indebted bondsmen and indigenous slaves, essentially lumping “Indians taken captive or purchased from wild tribes and held as slaves” into the same class of servants as indigent debtors. The commodification and transfer of peons did occur periodically, although only on a small scale and usually involving one or two persons at a time in localized transactions rather than in an open marketplace, as was often the case with Indian captives in the Southwest and black slaves in the South.

Foreseeing future legal problems, Governor James S. Calhoun addressed the territorial legislature in 1851 and stressed the importance of defining such details in stricter terms. He asked that the relationship between masters and peons be assigned an unambiguous legal definition in order to make all citizens aware of their obligations and

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118 J. Manuel Espinosa, “Memoir of a Kentuckian in New Mexico, 1848-1884,” in *New Mexico Historical Review* 13 (January 1937), 5-6. After the Civil War Ellison identified with the Radical Republicans and served as a court-appointed commissioner who traveled throughout New Mexico searching for slaves who had not yet been freed. He thus acted as a leader in the post-Civil War crusade to liberate peons and Indian captives. See Murphy, “Reconstruction in New Mexico,” 103-04.

119 For a firsthand account of Mexican peon trading, see “Peon Slavery on the Rio Grande—Letter from the Border,” *New-York Daily Tribune*, July 15, 1850. For a comparison of slave market prices in New Mexico with those in the contemporaneous American South, see Jones, *The Trial of Don Pedro León Luján*, 142 n. 50.
the appropriate recourses in the event of grievances. One month later, New Mexico lawmakers responded by passing the “Law regulating contracts between masters and servants,” a statute containing eighteen sections covering everything from child servants to runaway peons. Neighboring Utah Territory quickly followed suit, passing an edict in 1852 that sanctioned human bondage for indebtedness, although that decree included a clause forbidding the permanent servitude of one’s descendants if they died before satisfying their debt. If a master in New Mexico believed that a peon failed to adequately perform his duties and expectations, he could have them locked up in the nearest jail. The law also borrowed from the 1850 Fugitive Slave Act by including strict provisions for runaway peons, and local alcaldes, or prefects, had a statutory obligation to assist in recapturing fugitive servants.

New Mexico legislators cleverly designed the 1851 peon law to appear as a benign set of regulations pertaining to any two contracting parties in a business transaction. When read more closely, however, the provisions seem vague and ambiguous, giving creditors considerable leeway while providing only minimal protection for debtors. Section five, for example, allowed that even an abused or otherwise mistreated servant had no legitimate claim to freedom unless they first satisfied

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120 James S. Calhoun, *Message to the Legislature of the Territory of New Mexico*, June 2, 1851, RG59, T17, New Mexico Territorial Papers, Roll 1.

121 The act was passed on July 20, 1851. For the complete version, see the laws and resolutions of the 1851 territorial legislature, in RG46, Territorial Papers of the U.S. Senate, Roll 14 (New Mexico, 1840-1854).

122 “An Act in Relation to Service,” in *Acts, Resolutions and Memorials Passed by the Sessions of the Legislative Assembly of the Territory of Utah*, Section 2. Utah’s law was concerned more with regulating interracial activities between whites and blacks, providing strict sanctions for persons “guilty of sexual intercourse with any of the African race.” Ibid., Section 4.

the terms of their debt contract. Referencing this section of the law in 1861, Representative Miguel A. Otero blatantly misrepresented the true nature of its purpose and enforcement. The act, he claimed, “gives to the peon the privilege of changing from one temporary owner of his services to another whenever he becomes oppressed or unfairly treated,” a supposedly inexpensive and simple process that even illiterate and indigent peons could use as a recourse.

Otero’s explanation was fallacious in the extreme. The legal process to which he referred was mostly inaccessible to peons and captives and, because of the swarthy means whereby masters ensured the continued indebtedness of their servants, it remained nearly impossible for a peon to ever repay the amount owed or to work for another party in the event that a master became physically abusive. Therefore, while this particular portion of the law appeared to grant servants the right to seek redress upon being beaten or otherwise abused, it actually gave them no assistance in that regard but instead required that they remain submissive. Even if a peon did manage to repay his debt, there was little reason for a master to allow their freedom inasmuch as authorities typically either overlooked such violations or, like white Southerners in the Jim Crow era, contrived new debts or criminal charges to keep the person in bondage. If the case did come before a court, the result would be a fine ranging from one to twenty-five dollars, a negligible sum

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124 Laws and Resolutions of the Territorial Legislature, 1851, RG46, Territorial Papers of the U.S. Senate, Roll 14 (New Mexico, 1840-1854).

that justified the risk and thus further encouraged creditors to hold servants in bondage beyond the fulfillment of their contract.\footnote{Laws and Resolutions of the Territorial Legislature, 1851, in RG46, Territorial Papers of the U.S. Senate, Roll 14 (New Mexico, 1840-1854).}

Other sections of the law similarly upheld a lifetime of bondage. Upon entering into a contract, a peon was obligated to work every day from sunrise to sunset. The code also affirmed New Mexico’s social hierarchy by mandating that “all male or female servants shall respect their masters as their superior guardians,” with any disobedience or aberrant behavior punishable by law.\footnote{Ibid.} The most pervasive component of the 1851 act, however, involved the capture of fugitive peons, and masters quickly utilized the law to their advantage in this regard. In 1854, José María Gutierres of Santa Ana County filed suit in district court, alleging that his four peons—Pablo Maldonado, Diego Chaves, Juan Lopez, and Alvino Valdes—had fled and taken refuge in nearby San Miguel County. He requested that either the sheriff arrest the men and remand them to his service, or else the court require them to repay their debts, which ranged from $132 to an astronomical $1,630 (approximately $47,400 today). In 1860, Manuel Armijo filed a similar complaint in the Bernalillo County probate court, seeking redress for his runaway peon, Pablo Gamboa. Under such circumstances, the law unequivocally favored creditors and allowed them to reclaim peons through judicial mechanisms.\footnote{José María Gutierres v. Pablo Maldonado et. al., April 5, 1854, at New Mexico State Records Center and Archives, San Miguel County District Court Records, Serial #13533, Folder 1, Case #21; “Complaint brought by Manuel Armijo,” August 25, 1860, ibid., Bernalillo County Probate Court, Serial #13734, Folder 51.}
Owing to such realities, many Anglo-Americans could discern little or no
difference between New Mexican peonage and Southern slavery. One traveler noted in
1856 that the only variance he could see between the two systems involved the chattel
value of black slaves as opposed to Mexican peons, stating that “in other respects I
believe the difference is in favor of the negro.” He bluntly criticized peonage as “a more
charming name for a species of slavery as abject and oppressive as any found upon the
American continent.” Governor Calhoun corroborated this similarity, informing
Commissioner of Indian Affairs Orlando Brown in 1850 that, “Peons . . . is but another
name for slaves, as that term is understood in our Southern States.” To Calhoun, peonage
seemed even more pervasive and oppressive than chattel slavery inasmuch as it had no
racial prerogative. Texas Senator Thomas Rusk made a similar—albeit somewhat
sarcastic, given his staunch pro-slavery position—statement to Congress on June 6, 1850.
“If gentlemen want an object on which to exercise their philanthropy,” he declared in
reference to peonage, “let me tell them there is now in New Mexico a system of slavery
of the most abject and heartrending character.”

All told, these conditions led to a harsh life of servitude for countless persons,
simply because they had been unable to repay a debt on time. Peonage, as it existed in
Southwestern society, constituted a veritable debtor’s prison from which the unfortunate
servant had little hope of ever being liberated. As one army officer observed, “The

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130 James S. Calhoun to Orlando Brown, March 15, 1850, in Abel, ed., Official Correspondence, 161
(emphasis in original).

provisions of this system result in enslaving thousands during their health and manhood, who otherwise would be at least as independent as the insolvent debtors of our land . . . and hence Mexico contains more beggars than any other division of North America."\textsuperscript{132}

Despite their predominance as regional forms of unfree labor, peonage and captivity did not exist in total isolation from chattel slavery, as some black bondsmen did reside in New Mexico following the fall of the territory to U.S. forces in 1846. In fact, the American conquest initiated a small-scale revival of racial slavery in the area. In the sixteenth and seventeenth centuries, Spanish colonists sometimes brought mulattos (mixed-blood Indians and Africans) with them to New Mexico as servants. In this early period of colonization, mulattos retained a much darker physiognomy and their African ancestry remained apparent. Over more than two centuries of miscegenation with Indians and Euro-Americans, however, these once-distinct mulattos gradually became an indiscernible component of the territory’s growing mestizo population. Indeed, mulattos in the Southwest shared at least one important thing in common with captives and peons: being perceived as ethnically and socially inferior, all three groups were otherized within society and exploited as dependent laborers. Through this shared plight of involuntary bondage emerged the first extensive social relations between these subordinate classes in New Mexico. Marital records from the colonial era indicate the extent to which intercultural unions occurred between mulattos and New Mexico’s native population.\textsuperscript{133}

By the time Americans arrived in the mid-nineteenth century, they could see little visible

\textsuperscript{132} Reid, Reid’s Tramp, 144-45.

evidence of black slavery in the territory because such persons had been effectively assimilated (in terms of skin color) into the broader New Mexican classes and were instead serving as peons.

A handful of Anglo-Americans did bring their own servants with them to New Mexico in the 1840s and 1850s, promulgating the reintroduction of a visible black slave population in the territory. The 1850 U.S. census—the first one conducted in New Mexico under American sovereignty—reported twenty-two black persons in the territory; of those, the census-takers notated less than half as enslaved.\(^{134}\) That same year, New Mexico’s sister territory, Utah, enumerated fifty African Americans, of whom twenty-four were acknowledged as being free and twenty-six enslaved.\(^{135}\) Governor Abraham Rencher pointed out in 1859 that New Mexico contained only a couple dozen black slaves, all of whom belonged to appointed public officials or military officers who frequently transferred between posts, insinuating that their residency in the territory was likely just temporary.\(^{136}\) Describing New Mexico’s racial breakdown to Congress in

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\(^{134}\) Seventh United States Census (1850). In an 1852 report to Congress, Richard Weightman noted that, “There are in New Mexico a few negroes, in all, as shown by the census . . . and of this number there may be as many as five or six slaves – house servants of officers of the Army and others.” *Congressional Globe*, 32\(^{nd}\) Cong., 1\(^{st}\) Sess., March 15, 1852, p. 755.

\(^{135}\) Seventh United States Census (1850). The census indicated that the twenty-six black slaves did not permanently reside in Utah but were instead traveling to California at that time.

\(^{136}\) Abraham Rencher to William H. Seward, April 14, 1861, RG59, T17, New Mexico Territorial Papers, Roll 1; Miguel A. Otero to the editor of the Washington, D.C. *Constitution*, January 12, 1861, reprinted in the *Santa Fe Weekly Gazette*, February 16, 1861. Otero noted that, “In some few instances officers of the army have taken slaves with them to [New Mexico], but in such cases they have been taken simply for domestic convenience, and with no intent of propagating there the institution of slavery . . . [but] not half a dozen slaves have been taken into that Territory by that class of men.” Ibid. Hubert Howe Bancroft, one of New Mexico’s earliest historians, noted in his 1889 monograph that U.S. officials in New Mexico almost invariably held servants, either black slaves or Indian slaves or both. Bancroft, *History of Arizona and New Mexico, 1530-1888* (San Francisco, CA: The History Company, 1889), 681.
1860, District Judge John S. Watts estimated there to be “fifty [black] slaves only, mostly servants of army and federal officers.”

The first identifiable black slaves arrived in New Mexico in 1851 as the property of Brevet Major James H. Carleton of the First U.S. Regiment of Dragoons. He subsequently sold the slaves, named Hannah (23 years old) and Benjamin (21 years old), to Governor William Carr Lane, formerly of Missouri. This pattern of military complicity in the westward spread of chattel slavery originated during the Mexican-American War of 1846-48, and Southerners sometimes based their arguments in favor of slavery in the West upon the fact that invading U.S. forces had slaves with them during the war. Indeed, as one proponent of slavery pointed out, “even General [Zachary] Taylor was attended by slaves whose services he exacted during the whole campaign.”

Once the conquest of New Mexico had been completed and the Mexican Cession lands appended to the federal domain, Southern slaveholders who fought in the war expected that their right to property in slaves would be protected if they migrated to the new territory.

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138 In 1851, Carleton received an annual allowance for servants of $116.41 in addition to his base salary of $690. Whether or not Carleton used any of this money to feed and clothe his two African American slaves is not known; however, he certainly did not pay them wages and therefore could not have expended the full $116 on them. *Official Army Register 1851*, 32nd Cong., 2nd Sess., House Exec. Doc. No. 48.


140 *Congressional Globe*, 31st Cong., 1st Sess., July 1, 1850, Appendix, 1012.

Throughout the antebellum years, military officers stationed in New Mexico perpetuated involuntary servitude there, either by holding slaves themselves or by turning a blind eye to others who held slaves and peons. The War Department itself unwittingly encouraged its officers to employ servants by issuing annual stipends for that purpose. While these allowances were originally intended to pay, feed, and clothe wage laborers—such as cooks or laundresses—officers in New Mexico sometimes employed peons and black slaves instead and pocketed the federal subsidy. The availability of involuntary laborers doubtless contributed to instances of undetected fraud among military officers, whose allowances often amounted to between one-quarter and one-third of their annual salary. In 1851, for example, officers in the First Dragoons received servant grants between 94 and 398 dollars; several years later, on the eve of the Civil War, such stipends remained mostly unchanged, ranging from 144 to 288 dollars.\(^{142}\)

Shortly after the Mexican-American War, accusations began to surface that New Mexico’s military department commander, Colonel John Munroe, acted with complicity in attempts to “smuggle slavery into the territory against the will of the people.” Pennsylvania Senator James Cooper cited numerous communications between Munroe and Texan commissioner Robert S. Neighbors in which the former pledged his full support to the latter if Texas attempted to annex New Mexico. Northerners condemned Munroe’s open cooperation with officials from a slave state as indicative of his affability towards the Southern cause and feared that, as military commander in New Mexico, he might lend his authority to the sanctioning of chattel slavery there. “It is on the side of

\(^{142}\) *Official Army Register 1851*, 32\(^{nd}\) Cong., 2\(^{nd}\) Sess., House Exec. Doc. #48; *Official Army Register 1860*, 36\(^{th}\) Cong., 2\(^{nd}\) Sess., House Exec. Doc. #54.
Texas, and through her exertions and influence, that slavery will obtain a foothold in these Territories, if it obtain such foothold at all,” the Pennsylvania senator feared.\footnote{\textit{Congressional Globe,} 31st Cong., 1st Sess., June 29, 1850, Appendix, 1009.}

While Munroe did not openly advocate for the extension of slavery in either practice or ideology, he also did nothing to free the territory’s black slaves that his own personnel held in bondage.

One army officer who owned black slaves in New Mexico was Major William T.H. Brooks of the Third Infantry, an 1841 West Point graduate twice brevetted for gallantry during the Mexican-American War. He had been stationed in the territory since 1852, and in November 1857 he received an assignment to serve as commanding officer at Fort Defiance in the heart of the Navajo homeland. When transferring to his new post, he brought his personal servant, a black man about twenty years of age named Jim.\footnote{The Killing of Jim, \textit{Santa Fe Weekly Gazette}, July 24, 1858; Brooks to AAG, November 30, 1857, RG393, M1120, LR, DNM, Roll 6.}

On July 12, 1858, Jim stepped outside one of the buildings at Fort Defiance, situated at the mouth of Canyon Bonito a few miles northwest of today’s Navajo capital of Window Rock, Arizona. Earlier that day, an Indian arrived at the post and lingered for several hours, soliciting trades among the soldiers and awaiting “the opportunity that finally presented itself.” As Jim walked towards the laundress’s quarters, the Navajo man “saw my servant boy, Jim (a slave), coming towards him” and went into premeditated action. Whether or not Jim shared any words with the Indian is not known, although Brooks claimed that no dialog occurred between the two, a fair assertion given the language barrier. As Jim turned away, the forty-five-year-old Navajo drew a steel-
tipped arrow from his quiver and fired it directly into the boy’s back, puncturing his lungs. “The Indian immediately put his whip to his horse and left over the hill,” Brooks wrote, noting the culprit to be a stranger whom nobody at the post could positively identify. The event proved to be Jim’s deliverance from bondage, although his death would be a slow and painful one. “The boy, strange to say, never uttered a word or exclamation,” observed his master, “but attempted to pull the arrow out, in doing which he broke it off near the head.” The post surgeon, Doctor James Cooper McKee, was unable to extract the arrow point from Jim’s lungs and he died four days later.

Major Brooks seemed less concerned about the death of Jim than about his own pecuniary loss. Furious over the incident, the officer wasted no time in confronting several Navajo chiefs to demand recompense, a gesture in which he enjoyed support from the department commander, who instructed Brooks that if the murderer did not surrender, “it will be considered cause for war.” The day after Jim’s death, an indignant Brooks sent for Zarcillos Largos, a prominent Navajo headman, and demanded that he turn over the killer. He threatened to personally lead a prolonged military campaign against the Navajos, intimating to the chief “the consequences of a war to his people and that it would certainly be made on them did they not give up the murderer.”

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145 Brooks to Nichols, July 15, 1858, ibid., Roll 7; Samuel M. Yost to James L. Collins, August 31, 1858, RG75, OIA, T21, LR, NMS, Roll 3.

146 Brooks to Nichols, July 15, 1858, ibid., Roll 7. The incident was of such great importance and its resonance so lasting that several years later federal informants alluded to Jim’s murder and the subsequent hostilities it caused between Navajos and U.S. troops. See statements by Kirby Benedict, John Greiner and James L. Collins, July 4, 1865, in “Condition of the Indian Tribes,” 39th Cong., 2nd Sess., Senate Report No. 156 (Washington, DC: Government Printing Office, 1867), 325, 328, 331.

147 Garland to Brooks, July 26, 1858, RG393, M1072, LS, DNM, Roll 2.

148 Brooks to Nichols, July 15, 1858, RG393, M1120, LR, DNM, Roll 7.
this event involved a long-lasting state of hostility between the two groups and ultimately led to the death or captivity of many persons on each respective side. In his annual report that year, New Mexico Superintendent of Indian Affairs James L. Collins criticized Major Brooks for circumventing the civil authorities and appealing directly to the military chain of command for authorization to use force against the Indians. Collins accurately predicted that, in so doing, Brooks had ensured that no peaceful outcome would be reached.¹⁴⁹ Years later, in a letter to Senator Charles Sumner, New Mexicans specifically blamed this incident for inciting “a war of the most bloody nature with the Navajo Indians.”¹⁵⁰

Not surprisingly, the Navajos failed to deliver the murderer; it was wishful thinking on the part of Major Brooks to believe that they would turn over one of their own tribesmen for what promised to be a death sentence. The Navajos’ agent, through an article published in a Santa Fe newspaper, played devil’s advocate by reasoning that recent events in the Rio Grande settlements, including the “brutal and unprovoked butchery of a defenseless female of the tribe,” had driven them to the warpath and further insinuated that, until the murderer of the captive woman at Albuquerque could be brought to justice, the army should not expect the Indians to turn over Jim’s killer.¹⁵¹ The Navajos did, however, come in to Fort Defiance some time later with a corpse which they claimed to be that of the slave’s murderer. An autopsy performed at the post revealed

¹⁴⁹ James L. Collins to Charles E. Mix, September 27, 1858, in Annual Report of the Commissioner of Indian Affairs (Washington, DC: Wm. A. Harris, Printer, 1858), 190-91.

¹⁵⁰ “Peonage in New Mexico,” Santa Fe Weekly Gazette, February 2, 1867.

¹⁵¹ Death of Jim at Fort Defiance, ibid., August 21, 1858.
that the body belonged to a teenage Mexican boy, almost certainly a captive and not the actual culprit.\textsuperscript{152} Through this act, the Navajos sought to bring closure to the issue in what one scholar has termed “blood compensation,” but instead they incited even more anger among the military and Indian departments by attempting to deceive them.\textsuperscript{153} Tribal leaders believed that they had fulfilled their obligation to Brooks by killing one of their own slaves in compensation. U.S. officials, however, did not view the situation in a similar light, exemplifying the differences in cultural expectations and the resulting misunderstandings that arose between the two groups.\textsuperscript{154}

Frustrated by the futility of his efforts, and in a further attempt to receive compensation for the loss of Jim, Brooks wrote Lieutenant Colonel Dixon S. Miles in Santa Fe relative to the incident. With an undisguised sense of urgency, he asked if the department would demand payment from the Indians in recompense for his slave property. Miles lacked the authority to pursue such action, recommending instead that Brooks submit a claim for a herd of goats that soldiers recently confiscated from the Navajos.\textsuperscript{155} The agent at Fort Defiance, Samuel Yost, wrote to the superintendent of Indian affairs on Brooks’s behalf, suggesting that “the boy should be paid for as the

\textsuperscript{152} James C. McKee to Samuel Yost, September 9, 1858, in J. Lee Correll, \textit{Through White Men’s Eyes: A Contribution to Navajo History}, vol. 2 (Window Rock, AZ: Navajo Heritage Center, 1979), 156.

\textsuperscript{153} Brooks, \textit{Captives & Cousins}, 246.

\textsuperscript{154} Ibid., 310-14.

\textsuperscript{155} Dixon S. Miles to Wilkins, December 1, 1858, quoted in McNitt, \textit{Navajo Wars}, 359. Correspondence relating to the murder of Jim and the subsequent hostilities in Dinétah is found in Correll, \textit{Through White Men’s Eyes}, vol. 2, pp. 133-56.
destroyed property” and inquiring as to the expediency of using the Navajos’ annuity presents to remunerate the officer.¹⁵⁶

Like many army officers, Brooks already received an annual stipend from the War Department as an “allowance for servants.” In 1858 he earned a base salary of 651 dollars, along with an additional 226 dollars to cover the expense of a personal servant.¹⁵⁷ Because he utilized the services of an African American slave, Brooks did not expend any of this money on wages. Furthermore, the officer would have used surplus government supplies at the fort to feed and clothe Jim, meaning that he essentially pocketed most, if not all, of his yearly payment for servants. Major Brooks had little reason to request compensation from the government, because he had already been receiving a substantial allowance from the army that far exceeded his valuation of Jim.

Debt peonage and chattel slavery, to the extent that the latter institution existed in New Mexico, ascended to the forefront of national debate following the culmination of the Mexican-American War in 1848. By the terms of the Treaty of Guadalupe Hidalgo, the United States came into possession of almost half of Mexico’s previously-claimed territory. Conspiracy theorists believed that Southerners participated in and promoted the war in an attempt to gain territory for the expansion of their peculiar institution. Horace Mann, a staunch Massachusetts abolitionist, wrote an accusatory letter in 1850 declaring that, “The south waged war with Mexico from one, and only one, motive; for one, and only one, object, - the extension of slavery.” Mann supposed that slavery in the western

¹⁵⁶ Samuel M. Yost to James L. Collins, September 9, 1858, RG75, OIA, T21, LR, NMS, Roll 3.

territories would doom the United States to an “unobstructed career of conquest, of despotism, and of infamy,” postulating that the introduction of the peculiar institution into either California or New Mexico would be “a vastly greater crime than was the African slave trade itself.”

Mann was clearly referring to President James K. Polk, a Southern slaveholder from Tennessee, who helped to incite the war and insisted on Mexico’s cession of territory as a prerequisite to peace. Polk, for his part, vehemently denied allegations that his administration waged the war in view of advancing slavery westward. “I did not desire to extend slavery,” he confided to his diary, noting that neither California nor New Mexico would have been likely to support slavery anyway and that the mere acquisition of those provinces for future American settlement satisfied him. Even in his inaugural address, in which he stressed the importance of American imperialism, Polk insisted that “the bonds of our Union, so far from being weakened, will become stronger” with westward expansion, insinuating that he fought the war with no fractious intentions in mind.

Polk could not have been more mistaken in his assumption that acquiring the Mexican Cession lands would foster national unity. Contrarily, this newly-seized

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158 Horace Mann to James Richardson et al., May 3, 1850, in Horace Mann, Slavery: Letters and Speeches by Horace Mann (Boston, MA: B.B. Mussey & Co., 1851), 259, 277-81.


domain, comprising what would eventually become the State of California and the territories of New Mexico and Utah, sparked intense sectional debates in Congress that lasted for more than two years. Politicians argued incessantly over the existence of slavery in the West, exemplifying the overall ignorance of many Americans regarding peonage and Indian captivity. Polk himself unwittingly acknowledged the widespread presence of captive slaves in the Southwest when his administration assured Mexican dignitaries that the U.S. government would quell Indian raiding in the northern provinces “and compel them to release these captives, and restore them to their families and friends.”

The president therefore recognized that the borderlands region hosted a large population of enslaved captives and pledged that the federal government would liberate and repatriate them, in effect making an anti-slavery pronouncement that went unnoticed because it involved Indians and Mexicans rather than African-Americans.

In the years immediately following the Mexican-American War, senators and representatives would attempt to define the forms of involuntary servitude existing throughout the Southwest, invoking a wide array of strategic arguments in support of their respective ideological causes. Slavery in the territories became a central issue in national politics between the years 1848-50, thrusting New Mexico into the center of a renewed sectionalist debate that had arisen periodically in Congress over the preceding

161 Speech of President Polk, 30th Cong., 1st Sess., Senate Exec. Doc. No. 1, p. 11.

162 The eleventh article of the Treaty of Guadalupe Hidalgo required United States officials to aide in the repatriation of Mexican captives held among the various Indian tribes inhabiting the Southwest. The inclusion of this article was an indirect acknowledgment of the fact that the captive slave trade continued unabated at that time. For the eleventh article, see Hunter Miller, ed., Treaties and Other International Acts of the United States of America, Vol. 5 (Washington, DC: Government Printing Office, 1931-1948), 219-22. See also Brian DeLay, War of a Thousand Deserts: Indian Raids and the U.S.-Mexican War (New Haven, CT: Yale University Press, 2008), esp. 294-303.
decades. These deliberations over peonage and captivity would have far-reaching implications for American politics and legal philosophy in the decades that followed.
CHAPTER 5
SOCIAL HIERARCHIES IN NEW MEXICO

When Spanish census-takers set out to enumerate New Mexico’s population in 1790, they took great care to distinguish between ethnicities and phenotypes in their recordings. Their reports clearly delineated the various caste groups—Spanish, Indian, mestizo, coyote, and mulatto—inhabiting the province.¹ That same year, Comandante General Jacobo Ugarte y Loyola issued a bando that placed far-ranging social and physical restrictions upon the mixed-blood populace. “No Mestizo Indian, or those of other tributary caste, may leave their place of residence,” the order stated, going on to require that any such person wishing to travel from place to place must first obtain a certificate that described state or province of residence, social status, the race of deceased family members, tribal origin, and an ethnic heritage of either pure- or mixed-blood. The

mandate contained twelve articles that regulated numerous aspects of everyday life for persons of multifarious ancestry in northern New Spain.\textsuperscript{2}

The differentiation between ethnic and racial groups in New Mexico began during the Spanish colonial era and lasted well into the territorial period, when Anglo-American newcomers applied similar ideologies to the regional population. As late as 1861, one prominent U.S. politician believed the entire territory to be comprised of “a few thousand Americans, a few thousand Mexicans, and the balance of mixed bloods and peons,” or, as another congressman from Pennsylvania derisively put it, “Indians, Mustees and Mexicans.”\textsuperscript{3} In 1860, New Mexico District Judge John S. Watts similarly announced that the territory contained only a few thousand Anglo Americans, along with “forty-four thousand peons, and forty-four thousand Indians, about half civilized.”\textsuperscript{4} In a telling rhetorical conflation that characterized many observations of New Mexico, these men ascribed peon status to all landless Hispanos, using the idiom of slavery to assert their own ethnic superiority and marginalize economically dependent inhabitants of the Southwest. The denigration that native New Mexicans experienced at the hands of Euro-American newcomers dated back to the colonial era, but would take on increased political and social significance once the region came under U.S. control in 1846.

\textsuperscript{2} Jacobo Ugarte y Loyola, \textit{bando} issued in 1790, Archives of the Archdiocese of Santa Fe, Loose Documents, Mission, 1790-1817, Microfilm #53, Frame 001.

\textsuperscript{3} Congressional Globe, 36\textsuperscript{th} Cong., 2\textsuperscript{nd} Sess., February 16, 1861, pp. 623, 972. For anti-Mexican sentiment in the United States prior to the Mexican-American War, see Brian DeLay, \textit{War of a Thousand Deserts: Indian Raids and the Mexican-American War} (New Haven, CT: Yale University Press, 2008), 245-47.


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In the nineteenth century, ethnocentric mentalities elevated Anglo-Americans to the summit of an internally-constructed, largely imagined racial hierarchy while demoting Indians, Hispanics, and African Americans to the bottom of that ladder. Throughout the mid-1800s, newcomers to New Mexico believed Indians and Hispanics to be unworthy of recognition in the more “civilized” American society. After more than two centuries of acculturation and assimilation in the Southwest, the ethnocentrism that first induced Spaniards to disseminate notions of caste and blood purity had begun to dissipate. Americans, however, brought with them their own ideas of racial preeminence and applied them to native New Mexicans, in effect reintroducing a more stringent and oppressive form of ethnocentrism in the region, one that had not been seen since the Spanish colonial era.

Some Northerners who staunchly abhorred slavery and fought for the emancipation of Southern slaves turned a blind eye to captivity and peonage as a result of prejudice towards Indians and Hispanos. As scholar Laura E. Gómez has noted, “It was by no means clear where Mexicans would fit within this hierarchy,” as many Americans differed in their views on whether Hispanics should be classified as Indians because of their mixed-blood ancestry or as blacks because of their darker skin color and behavioral characteristics that many saw as deprave and uncivilized. 5 South Carolina Senator John C. Calhoun, speaking before Congress in January 1848 relative to the impending annexation of Mexico’s far north, typified the American mindset towards Southwestern

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inhabitants. “We have never dreamt of incorporating into our Union any but the Caucasian race,” he ranted. “To incorporate Mexico, would be the very first instance of the kind of incorporating an Indian race; for more than half of the Mexicans are Indians, and the other is composed chiefly of mixed tribes. I protest against such a union as that! Ours, sir, is the Government of a white race. The greatest misfortunes of Spanish America are to be traced to the fatal error of placing these colored races on an equality with the white race. That error destroyed the social arrangement which formed the basis of society.”

Calhoun’s 1848 speech, laced with bigoted rhetoric, epitomized one of the most common arguments that Anglo-Americans proffered against the admittance of New Mexico into the Union on equal political footing as the Eastern states. The elder statesman spoke for many of his peers when expressing an overall aversion to the enfranchisement of non-whites and a fear that some type of social and ethnic regression might occur upon incorporating such persons into the United States body politic. At least some Hispanos—mainly those with a formal education and financial means—took notice of such realities and acted accordingly to stem the tide of ethnocentrism in the East. New Mexico congressional Representative Miguel A. Otero, for example, published a specious statement in several newspapers that relied chiefly on Anglo-American ignorance of Southwestern culture. Recounting the centuries-long relationship between Spanish colonists and regional tribes, and criticizing Indians as nothing more than “sullen and reluctant” slaves, he declared that “the two races never amalgamated” and claimed that

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mixture of bloodlines occurred only on rare occasions. Otero sought to disprove allegations that his Hispano constituents “are a hybrid race” of European and indigenous origins, calling such a notion “groundly defamatory and shamefully mendacious.”

Intended to affirm the sense of superiority and nobility that he and fellow Hispano aristocrats felt, his illusory claims actually marginalized the agency of a multiethnic population derived from systems of involuntary servitude and fictive kinship. These cultural misunderstandings, coupled with intentional neglect or manipulation of the issue, began at the local level with territorial officials, legislators, and newspaper editors, and ascended to a national audience among congressional representatives and sectional ideologues.

Generations of Indian slavery, with its inherent transcultural relationships, resulted in the widespread emergence of polyethnic families and communities that many Euro-Americans openly criticized. Over several generations, debt peonage and captive servitude became engrained in the region’s patrilineal and feudalist traditions, providing, through what literary scholar Joe Lockard calls the “power of spectacle,” a visible indicator of social and ethnic prestige among elite males and, to a much lesser extent, females. Fabiola Cabeza de Baca, whose family traced its lineage in northern New Mexico back many generations, wrote that New Mexico “was strictly a feudal system and

7 “Greely’s [sic] Article on New Mexico – Reply by Hon. M.A. Otero,” Mesilla Times, March 2, 1861. For Otero’s letter and the publications of Horace Greeley that incited the incident, see Mark Stegmaier, “New Mexico’s Delegate in the Secession Winter Congress, Part 1: Two Newspaper Accounts of Miguel Otero in 1861,” in New Mexico Historical Review 86 (Summer 2011), 385-92; Mark Stegmaier, “New Mexico’s Delegate in the Secession Winter Congress, Part 2,” in New Mexico Historical Review 86 (Fall 2011), 513-23.

the wealth was in the hands of the few.” Explicitly comparing Mexican haciendas to Southern slave plantations, she wrote that, “the ricos of colonial days lived in splendor with many servants and slaves.”

9 Dating back to Spanish colonial times, fathers passed down captives and peons to their heirs; in some rare instances, when no male beneficiary existed, widows inherited their deceased husband’s servants. Even when captives assimilated or acculturated into Spanish families through marriage, baptism, or internalized structures of communal obligation, they oftentimes remained a physical expression of wealth for their overseers and, like chattel slaves in the South, could be willed to a family member in the same manner as land, money, or other tangible property.

In one extremely rare example of upward social and economic mobility, Don Ignacio de Roybal of Santa Fe left a will in 1755 that awarded his servant, Juan Piñon, a substantial amount of property near the provincial capital. Whether Piñon was a debt peon or—more likely given the early date—an Indian captive remains unknown, but


11 See Brooks, *Captives & Cousins*, 237-38. On the origins of racial castes in New Mexico, see Bustamante, “‘The Matter Was Never Resolved,’” 143-63.
either way his newfound wealth in land represented a windfall that most servants could never expect to receive during their lifetimes. By including this grant in his last will and testament, Roybal bestowed upon his former slave a generous endowment that ensured him an opportunity to ascend a rigid hierarchy in a society that revolved around the denigration of the lower classes through coerced labor and economic dependency.¹²

Social stratification in mid-nineteenth century New Mexican culture was inherently based upon a preexisting notion of racial cleanliness called limpieza de sangre, or purity of blood, that originated in the Spanish motherland and sought to affirm prestige and honor among propertied aristocrats and learned ecclesiastics.¹³ When Fray Francisco Atanasio Domínguez toured New Mexico in 1776, he conveyed the Spanish preoccupation with blood purity by reporting of one village that, “most of them are low class, and there are very few of good, or even moderately good, blood,” a statement that directly linked ancestry with social hierarchy.¹⁴ In its daily deployment, the notion of limpieza de sangre took on a discursive form and enabled the public display of inegalitarian relationships of power “in socially and cognitively acceptable terms,” a

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¹² Last Will and Testament of Don Ignacio de Roybal, 1755, New Mexico State Records Center and Archives, SANM I, No. 551, Microfilm Translations, Roll 3.


¹⁴ Fray Francisco Atanasio Domínguez, The Missions of New Mexico, 1776: A Description by Fray Francisco Atanasio Domínguez, with other Contemporary Documents, ed. and trans. Fray Angelico Chavez and Eleanor B. Adams (Albuquerque, NM: University of New Mexico Press, 1956), 99.
phenomenon known as an “idiom of power” that allows a slaveholder’s dominance and superiority to be portrayed and understood throughout the surrounding community.\textsuperscript{15} Through the imposition of \textit{limpieza de sangre} rhetoric and its attendant racist ideology, an idiom of power existed among servant-holding Hispano families, just as it did within Southern plantation society.

New Mexico’s early patrician families, enamored with the social mores incumbent upon blood purity, engaged in varying levels of endogamy to ensure that they retained some semblance of racial homogeneity. This stratified social order at once divided and unified Southwestern communities. Ethnic hierarchies and levels of other propagated a visible, top-down structure of power that ensured the predominance of male elites while simultaneously binding mixed-blood women and children, as well as men of lower economic status, to that same family and society, forcing them to live alongside those whom they served.\textsuperscript{16} Ironically, the shared social space in which masters and servants lived and worked propagated a developing sense of unity, contingent upon bilateral but

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unequal dependency and the mutually reinforcing nature of mental and physical coercion that interacted within that collective social environment.\textsuperscript{17}

In New Mexico, as in many other stratified communities with slaves and servants, aristocratic males wielded social and political power and thus could secure desired outcomes through the transformative capacity of their own actions. Hegemonic elites sustained a coercive psychological system that incorporated both internalized and externalized configurations of kinship and labor obligation, in some instances real and in other cases merely imagined or fabricated.\textsuperscript{18} As in other regions, human experiences and social conditions in the Southwest resulted in the development of specific, internally rationalized dispositions based on what an individual perceived to be possible or not possible. Subjective power relations fostered a disposition towards servility and submission within the consciousness of servants, causing the oppressed—in this case, Indian captives and Hispano peons—to believe that freedom had become unattainable. Under such circumstances, many servants simply came to accept their misfortune and went on about their daily lives as slaves and fictive kinfolk.\textsuperscript{19}

\textsuperscript{17} Henri Lefebvre, \textit{The Production of Space}. Translated by Donald Nicholson-Smith (Oxford, UK: Basil-Blackwell, Ltd., 1991), 73-74.

\textsuperscript{18} Here I draw upon Anthony Giddens, who defines power as “the transformative capacity of human action” and “the capability to secure outcomes where the realization of these outcomes depends upon the agency of others.” Giddens, \textit{New Rules of Sociological Method}, 110-11.

Throughout the Southwest, coerced notions of utilitarian functionality among captive slaves of differing ethnic backgrounds spawned from the personal crisis of abduction and transplantation into an altogether different society. Once an internalized sense of inferiority and submission had been cultivated within a victim through imposed kinship obligation, geographic isolation, and the disciplinary power of the master, a dichotomous externalized structure of servility and dependency developed whereby the public humiliation of enslavement embodied both the elevated social standing of the overseer and the denigrated status of the bondsperson. The intersocietal networks that developed as a result of the ongoing captive slave trade allowed for the continual reproduction of internalized structures of subservience and perpetuated New Mexico’s systems of involuntary labor.\textsuperscript{20} Taken collectively, these simultaneously-occurring sociological and psychological phenomena promulgated a well-defined condition of asymmetrical power relations in colonial New Mexico’s society of dependency that ensured a high level of conformity to communal customs on the part of captive slaves and debt peons. Through the physical and psychological components of captivity and slavery—and the resulting mental constructs of shared social space—landowners and civic leaders successfully preserved their systems of human bondage over many years.

\textsuperscript{20} Here I rely primarily upon the work of Christopher Chase-Dunn and Thomas D. Hall, who define world-systems as “intersocietal networks in which the interactions (e.g., trade, warfare, intermarriage, information) are important for the reproduction of the internal structures of the composite units and importantly affect changes that occur in these local structures.” Chase-Dunn and Hall, \textit{Rise and Demise}, 28. These authors refute the notion that stateless and classless societies—or, for the purposes of the present work, indigenous peoples of the Southwest—cannot participate in a world-system because “important economic exchanges occur only within single cultures.” (Ibid). For world-systems theory in the Southwest specifically, see Thomas D. Hall, \textit{Social Change in the Southwest, 1350-1880} (Lawrence, KS: University Press of Kansas, 1989), 12-13, 23-25.
and across multiple generations with little outward resistance on the part of the enslaved.\footnote{See Bourdieu, \textit{Outline of a Theory of Practice}, 164-65; Lefebvre, \textit{The Production of Space}, 73-74. This psychological phenomenon held especially true among indigenous women captives. As Bourdieu explains: “Social categories disadvantaged by the symbolic order, such as women and children, cannot but recognize the legitimacy of the dominant classification in the very fact that their only chance of neutralizing those of its effects most contrary to their own interests lies in submitting to them in order to make use of them.” Ibid., 164.}

In Spain’s New World colonies, \textit{limpieza de sangre} could only be sustained through undiluted bloodlines void of Native American or African contamination. This concept perpetuated a system of racial and ethnic inequality, with pureblooded Spanish elites (\textit{españoles}) comprising the landholding class (also known as \textit{ricos}) at the top of the hierarchy, followed by those of mixed Indian and Spanish blood: \textit{coyotes}, \textit{mestizos}, and \textit{gentzaros}.\footnote{On the racial hierarchy generally, see Gómez, \textit{Manifest Destinies}, 47-79, esp. 54-55; Martha Menchaca, \textit{Recovering History, Constructing Race: The Indian, Black, and White Roots of Mexican Americans} (Austin, TX: University of Texas Press, 2001), 81-96. On \textit{ricos}, see Cabeza de Baca, \textit{We Fed Them Cactus}, ix. Historian Estévan Rael-Galvéz defines the mestizo, or \textit{mestizaje}, aspect of New Mexican culture as “Generations of racial and cultural mixture defined as much by amicable unions as by coercive relations. Within the interstices of these relations were displaced indigenous captives and servants, people whose position and presence became foundational to the continuous development of this frontier society.” Estévan Rael-Galvéz, \textit{Identifying Captivity and Capturing Identity: Narratives of American Indian Slavery, Colorado and New Mexico, 1776-1934} (Ann Arbor, MI: University of Michigan, PhD Diss., 2002), 169. According to one scholar, the first use of the term \textit{mestizo} can be traced simultaneously to India, Brazil, and the Caribbean, but it quickly transmigrated into New Mexico as a means of describing the emerging ethnic class in that region. Jack D. Forbes, \textit{African and Native Americans: The Language of Race and the Evolution of Red-Black Peoples} (Urbana, IL: University of Illinois Press, 1993), 125-30. The term originated around the end of the sixteenth century; a 1599 dictionary defined \textit{mestizo} as, “that which is come or sprung of a mixture of two kinds, as a blacke-Moore and a Christian, a mungrell dog or beast.” Quoted in Forbes, \textit{African and Native Americans}, 126.} Pure-blooded Indians (\textit{indios}) and Africans (\textit{negros}) were also included in this hierarchy. As one historian points out, these classifications are not merely a concoction of modern scholars seeking to describe persons of varying phenotypes and skin colors; rather, they represent the everyday mindset of New Mexicans throughout the
colonial era. Such terminology oftentimes influenced personal dispositions on race and ethnicity, much like racially-charged parlance in modern times.23

Decades of miscegenation in the region had a pronounced effect on physiognomy, one that Anglo-Americans invariably noticed when traveling in the Southwest. Santa Fe merchant Josiah Gregg estimated New Mexico’s population to be about 70,000 in the late 1830s, enumerating 1,000 “white creoles,” 59,000 mestizos, and 10,000 Pueblos.24 Based on his observation, there was little in the way of physical characteristics to classify the ethnicity of most regional inhabitants (excepting, of course, Anglo-Americans), and many newcomers feared that such hybridization would “in time seriously affect [sic] the social and domestic relations of the Territory.”25

According to one eyewitness, New Mexico’s mid-nineteenth century population comprised “every shade of color, from the nut-brown, to the pure Castilian, who is light and fair as the sons and daughters of the Anglo-Saxon race,” with the majority of individuals being only one-quarter to one-eighth Spanish.26 Another visitor to the province related that Indian captives who intermarried with their masters became “often


24 Josiah Gregg, Commerce of the Prairies (New York, NY: Langley, 1844), 142.

25 Quoted by Alvin Sunseri, Seeds of Discord: New Mexico in the Aftermath of the American Conquest, 1846-1861 (Chicago, IL: Nelson-Hall, 1979), 117. Using DNA sampling, a scientific study in 2004 detailed skin pigmentation and ethnic phenotypes in the San Luis Valley of southern Colorado and northern New Mexico. The findings verified the extent to which Euro-American and indigenous peoples cohabited and bore children with one another during the colonial period, with the average ethnic breakdown of each subject being 61.6% European, 32.8% Native American, and 5.6% African, respectively. Carolina Bonilla et al., “Admixture in the Hispanics of the San Luis Valley, Colorado, and its implications for complex trait gene mapping,” in Annals of Human Genetics 68 (February 2004): 144.

26 William W.H. Davis, El Gringo, or, New Mexico and Her People (Santa Fe, NM: Rydal Press, 1938), 84.
undistinguishable from many of the already dark-hued natives.”

Postulations about genetic linkages between Moors and Hispanos were also common among Anglo-American observers in the antebellum era. Territorial Secretary William W.H. Davis typified the overly simplistic outsider view of New Mexicans when writing in the 1850s that, “the Spaniard, the Moor, and the aboriginal were united and made a new race, the Mexicans,” echoing a previous witness who wrote that, “darkness has resulted partly from their original Moorish blood, but more from intermarriages with the aborigines.”

In 1852, Charles Francis Clarke of Company F, First Dragoons, stationed in the San Luis Valley of today’s south-central Colorado, reiterated the ethnic hybridization that characterized many Southwesterners. He explained to his father in England that most New Mexicans “are a mixture between the Spaniards & Indians & possess all the vices & but few of the virtues of both races.”

In a similar vein, Secretary Davis noted that, “the intermixture of the peasantry and the native tribes of Indians is yet carried on” and cited captive slavery as the primary reason for such conditions. With a tone of condescension, he claimed that “the people obtain possession of their children by purchase or otherwise, whom they rear in their families as servants, and who perform a lifetime servitude to hard task masters and mistresses.” As young captives grew older, they married into “the lower

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27 Gregg, Commerce of the Prairies, 217-18.

28 Davis, El Gringo, 84; Gregg, Commerce of the Prairies, 153; see also John T. Hughes, Doniphan’s Expedition: Containing an Account of the Conquest of New Mexico; General Kearny’s Overland Expedition to California; Doniphan’s Campaign against the Navajos; His Unparalleled March upon Chihuahua and Durango; and the Operations of General Price at Santa Fe (Cincinnati, OH: J.A. and U.P. James, 1848), 91-93; James Madison Cutts, The Conquest of California and New Mexico, by the Forces of the United States, in the Years 1846 & 1847 (Philadelphia, PA: Carey & Hart, 1847), 14.

29 Charles Francis Clarke to his Father, September 29, 1852, Center for Southwest Research, University of New Mexico, Charles Francis Clarke Papers, Box 1, Folder 7.
class of Mexicans, and thus a new stream of dark blood is constantly added to the current.” It was owing to this cultural phenomenon, he postulated, that “there exists an amalgamation in color that is found in no quarter of the world except in the Spanish portions of the American continent.”

In applying analogies of skin color and race, these observers conformed to the habit of nineteenth-century America’s dominant white hierarchy, members of which often marginalized people whom they viewed as inferior through the application of derogatory euphemisms. To be sure, this racial denigration did not originate with American imperialists arriving in the mid-1800s. Spanish governors and other political and religious officials had long since established and upheld the caste system through their various decrees in an attempt to assert greater social control over provincial inhabitants. The usage of such terminology as mestizo and genízaro originated with the Spaniards and Mexicans themselves and was merely perpetuated following the arrival of Anglo-Americans.

The mestizo element of New Mexican society emerged largely as a result of Indian captivity which, like chattel slavery in the American South, elicited coerced sexual


31 Historian Jack Forbes provides an instructive analysis of the common misappropriation of racial and skin pigmentation phrases, many of which are often ambiguous and shroud the true meaning of the terms. Even white people applying expressions such as ‘negro,’ ‘redskin,’ and ‘mestizo’ are never actually white in the strict meaning of the word. Everybody, Forbes argues, is a certain shade of a color, and therefore the application of color terminology to describe racial classes is somewhat hypocritical. Such terms merely serve as a means of otherizing a class of people viewed as inferior by those exercising social dominance within a community or nation. Forbes, *Africans and Native Americans*, 93-100.

32 Frank, “‘They Conceal a Malice Most Refined,’” 83-85.
liaisons between masters and servants. Cultural and ethnic amalgamation began with Spanish colonization in Central America during the 1500s and radiated northward, becoming a defining characteristic of New Mexican culture by the eighteenth century. This attribute of localized servitude institutions belied an unmistakable corollary to the system existing contemporaneously in the United States, in which Southern masters engaged in unconsecrated unions with female African-American slaves.

As early as 1650, mestizos already outnumbered pure-blooded españoles in Spain’s New World empire. By the time Americans began arriving in New Mexico in the early nineteenth century, this ethnic group had almost entirely replaced pure-blooded Spaniards in the region. In 1852, U.S. Army Assistant Surgeon J.F. Hammond applied the ideology of scientific racism when describing regional inhabitants as almost invariably mestizo. “He does not possess the perpendicular square forehead of the same class in the valley of Mexico,” he wrote in generalized reference to New Mexicans, “but has the low, retreating front, high cheek-bones, and oblique eyes of the surrounding Indian tribes.”

The complexity of this ethnogenesis, however, often went unrecognized among American newcomers, who viewed Hispanos from a skewed, prejudiced perspective. The very nature of the Indian slave trade—a multilateral system involving perhaps a dozen or more

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different tribes and scores of subgroups within those tribes—meant that no simple
distinction could be drawn from physical appearances, although many Anglos would
attempt to do just that as they ventured into the territory after 1846.36

At the beginning of the Civil War, one person observed of New Mexico that “the
lower classes were all peons to the higher” and believed that most residents, regardless of
social status, came from a multiethnic background.37 Superintendent of Indian Affairs
Felipe Delgado explained in 1865 that intermarriage between Euro-Americans and
Indians had been occurring for more than a century and a half, but he did not believe the
effects to be negative. Once Indian slaves married into the family of their captors,
Delgado wrote, they were treated “as their adopted children” and sometimes even
received assistance in paying for the wedding.38 In an attempt to portray such
intermarriages as voluntary, Delgado attributed the decision to marry as being incumbent
upon the captive. Many interethnic unions, however, were sanctified only as a matter of
convenience after Indian women realized that assimilation, while altering or altogether
eliminating their native cultural ties, might provide some measure of relief from the
rigors of captivity and dependency.

The holding of servants, whether captive Indians or Hispanos in debt bondage,
represented a form of cultural materialism in that it branded the territory’s upper class as

36 For the impact of the Comanche slave trade in the evolution of Mexican ethnicity, see Pekka

37 John Ayers, “A Soldier’s Experience in New Mexico,” in *New Mexico Historical Review* 24 (October

38 Felipe Delgado to William P. Dole, June 16, 1865, RG75, OIA, M234, LR, NMS, Roll 552.
economically and ethnically superior in a publicly visible manner.\(^{39}\) “Generally they are in the employ of wealthy persons owning the lands, and the peons live upon the lands and cultivate them as serfs,” explained U.S. Senator James R. Doolittle in 1867, with a colleague adding that such servitude “degrades both the owner of the labor and the laborer himself.”\(^{40}\) Describing the social power dynamics of peonage in 1857, Judge Kirby Benedict refuted the notion that the holding of peons degraded the owners, writing that, “The most wealthy and powerful families were flattered in their pride in displaying their retinues of these dependents.”\(^{41}\) In most cases, Anglo-Americans held preconceived opinions of the New Mexican population based upon ethnocentric and nativist prejudices, going so far as to attribute peonage to an “ignorant, degraded, demoralized, and priest-ridden” society.\(^{42}\) Speaking before Congress in 1836, Mississippi Senator Robert Walker claimed that only one in seven Mexicans could be considered “of the white race” owing to widespread miscegenation; the other six out of seven, he said, were “Africans, and Indians, Mettizoes, Mulattoes, and Zamboes, speaking twenty different languages, and constituting the most poisonous compound that could be amalgamated.”\(^{43}\) These statements betrayed a certain amount of hypocrisy: chattel slavery contemporaneously existed in the American South, where white masters had sexual relationships with their


\(^{40}\) *Congressional Globe*, 39\(^{th}\) Cong., 2\(^{nd}\) Sess., February 19, 1867, p. 1572.


\(^{43}\) *Congressional Globe*, 24\(^{th}\) Cong., 1\(^{st}\) Sess., May 9, 1836, p. 461.
slaves, yet many politicians either neglected or refused to draw this parallel between the two geographic regions and their coercive labor systems. When people did explicitly raise the issue of interracial sex between Southern whites and black slaves, they risked violent reactions. Massachusetts abolitionist Charles Sumner learned this the hard way when, in 1856, his comments to that effect elicited a beating from South Carolina Representative Preston Brooks that left him lying half-dead on the floor of the Capitol Building.

Such worldviews did, however, exhibit the sense of American exceptionalism and superiority that undergirded overarching social and ethnic hierarchies. Many easterners arriving in the Southwest at midcentury emanated from wealthy families and had been raised in privileged households. One such person, Susan Shelby Magoffin, was scarcely eighteen years old in 1846 when she traveled with her husband to New Mexico via the Santa Fe Trail. Born into a prominent Kentucky family, her parents reared her in “an atmosphere of ease and comfort.” Arriving in the territorial capital and taking up temporary quarters there, her diary entry on September 4, 1846 noted that she had “been teaching one of the Mexican servants his business . . . and though we have considered him one of the numbskulls, I have found him both willing and apt in learning.” Betraying the naiveté of her youth, she believed that her servants “never begin their work sullenly, and you may change it as often as you please or make them do it over, and they continue in the same good humour, never mouthing and grumbling because they have too much to

44 Susan Shelby Magoffin, Down the Santa Fe Trail and Into Mexico: The Diary of Susan Shelby Magoffin, 1846-1847, ed. Stella M. Drumm (New Haven, CT: Yale University Press, 1926), xiv.
do, but remain perfectly submissive.” The common misconception that servants enjoyed their obsequious existence rings clear in Magoffin’s self-perceived maternalistic role among her Hispano servants.

Territorial Governor David Meriwether attempted to address the ambiguous issue of New Mexico’s social hierarchy in his 1853 inaugural address. “I would have it distinctly understood,” he proclaimed, that as long as he occupied the Palace of the Governors there would be no official distinction made between class or race. “The elevated and the lowly, the rich and the poor, the native-born and the immigrant,” Meriwether declared, “are all alike entitled to the protection of the laws.” Despite the governor’s efforts, however, there remained a deep chasm dividing the various ethnicities and social classes of New Mexico.

Through a process of gender subordination that complemented ethnically-stratified power structures, female captives became the more valued human commodity during this era, as slaveholders enlisted them not only as domestic servants but also as translators and ambassadors. In 1776, Fray Francisco Atanasio Domínguez observed that Comanches at Taos traded Indian girls ranging in age from twelve to twenty years for “two good horses and some trifles.” Seventy-five years later, Daniel Jones noticed

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while traveling through New Mexico that “the girls were in demand to bring up for house servants, having the reputation of making better servants than any others.”\footnote{Daniel W. Jones, \textit{Forty Years Among the Indians} (Los Angeles, CA: Westernlore Press, 1960), 47-48.}

The preference for females also exacerbated the proliferation of \textit{mestizaje}, as the increased presence of captive indigenous women of child-bearing age propagated cross-cultural sexual relationships—both coerced and voluntary—and a concomitant mixture of ethnic phenotypes. Of a recorded 3,540 female marriages in New Mexico between 1690 and the 1846 American occupation, 2,839 involved women between twelve and twenty years of age. By contrast, out of 3,798 male marriages during the same time period, 2,192 were between ages twenty-three and thirty-nine, indicating the extent to which older Spanish men took younger women as wives. This held especially true among enslaved Indian women, who underwent baptism at a young age in order that they might become eligible for sanctioned marriage in the Catholic Church.\footnote{Ramón A. Gutiérrez, \textit{When Jesus Came the Corn Mothers Went Away: Marriage, Sexuality and Power in New Mexico, 1500-1846} (Stanford, CA: Stanford University Press, 1991), 272. Of the Indian slaves baptized in New Mexico, fully two-thirds (66 percent) were women, while only 34 percent were men. This indicates that baptism occurred more often among women in order that they might become marriageable for Spanish and Mexican men, whereas male slaves were baptized less often because they lacked this same marriage and assimilation potential. Ibid., 296.}

Nearly all intercultural nuptial bonds involved citizens of the lower classes. It was not uncommon for Mexican peons to marry Indian slaves; indeed, their shared societal status as dependent servants might have encouraged such action in some circumstances. By contrast, Spanish \textit{ricos} rarely married down the metaphorical social ladder in colonial New Mexico; only three officially recorded marriages involved a Spaniard and an Indian slave up to the time of American occupation.\footnote{Ibid.} This does not,
however, imply that intimate relationships did not occur between colonial elites and Indian slaves, as such unsanctified liaisons would have been undertaken illicitly and thus remained undocumented. But while marriage comprised one method of acculturating captives, redemption though ransom—or even outright purchase—of captives from Indian tribes formed another important means whereby Nuevomexicanos obtained slaves. Between 1700 and 1880, an estimated five thousand indios de rescate and genízaros entered New Mexico in this way and, in many cases, lived out their lives as objectified outsiders and servile bondspeople.52

In New Mexico, genízaros bore tremendous significance as a social class and ethnic enclave that originated with and evolved almost exclusively through the Indian slave trade. The term had two definitions in the eighteenth century. In Spain, it simply meant a “Spanish-born son of a foreigner,” while in New Mexico—“and New Mexico alone,” according to historian David J. Weber—it took on an entirely different meaning that applied to detribalized Indian captives.53 Even after conversion to Christianity, many genízaros lived in segregated communities on the outskirts of larger villages, a testament

52 Brooks, Captives & Cousins, 125.

to their ostracized status within New Mexico’s stratified social sphere. The genízaro
element of Southwestern society represented one circumstance where a rigidly
identifiable ethnic hierarchy metastasized outside of the legislative and judicial arenas.
Contrary to peons, who might be found in any village or hacienda at any time, genízaros
developed clear patterns of shared consciousness and intergroup behavior that became
discernable in segregated residency configurations, strategic military cooperation, and
participation in recurring communal festivals.

The term “genízaro” emerged in the early eighteenth century as an appellation
used to describe a new class of New Mexicans whose biological lineage diverged from
pure-blooded Spaniards. There appears to be a direct linkage between the mention in
Spanish documents of detribalized genízaros as residents of peripheral colonial
communities and the culmination of the 1692 Reconquista, when enslavement of
indigenous peoples shifted from sedentary Pueblo Indians to nomadic Apaches,
Comanches, Navajos, and Utes.54 As detribalized Indians, the genízaro distinction
spawned in the immediate post-reconquest era as an outcome of the multilateral captive
trade, and was highly contingent upon spatial disassociation from natal tribes to sustain
an imposed group identity.55

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54 The first known use of the term *genízaro* in New Mexico occurred in the 1660s, although it is a singular reference and the context remains unclear. Not until after the 1692 reconquest did the term begin to appear in Spanish documents, but even then it did not become commonplace until the 1740s. See Brooks, *Captives and Cousins*, 129.

Spanish officials exploited genízaro communities for dualistic utilitarian purposes. As detribalized and sometimes bilingual Indians, genízaros frequently served as interpreters, enabling colonists to communicate with nomadic groups during trade fairs or diplomatic meetings. Colonel Don Fernando de la Concha, a former governor of New Mexico, informed his successor in 1794 that such persons provided an indispensable resource in this regard, noting that a genízaro named Manuel Mestas fulfilled this role with the Utes. Further south at the villages of Sabinal and Belen, Lereto Tores and a man referred to only as Matías served in similar capacities as interlocutors between Spaniards and Apaches of the Gila and Mimbres bands.56

The second role of genízaros involved the protection of New Mexico’s interior settlements, essentially functioning as what historians and anthropologists have termed “ethnic soldiers.”57 By segregating quasi-Hispanicized Indians in communities on the periphery of Spanish villages, colonial officials established a buffer zone intended to shield settlers from the raids of nomadic tribes living to the north, west, and east of the province. Many genízaros seem not only to have been aware of but also to have embraced this expectation. When petitioning the governor in 1755, one group pointed out that their proposed settlement at Sandía Pueblo would be advantageous for the


interior communities, as the location “is a frontier and the gateway of the Apache enemies.” They claimed that permanent occupancy at the formerly abandoned site would be conducive to “obstructing entrance” into the province and promised to make frequent scouts to ensure that external Apache threats did not materialize.\(^{58}\)

Governor Pedro Fermín de Mendinueta attested to this function in a 1760 decree in which he demanded that genízaros reoccupy several previously-abandoned towns near Ojo Caliente on the Chama River. As subjects of the Spanish crown, he believed that these people had a duty to patrol and monitor the frontier because, if left unprotected, New Mexico’s more secluded villages would be “exposed to total ruin.”\(^{59}\) To further encourage that genízaros embrace a militaristic function and defend Spanish colonies, some provincial officials suggested that the viceroy extend full rights of citizenship to them and, in appropriate instances, issue land grants for their residency and cultivation.\(^{60}\) Through this means, Apaches, Comanches, Navajos, or Utes attempting to raid colonial outposts would first encounter the tangential genízaro settlements, which in theory would offer preliminary resistance—“a defensive shield,” in the words of Fray Juan Agustín de

\(^{58}\) “Genízaro Petition to Settle Sandía,” April 21, 1733, New Mexico State Records Center and Archives, SANM I, Item #1208, Microfilm Translations, Roll 4.

\(^{59}\) Decree of Governor Mendinueta, March 31, 1760, New Mexico State Records Center and Archives, SANM I, Item #656, Microfilm Translations, Roll 3.

\(^{60}\) Marc Simmons, ed. and trans., *Father Juan Agustín de Morfi’s Account of Disorders in New Mexico, 1778* (Isleta Pueblo, NM: Historical Society of New Mexico, 1977), 34-35; for the genízaro land grant at Abiquiu, issued by Governor Tomás Vélez Cachupín in 1754, see Ebright and Hendricks, *The Witches of Abiquiu*, 89-105, 269-72; on genízaro land grants generally, see Malcolm Ebright, “Advocates for the Oppressed: Indians, Genízaros and their Spanish Advocates in New Mexico, 1700-1786,” in *New Mexico Historical Review* 71 (October 1996): 315-17.
Morfí—to thwart hostile invaders. In this sense, Spaniards slyly pitted detribalized Indian captives against their former kin, and in so doing they further distorted the manner in which such persons viewed and conceptualized their own ethnic identity and role within the community. This was a tactic that Hispano masters in the nineteenth century also employed when dispatching their servants to participate in ad hoc militias, as in 1858 when a contingent of the “Mesilla Guard” composed almost exclusively of peons attacked a Mescalero Apache camp near Doña Ana, killing nine Indians including Chief Shawono.

As a further testament to their multipurpose hybridized identity, genízaros oftentimes donned Spanish surnames that masters provided and priests legitimized.

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through baptism. Juana Luján, a landholding woman of unusually advanced social status who lived at the northern New Mexico village of Santa Cruz in the mid-1700s, served as the godmother to at least fourteen parentless boys and girls—including several genízaros—that were baptized at nearby San Ildefonso Pueblo, and in each instance the presiding priest assigned her surname to the children. In 1746, Lieutenant Governor Don Bernardo Bustamante similarly sponsored the baptism of eight Apache infants at Jemez Pueblo. Gilberto Benito Cordova described the process whereby this occurred when relating the story of his grandmother, “a full-blooded Indian, forcibly brought to Abiquiu in the 1870s,” who took up residency with Don Vicente Cordova and wife Geronima at their home in San Miguel de la Puente. The family adopted her “as a domestic servant,” whereupon she took the surname Cordova, learned to speak Spanish, and received baptism in the local church. In some instances such ritualistic and symbolic conversion was voluntary, as in 1755 when a group of seventy-seven genízaros petitioned Governor Gervasio Cruzat y Gongora requesting permission to establish a settlement at the abandoned Sandía Pueblo north of Albuquerque. The supplicants began with an immediate profession of reverence for their newfound spirituality, informing the governor that they had “received for our great benefit the waters of baptism and with it


65 Archives of the Archdiocese of Santa Fe, Jemez Baptisms 1720-1829, Microfilm #5, Frame 651.

the faith of the holy mysteries of the very high Lord, a favor so excellent and singular for which we are obliged and grateful.”

These important societal functions, coupled with their categorization as baptized citizens, enabled genízaros to seek forms of legal redress that would have been unthinkable for most captive slaves or debt peons. In 1763, two Albuquerque women named María Paula and Manuela issued a formal complaint against their amos (masters), Thomas and Ysabel Chaves, which ultimately reached the provincial governor. Three years later, a genízara named María filed a petition for her freedom that passed through the bureaucratic channels to Governor Tomás Vélez Cachupín at Santa Fe. That these women came forward with such complaints indicates that genízaros did indeed develop grievances as slaves, and the wording of the three appeals, referring to them as “criadas” (female servants), further distinguishes their demoted condition. The fact that they managed to have their complaints heard by the governor speaks to their status—even as enslaved women—within New Mexican society. Because of their anointment in the Catholic faith and their fluency in the Spanish language, masters and civic leaders viewed genízaros as less of an “other” group than unbaptized Indian captives. Although they constituted a dependent servile caste, genízaros possessed certain social and legal

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67 “Genízaro Petition to Settle Sandía,” April 21, 1733, New Mexico State Records Center and Archives, SANM I, Item #1208, Microfilm Translations, Roll 4. A census roll presented to the governor identified these genízaros as being of the following tribes: Jumano, 14; Apache, 13; Kiowa, 12; Aa, 10; Panana, 7; Pawnee, 6; Tano, 6; Ute, 1; Unidentified, 8. Ibid.

privileges that slaves who had not embraced religion lacked, and therefore utilized what little social mobility they had to the utmost advantage.

While most Indian captives and Mexican peons in the Southwest lived in household coresidency with their masters and *patrónes*, the genízaro contingent of the population comprised the closest thing to a segregated slave population in New Mexico, where, contrary to the plantation South, no distinctive slave quarters existed. Among the earliest statistical enumerations of genízaros is that of Fray Francisco Atanasio Domínguez, who in 1776 observed that New Mexico contained three readily identifiable genízaro communities: one at Santa Fe numbering forty-two families (297 persons); another at Abiquiú consisting of forty-six families (136 persons); and a third at Los Jarales south of Albuquerque, boasting forty-nine families or 209 individuals. These locations represented only the largest and most visible in the province; smaller groups of just a few families dotted the New Mexican countryside but seldom received mention in reports. Domínguez noted that clusters of genízaros lived in most northern New

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Mexico villages but that “they have no true home, because hunger and the enemy pursue them from every side.”

While Abiquiú was a gathering place for genízaros of Spanish-Ute ancestry, communities on the easternmost provincial fringes typically contained hybridized Spanish-Comanche populations. In the eighteenth century, Comanches ascended to power on the Southern Plains and their overarching demographic influence impacted northern New Mexico’s towns. As Comanche raiding slowly waned following a pivotal 1786 peace accord with Spanish authorities, settlers founded a number of small villages in the Pecos and Gallinas River valleys east of Santa Fe. Such communities—including San Miguel del Vado, San José del Vado, and Anton Chico—consisted primarily of genízaros who had lived in captivity among the Comanches before being ransomed by Spanish officials in the decades following the peace agreement. Many of these more easterly genízaros underwent baptismal rights in the mission church at nearby Pecos Pueblo, a symbolic ritual that solidified their detribalized status.

Because of their exposed frontier locations, these communities became favorite targets of Apache and Comanche incursions. After its founding in 1822, the village of

For a detailed account of the genízaro community at Belen, see Horvath, Jr., *The Social and Political Organization of the Genízaro*.

71 Domínguez, *The Missions of New Mexico*, 119.


73 Archives of the Archdiocese of Santa Fe, Pecos Baptisms, 1726-1829, Microfilm #6.
Anton Chico repeatedly fell victim to captive raids and remained vulnerable into the 1860s. When Navajos began arriving at nearby Bosque Redondo in 1863, members of that tribe often slipped away from the reservation and struck the village, then stealthily returned before military authorities detected them. Residents of Anton Chico reciprocated and frequently held Indians from both aforementioned tribes in bondage.\(^{74}\)

Moreover, being situated on the eastern fringe of the Sangre de Cristo Mountains, residents of these towns had much closer contact with Southern Plains tribes and, especially in the post-American occupation era, carried on an unsanctioned trade that continually frustrated territorial officials and military officers seeking to ensure peaceful relations with surrounding nomadic groups. One army officer conducted a reconnaissance of the Pecos River valley in 1851 and informed headquarters that local inhabitants—especially those of Anton Chico—“are more frequently in communication and on better terms with the Indians than all the other towns put together, whilst their remote position enables them to trade unlicensed with the Savages.”\(^{75}\) When Colonel Christopher Carson and his troops fought the Comanches at the First Battle of Adobe Walls on November 25, 1864, Indian Agent Levi Keithly noted afterwards that residents of these easterly New Mexico villages, despite having previously been on amicable terms

\(^{74}\) For hostilities at Anton Chico, see James H. Carleton to Isaiah N. Moore, July 10, 1854, RG393, M1120, LR, DNM, Roll 3; J.W. Whitfield (sic?) to David Meriwether, September 29, 1854, RG75, OIA, T21, LR, NMS, Roll 2; T.H. Holmes to W.A. Nichols, March 13, 1857, RG393, M1120, LR, DNM, Roll 6; Cyrus H. DeForrest to Superintendent of Indian Affairs, January 23, 1867, RG75, OIA, NMS, T21, Roll 8. For captive raids at San Miguel del Vado and neighboring communities, see Petition of San Miguel County Residents to acting Governor William S. Messervy, August 12, 1854, RG393, M1120, LR, DNM, Roll 3; John Garland to William S. Messervy, July 10, 1854, RG75, OIA, T21, LR, NMS, Roll 2. Navajo oral histories acknowledge that warriors sometimes snuck away from Bosque Redondo to raid Mexicans and Comanches. See Ruth Roessel, ed., *Navajo Stories of the Long Walk Period* (Chinle, AZ: Navajo Community College Press, 1973), 205.

\(^{75}\) Orren Chapman to Edmund B. Alexander, March 31, 1851, RG393, M1102, LR, DNM, Roll 3.
with the Comanches, might face retaliatory measures because of their locational exposure.\textsuperscript{76}

The ethnic differences between geographically disparate genízaro populations exemplify the complexity of the Indian slave trade and are indicative of the multilateral nature of the institution. In north-central New Mexico, Spanish colonists oftentimes exerted power and authority over nomadic and semi-sedentary tribes such as Navajos, Paiutes, and Utes, holding their women and children in captivity as servants. Alliances between Ute leaders and Spanish officials in the latter half of the eighteenth century resulted in the proliferation of intertribal slave raiding, with Utes targeting their less powerful Great Basin neighbors—as well as nearby Navajo enemies—and then redeeming those captives at New Mexico’s trade fairs.\textsuperscript{77} As a result, by the early nineteenth century genízaro populations consisted of indigenous peoples who, through generations of captivity, had been assimilated into Spanish culture as a marginalized lower class.

Such was rarely the case, however, with Comanches, who exerted remarkable levels of control over Spanish and Mexican colonists for a period spanning roughly a century beginning in the mid-1700s. In 1744 Fray Miguel de Menchero referred to the Comanches as “a nation so bellicose and so brave that it dominates all those of the interior country,” noting that tribal raids penetrated more than a thousand miles

\textsuperscript{76} Levi Keithly to Michael Steck, December 20, 1864, Center for Southwest Research, Inventory of the Michael Steck Papers, Series 2, Roll 4.

\textsuperscript{77} For the Spanish-Ute alliance, see Blackhawk, Violence over the Land, 88-118.
southward from Comanchería. As one of North America’s most formidable eighteenth-century power brokers, the tribe counteracted Spanish hegemony by raiding for plunder and swiping captives from the Rio Grande colonies and throughout northern Mexico. Historian Pekka Hamalainen estimates that, as late as 1849, Comanches held as many as six to eight hundred Mexican captives, along with untold numbers of Indians abducted from neighboring tribes. In this reversal of power, the Comanches assimilated their captives through affinal kinship bonds and then, utilizing various trading mechanisms, redeemed some of them to their natal Spanish or Indian brethren as caprice dictated.

Over time, in a process of transculturization among New Mexico’s ethnic groups, the term “genízaro” slipped into obscurity. The rigidity of the caste system began to wane during the first two decades of the nineteenth century, largely because generations of intercultural relations meant that few visible criterion of ethnic differentiation remained. A symbolic shift in New Mexico’s stratified social order occurred with the issuance of the Plan de Iguala in 1821, which sought to eliminate racial caste systems in the newly-created Republic of Mexico by establishing a new precedent of social egalitarianism. Such initiatives corresponded with the overarching liberalism of Enlightenment thought that underlay many of the western hemisphere’s democratic


79 Hamalainen, *The Comanche Empire*, 293. For the effects of Comanche raiding on Spanish villages, see Brooks, “Served Well by Plunder,” 36. For biographies of Spanish captives among the Comanches, see Hugh D. Corwin, *Comanche & Kiowa Captives in Oklahoma and Texas* (Guthrie, OK: Cooperative Publishing Co., 1959), 7-17.

80 See Swadesh, *Los Primeros Pobladores*, 41-42, 45-46; Bustamante, “‘The Matter was never Resolved,’” 157.

revolutions during the late eighteenth and early nineteenth centuries, with the codified abolition of castes and hierarchies symbolizing this purported dedication—in law if not in practice—to notions of republicanism in emerging Latin American nation-states.

In 1824, Mexico’s first democratic constitution perpetuated the egalitarian tenets of the Plan de Iguala by declaring all persons residing within the nation’s boundaries to be citizens, equal before the law, regardless of racial or ethnic background. This largely emblematic declaration did not result in full-fledged social equality for lower-class persons of mixed-blood, but it did eliminate the idiom of caste in official government and church documents. Regardless of any technical or superficial changes, however, many New Mexicans retained a firm consciousness of race and ethnicity in their day-to-day societal interactions.82 During the early Mexican postindependence era (1821-46), terms such as “genízaro” and “mestizo” underwent an etymological transformation and more generalized words like “Mexican” and “Hispanic” came into widespread use in describing persons of mixed ancestry.83 This is not to suggest, however, that genízaros ceased to exist as a distinct cultural enclave.

Incumbent upon varying levels of other, social groupings and ethnic hierarchies had a lasting impact well beyond the 1846 American conquest, and diverse ranges of ancestral lineage continue to define New Mexico’s cultural characteristics to this day. In the mid-1800s, Anglo-American merchants, politicians, civil officials, and military officers seized upon this diversified citizenry as an argumentative weapon, cleverly

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utilizing the known ethnic prejudices of the general American populace in furtherance of personal economic and political aspirations. Indian slavery and debt peonage, as enabling phenomena in the proliferation of complex ethnic classifications in the Southwest Borderlands, served as an instigating factor in the contentiousness among Americans over the political future of New Mexico and remained an important issue into the Reconstruction era.

When questions arose in 1848 surrounding the admittance of New Mexico into the Union as either a state or a territory, Eastern politicians and territorial legislators deployed bigoted ethnic stereotypes, deliberately casting New Mexicans as a degraded, heterogeneous people emanating from centuries of illicit sexual liaisons between Spaniards, Africans, and Indians. According to one New York editorialist, New Mexico was home to a “mongrel population” of “semi-barbarous, half Indian, half Mexican tribes” who could not be trusted to act as loyal American citizens if granted statehood.84 “The population of New Mexico is in the main ignorant, superstitious, and degraded,” another New Yorker ranted, proclaiming them to be intellectually inferior and “morally about on a par with the inhabitants of our Fourth or Sixth Ward.”85 Such strategic placement of New Mexico’s ethnic groups at the bottom of the metaphorical totem pole—oftentimes in a position even below that of free African Americans—inculcated a derogatory view towards Southwestern culture and people.86 Taken collectively, the


85 “Shall We Give Up New Mexico?” ibid., February 25, 1861.

multilateral institution of Indian slavery and the ethnically amalgamated society of dependency that resulted from it undermined New Mexico’s political advancement once it became a part of the United States, as evidenced in debates over issues of mixed-blood identity and involuntary servitude in both the territorial legislature and the U.S. Congress during the immediate antebellum years.

Just as Spanish and Mexican elites applied multiple levels of other to sustain social hegemony and physical dominance over dependent peons and Indian captives, so too did Anglo Americans impose similar otherizing tactics once New Mexico became a part of the United States. Whereas levels of other allowed the colonial aristocracy to exert psychological and physical dominance over involuntary laborers, white newcomers employed the same tenets of othering in a discourse that demoted all Hispanos to the bottom of an ethnic and social hierarchy in order to prevent Southwestern residents from attaining equal political footing with white easterners. Fundamentally, however, both the colonial and the early American period of New Mexico’s history witnessed the widespread subjugation of indigenous captives and indigent citizens as socially and ethnically inferior, with levels of othering being the predominant means of stigmatization in this society of dependency. Because of these entrenched cultural conditions, when social change did occur in the Southwest vis-à-vis the eradication of peonage and captive slavery during the Civil War era, it came not as a movement from within, but was instead driven by external political and ideological forces and backed by legislative and judicial doctrine that originated in evolving American ideals of republicanism and democracy.
CHAPTER 6

CONGRESSIONAL DEBATES ON SLAVERY IN THE SOUTHWEST

An embattled James K. Polk stood in front of a vehemently divided Congress on December 5, 1848, poised to deliver his first State of the Union address since the culmination of the Mexican-American War earlier that year. The United States had just absorbed a tremendous amount of land through the Mexican Cession, and the president understood that the ensuing admittance of that region as either free or slave territory would be extremely contentious and might ultimately drive the nation to internal conflict. Realizing the high stakes, he implored his colleagues to enter the process of political incorporation with open minds and conciliatory hearts. Saying nothing of peonage or captivity, Polk instead referred only to chattel slavery when declaring that Congress ought to establish “regularly organized territorial governments” for California and New Mexico, stressing that legislators would do well to set aside “the agitation of a domestic question which is coeval with the existence of our government itself.” Allowing the slavery issue to disrupt the admittance of these newly acquired territories would, in Polk’s estimation, undermine national prosperity, embarrass the country internationally, and jeopardize the federal Union itself. The president’s well-founded exhortations, as it turned out, would be in vain. The congressional leaders sitting in the audience that day had no intention of incorporating the Southwest into the Union without unprecedented sectional fanfare and debate over slavery.¹

Once the Southwest became a United States possession following the Mexican-American War, regional forms of coerced servitude underwent a rapid politicization at the federal level. The issue of slavery in western territories had already plagued Congress for decades and would have a profound influence on sectional debates in the years leading up to the Civil War.\textsuperscript{2} The precedent for congressional regulation of slavery in newly acquired lands stemmed from the Northwest Ordinance of 1787, which specifically prohibited “slavery and involuntary servitude” in any new territories north and west of the Ohio River.\textsuperscript{3} Questions regarding the geographic extension of slavery arose repeatedly as America continued to expand westward. The idea of territorial self-government, or “popular sovereignty”—which effectively sectionalized the slave issue—arose with the creation of the Southwest Territory in 1790 and was tested over the ensuing decades, first with the Louisiana Purchase in 1803; again with the 1820 Missouri Compromise; and finally with the vast domain that Mexico relinquished to the United States in 1848.\textsuperscript{4}

The path to territorial status for New Mexico, which took almost three years, proved to be an object of great controversy and placed it at the forefront of heated national discourse on slavery. The admission of New Mexico and Utah into the Union as either free or slave territories prompted numerous debates in Congress and exacerbated

\textsuperscript{2} See, for example, Michael F. Holt, \textit{The Political Crisis of the 1850s} (New York, NY: W.W. Norton & Co., 1978). Emphasizing the issue of slavery in the territories, Holt’s analysis places sectionalism in a larger antebellum political context and demonstrates that sectionalist ideologies alone did not ultimately cause the outbreak of the Civil War in 1861.


\textsuperscript{4} Ibid., 15.
sectional turmoil between Northern and Southern lawmakers.\(^5\) Political leaders in both houses argued over whether or not slavery should be sanctioned in the Southwest, discussing the aptitude of the arid climate and mountainous topography for supporting slavery, the sentiments of the civilian inhabitants toward such an institution, and the validity of preexisting Mexican laws banning human bondage. In most of these exchanges, legislators failed to distinguish between chattel slavery in the South, and captivity and peonage in the Southwest. One of the great peculiarities about debates on slavery in the Mexican Cession lands was that the topic of discussion—plantation-style chattel slavery—mattered little to most of the recently naturalized Mexican-Americans living there. Yet, only a handful of U.S. politicians ever recognized this discrepancy and, when attempting to explain the true nature of regional systems of servitude to their peers, they often received laughter and jeers in response.\(^6\)

Congressional debates on the regulation of slavery in New Mexico and Deseret (Utah) began even before the signing of the Treaty of Guadalupe Hidalgo.\(^7\) When Mexico ceded California and New Mexico to the United States in 1848, the question of admitting those two provinces into the Union arose immediately. A year later it became evident that California would seek entry as a free-soil state, meaning that New Mexico must be admitted as either a slave state or territory in order to maintain sectional balance,


\(^6\) See, for example, the exchange between pro- and anti-slavery senators in *Congressional Globe*, 31\(^{st}\) Cong., 1\(^{st}\) Sess., June 5, 1850, p. 1135.

a stipulation that traced its precedent to the Missouri Compromise. In a speech delivered on June 27, 1848, South Carolina Senator John C. Calhoun outlined one critical consideration involving whether or not the Northern states, through their congressional representatives, should have the power “to prevent the Southern people from emigrating freely, with their property, into territories belonging to the United States.” This and many other issues would soon be addressed in both Congress and the Supreme Court. While the Compromise of 1850 offered a temporary solution to the problem, the 1857 Supreme Court case *Dred Scott v. John F.A. Sandford* provided a more conclusive (and controversial) verdict on the future of slavery in the territories. An understanding of the arguments undergirding the 1857 decision helps to better comprehend the eccentricities of the political debates over slavery in New Mexico that occurred between 1848 and 1850, and provides a broader contextual framework in which to view and interpret Southwestern slave systems.

One of the primary dilemmas addressed in the Dred Scott case involved the transport of slaves into U.S. territories. Senator John M. Berrien of Georgia, a former attorney general in Andrew Jackson’s administration, posed such a question to Congress as early as 1850. “If the Constitution of the country recognizes my title to the slave within my State, beyond my State, and within a sovereign State that inhibits slavery, does it forbid, does it deny that title within a territory that is the common property of the

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United States?” he asked rhetorically.\textsuperscript{11} The senator was referring to an American legal principle known as the “right of transit,” wherein the Constitutionally-protected property rights of slaveholders enabled them to bring bondsmen into states that had abolished slavery, although by the 1850s most northern states had stopped recognizing this purported right.\textsuperscript{12} Berrien’s inquiry and others regarding slavery in the territories would be answered in the Supreme Court’s 1857 ruling.

Some scholars have criticized the Dred Scott case—a landmark victory for pro-slavery ideologues and a stunning defeat for the Free-Soil movement—as a failure of American jurisprudence and one of the earliest examples of overt judicial activism on the part of the U.S. Supreme Court.\textsuperscript{13} In a vote that transcended sectional lines, six of nine Supreme Court judges sided with Chief Justice Roger B. Taney in the opinion that Congress had no power to regulate slavery in the territories, nor did it have the ability to prohibit citizens from transporting their slave property into such regions.\textsuperscript{14} The

\textsuperscript{11} Congressional Globe, 31st Cong., 1st Sess., February 12, 1850, Appendix, 207.


constitutional interpretations and legal theories sustaining the Supreme Court decision could be traced back to the Northwest Ordinance of 1787.\textsuperscript{15} The Dred Scott case cemented lingering ambiguities on territorial jurisdiction to the benefit of pro-slavery interests, although its failure to address involuntary servitude more broadly left plenty of latitude for New Mexicans to interpret the ruling as they wished in regards to captivity and peonage.

Taney rendered the court’s decision on March 6, 1857. In ruling that Congress could not legislate on slavery in U.S. territories, he first had to overcome the Territories Clause of the Constitution, which granted complete regulatory power over those areas that had yet to achieve statehood.\textsuperscript{16} By the time the Supreme Court heard Scott’s case, the basis for congressional regulation of territorial affairs had been well established. “Commencing with the celebrated ordinance of 1787, down to the organization of a Territorial Government for Iowa in 1838, this Government has exercised full and exclusive sovereignty over its territories,” Representative David Wilmot reminded Congress in 1848, pointing out that sixty years of precedent furnished nothing in the way of legal doctrine supporting territorial sovereignty.\textsuperscript{17} Wilmot strategically deployed this argument in support of congressional regulation of slavery in the newly appended Mexican Cession lands, in conformity with his infamous proviso that sparked such intense sectionalist fervor two years earlier.\textsuperscript{18}

\textsuperscript{15} For the original text, see Northwest Ordinance, July 13, 1787, NA, RG360, M332, Roll 9. See also Vincent C. Hopkins, \textit{Dred Scott’s Case} (New York, NY: Russell & Russell, 1967), 111.

\textsuperscript{16} United States Constitution, Article IV, Section 3, Paragraph 2.

\textsuperscript{17} \textit{Congressional Globe}, 30\textsuperscript{th} Cong., 1\textsuperscript{st} sess., August 3, 1848, Appendix, 1076.

\textsuperscript{18} See Childers, \textit{The Failure of Popular Sovereignty}, 102-134.
To circumvent this well-established standard, the court cited the Fifth Amendment to the Constitution, which declares that no person can “be deprived of life, liberty, or property, without due process of law.” Consistent with the nature of the chattel system, in which slaves constituted both a source of labor and a convertible cash asset, Southerners insisted that their slaves were a legitimate form of private property that fell under Fifth Amendment protections. Outlining the fallacies of this argument, one Northerner told Daniel Webster that “the great error of the Southern gentlemen” was their insistence that the Constitution explicitly defined slaves as property. In reality, each of the three instances in which that founding document indirectly referenced slavery did so in such a manner that insinuated humanity rather than inanimate status.\(^\text{19}\) It was upon this very premise that the Supreme Court would be deciding. If the justices prohibited slavery in the territories, they would effectively disallow slave owners from transporting their human property into those areas, depriving them of their Fifth Amendment rights.

Defining slaves as a form of property under the Fifth Amendment, Chief Justice Taney wrote that any congressional act depriving an American citizen “of his liberty or property” simply because that individual moved into one of the new territories constituted a gross violation of due process.\(^\text{20}\) Thus, if Congress prohibited slavery in the territories, it would be violating the Constitution inasmuch as such a law might inhibit the movement of slave-owners into any free-soil territory unless they surrendered their slaves upon

\(^{19}\) Sidney Breese to Daniel Webster, March 16, 1850, in Charles M. Wiltse and Michael J. Birkner, eds., The Papers of Daniel Webster: Correspondence, Vol. 7 (Hanover, NH: University Press of New England, 1986), 35.

In other words, Congress could not exercise its powers outlined in the Territories Clause of the Constitution without violating the Fifth Amendment of the same Constitution. Taney construed this as being equally applicable to territorial governments. If Congress lacked the authority to regulate slavery in the territories, he reasoned, then it certainly could not empower a subordinate territorial government to do so.\(^{22}\)

In his dissenting opinion on the Dred Scott case, Justice Benjamin R. Curtis of Massachusetts cited fourteen previous federal laws that regulated slavery in various regions of the United States, all of which had been territories at one time.\(^{23}\) He highlighted several fallacious commonalities that all seven of the concurring opinions shared and concluded by noting, somewhat sardonically, that no particular Constitutional clause sustained any of the reasoning behind their legal arguments.\(^{24}\) Indeed Taney, raised in a slave-owning Maryland family, seemed to advance a pro-slavery agenda in leading the Supreme Court to its decision. One historian writes that Taney, “in an effort to settle, finally and forever, and in favor of the South, the status of slavery in the territories,” rendered a decision that undermined popular sovereignty and effectively prohibited them from legislating independently on the slave issue.\(^{25}\)

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\(^{21}\) Finkelman, *Dred Scott*, 40.


\(^{23}\) Quoted in Finkelman, *Dred Scott*, 122-23.

\(^{24}\) *Scott v. Sandford* 60 U.S. 594-604 (1857).

\(^{25}\) Finkelman, *Dred Scott*, 36-40.
Through this ruling, the Supreme Court answered many of the questions that arose in Congress surrounding the admission of new states and territories in the Mexican Cession lands. Following the Mexican-American War, political leaders spent more than two years sparring over the regulation of slavery in the Southwest and debating whether or not territorial legislatures could legally sanction systems of involuntary servitude. If Congress admitted New Mexico and Utah without a clause protecting the peculiar institution, Southerners feared that, however economically and agriculturally impractical the implementation of plantation slavery in those regions might be, slave-holders who relocated there might be forced to surrender their human property upon arrival. Having addressed such issues, the Dred Scott decision provides a larger context in which to view and interpret the debates over the existence of slavery in Western territories during the years immediately following the Mexican-American War.

Most congressmen acknowledged the vast differences between state and territorial governments and, by extension, their capacity as federal lawmakers to legislate over them. Long before the Dred Scott case, Representative Wilmot described states as independent and highly organized political entities while explaining that territories, on the other hand, “are unorganized, dependent communities, destitute of sovereignty, looking to us for political existence.”26 Territorial governments were quasi-colonial bodies that existed at the behest of the federal government; most high-ranking officials received their appointments from Washington bureaucrats, including governors, who the president appointed directly. This placed territories in a subordinate position, denigrating

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them as veritable wards of the government and allowing for a higher degree of federal oversight.

Furthermore, because territories had only a single congressional representative who could do little more than give speeches when allowed the opportunity, the addition of a new territory did not disrupt sectional political balance to the same degree as did the admission of new states with full voting powers. With California receiving free-soil statehood status in 1850, Southerners were legitimately perturbed that two popular sovereignty territories (New Mexico and Utah) did not adequately compensate for the disruption of political representation in Congress. Senator Calhoun despaired the outcome of debates on California’s admission as a free-soil state and spoke vehemently against it, recognizing that no solution was likely to preserve national unity forever.

From the moment the Northwest Ordinance became law in 1787, he lamented, the South had been “deprived of its due share of the territories,” the result being the destruction of “the equilibrium which existed when the government commenced.” Calhoun highlighted sectional inequity in terms of political power and population—both of which influenced the allotment of congressional seats and had been the basis of earlier compromises—to assert the importance of balanced political representation between the North and South. The growing population imbalance between the two sections, which the 1840 census placed at a difference of 2.4 million people, meant that representation in the House had shifted significantly in favor of the North. Calhoun also pointed out that Northern states had forty-eight more representatives in the House than did Southern states, a gap that would only widen with time. The admission of new slave territories would do nothing to
mitigate this discrepancy because their representatives did not have voting powers and, even if they did, the population of western territories remained negligible.\textsuperscript{27}

Calhoun’s points about political representation in Congress and the limited power of territorial governments in that regard explain why lawmakers added the Fugitive Slave Act as a conciliatory measure when finalizing the Compromise of 1850. Such anxiety over new territories arose in part from the unforeseen ramifications that sometimes attended the admission of these geographically immense regions, where populations often became divided over the slavery issue. When the Northwest Territory was later broken up into multiple smaller sovereignties, for example, the settlers in southern Illinois and Indiana related more to neighboring slave regions like Kentucky and Missouri, than they did with northerly Wisconsin and Michigan residents. This meant that territories might become internally divided and seek admission as multiple states with either pro- or anti-slavery constitutions. The same held true for New Mexico, a vast land that, prior to the creation of Arizona Territory in 1863, stretched from Texas to California and covered some 250,000 square miles. Because it encompassed such a large region and included diverse groups of people, New Mexico was susceptible to ideological divergences on the slavery issue among its widely dispersed population. This prevailing uncertainty frightened political leaders in the North and South alike and militated against the admission of new territories without extensive debate and compromise.\textsuperscript{28}


\textsuperscript{28} Childers, \textit{The Failure of Popular Sovereignty}, 27-28. For a detailed analysis of the compromise and a scientific breakdown of congressional voting patterns on the various proposals, see Sean M. Theriault and Barry R. Weingast, “Agenda Manipulation, Strategic Voting, and Legislative Details in the Compromise of 1850,” in David W. Brady and Mathew D. McCubbins, eds., \textit{Party, Process, and Political Change in}

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Both Northern and Southern interests legitimately claimed that their perceived Constitutional rights—including the right to private property ownership—must be affirmed and protected within the boundaries of any and all new territories. By attempting to prohibit slavery in such territorial appendages, thundered Senator John C. Calhoun, the North made “the most strenuous effort to appropriate the whole [Mexican Cession] to herself, by excluding the South from every foot of it.”\(^{29}\) He pointed out that thousands of men from both sections and from all ideological backgrounds fought in the Mexican-American War and shed blood in that struggle for the collective American cause. In a similar vein, other legislators noted that the federal government, representing all of the states—Northern and Southern alike—purchased the Mexican Cession lands using assets from the “common fund” of the United States treasury, which entitled all citizens to equal rights within those new territories. “They are as much the territories of one state as another . . . of the Southern as the Northern States,” Calhoun announced to his congressional colleagues. “They are the territories of all, because they are the territories of each.” According to the South Carolina statesman, congressional oversight in territorial governance must not privilege one section’s interests over the other.\(^{30}\)


\(^{30}\) Ibid., 497; *Congressional Globe*, 29\(^{th}\) Cong., 2\(^{nd}\) Sess., February 19, 1847, pp. 453-55; *Congressional Globe*, 30\(^{th}\) Cong., 2\(^{nd}\) Sess., December 19, 1848, pp. 33-34. On Calhoun’s arguments generally, see Baptist, *The Half Has Never Been Told*, 329-32.
According to the Dred Scott decision, Constitutional property rights included the ownership of slaves. This notion, of course, did not sit well with Northern Free-Soilers, and even representatives from some border states expressed dissatisfaction with the ruling. After his retirement, former Missouri Senator Thomas Hart Benton explained in his autobiography that Southerners claimed to be aggrieved by their inability to take slave property with them when immigrating to the western territories. “In reality,” Benton countered, “it was that he was not allowed to carry the State law along with him to protect his slave.” Truman Smith of Connecticut concurred when informing fellow senators that slaveholders could move westward into New Mexico or Utah “on an exact footing of equality with the non-slaveholders,” inasmuch as any American citizen, regardless of sectional origin, “can take their families, and, on arrival, can go to work and earn their bread by the sweat of their brows.” Migrating slave owners could take all personal property with them should they so choose, “if they will only convert [their slaves] into money” before entering the territories. Any prohibition against the transport of slaves into the new territories, Smith maintained, had nothing to do with Constitutional doctrine but could instead be attributed to slave property being “against common right.”

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31 Senator Benton ardently opposed this notion. In his autobiography, he wrote: “Ostensibly the complaint [by Southerners] was, that the emigrant from the slave State was not allowed to carry his slave with him [to the territories]; in reality, it was that he was not allowed to carry the State law along with him to protect his slave. Placed in that light, which is the true one, the complaint is absurd.” Benton, *Thirty Years’ View*, vol. 2, p. 696. Senator Truman Smith of Connecticut likewise disagreed. He told the Senate in July 1850: “Slaveholders of the South can emigrate to the territories on an exact footing of equality with the non-slaveholders . . . both can take their families, and, on arrival, can go to work and earn their bread by the sweat of their brows. Slaveholders can take all their property with them, if they will only convert it into money. . . . The impossibility of [taking slaves] is not to be charged to the Constitution and laws of the United States . . . it results from the nature of the property itself, which is against common right.” *Congressional Globe*, 31st Cong., 1st Sess., July 8, 1850, Appendix, 1177.


Illinois Senator Stephen A. Douglas similarly maintained that this prohibition of human property trafficking had nothing to do with sectionalism or slavery, pointing out that it applied to other articles of trade as well. Alcohol, much like slaves, could not be taken into certain territories because of prohibitory local laws that were “directed against no section, and impair the rights of no State of the Union,” Douglas explained. Such laws pertained to the sale and use of specific types of goods and property, “whether brought from the North or the South,” and therefore had no bearing on sectional or antislavery ideology.\(^\text{34}\) Although the landmark Supreme Court opinion had yet to be rendered at the time these political deliberations took place between 1848 and 1850, preexisting notions of constitutionality lent credence to a belief among Southerners that they held an advantage in congressional debates. The basic republican principle of equal rights for all Americans, established during the revolutionary generation, spawned a variety of debates over slavery and servitude that, by the antebellum era, had come to be fueled mostly by sectional interests.

From these political viewpoints and this Supreme Court decision sprung a newly invigorated debate on slavery, one that would culminate in civil war. Senator Benton believed that the issue of slavery in the territories, as it arose in 1848, and as later manifested in the Dred Scott case, represented one of the instigating factors in the sectional conflict. “And there commenced the great slavery agitation,” he wrote, “founded upon the dogma of ‘no power in Congress to legislate upon slavery in the territories,’ which has led to the abrogation of the Missouri compromise line – which has

\(^\text{34}\) Ibid., March 13, 1850, Appendix, 371.
filled the Union with distraction – and which is threatening to bring all federal legislation, and all federal elections, to a mere sectional struggle, in which one-half of the States is to be arrayed against the other.”

New Mexico was strewn into these political and ideological struggles following the Mexican-American War, largely as a result of slavery, peonage, and captivity.

In regards to the Southwestern territories, abolitionists and Free-Soilers immediately invoked the argument that chattel slavery could not exist there with any practicality, owing primarily to the climate and geography of the region. The most well-known proponent of this line of reasoning was Whig Senator Daniel Webster. In 1850, he delivered an impassioned speech based on a notion of providential design, declaring that chattel slavery could never survive as an institution in California or New Mexico for reasons of “physical geography,” and both regions would therefore remain “free by the arrangement of things by the Power above us.”

His frequent allusions to the will of God and laws of nature as the leading factors precluding slavery from the western territories drew harsh rebukes from less-pious congressmen, particularly Illinois Senator Stephen A. Douglas, who understood the importance of ideological underpinnings in the slave debates. With poignant sarcasm, Douglas responded that he was “exceedingly gratified” by Webster’s conclusions about the impossibility of slavery in the West, but pointed out how useless such theological reasoning would be in determining pro- or anti-


36 The most thorough work on New Mexico’s role in the Compromise of 1850 is Mark J. Stegmaier, *Texas, New Mexico, and the Compromise of 1850: Boundary Dispute and Sectional Crisis* (Kent, OH: The Kent State University Press, 1996).

slavery sentiment and the ideological nature of political representation in the new territories.\(^\text{38}\)

In a sense, Webster and Douglas were both right. While Douglas correctly asserted that laws of nature and providential design could not direct the flow of ideology, Webster’s observations about western geography being antithetical to profitable plantation-style slavery also had merit. Any person who ventured into the newly-acquired lands from Mexico could attest to the fact that the landscape varied significantly from that of the American South, and the attendant differences in agricultural practices and economic exchange precluded the sensibility of introducing chattel slavery into the region on a mass scale. Known for its basin-and-range topography, the Southwest consists of arid and sparsely inhabited deserts bisected from north to south by lofty, rugged mountain ranges at intervals of fifty to one hundred miles. The vast majority of the region lacks the necessary rainfall and humidity for productive year-round market crops, with only the occasional river valley providing the appropriate ecosystem for agricultural production.

In New Mexico, only three such rivers—the Chama, the Pecos, and the Rio Grande—provide enough water to support farming operations on any significant scale, and even then irrigation remains necessary in most places and for most crops.\(^\text{39}\) Taken

\(^{38}\) Ibid., Appendix, March 13, 1850, p. 366.

\(^{39}\) The arable valley of the Chama River extends for approximately 130 miles from southern Colorado to its confluence with the Rio Grande near Espanola, New Mexico. The Pecos River, while flowing for over 900 miles from its source in the mountains east of Santa Fe to its confluence with the Rio Grande in southwest Texas, was only arable and settled for a distance of about 100 miles southward from its source during the early 1800s. The longest and largest of these three rivers, the Rio Grande flows from south-central Colorado to the Gulf of Mexico, a distance of almost 1,900 miles. Much of its course through New Mexico was (and still is) agriculturally productive.
collectively, the farmlands in those three valleys comprised an infinitesimal fraction of the total land area, and that tiny percentage was in turn subdivided into countless “long-lots” of perhaps twenty to forty acres each, based on family inheritance of property, a distributive tradition that traced its origins back to colonial land grants. Most of northern New Mexico was therefore relegated to a pastoral economy based largely on sheep-raising and wool harvesting. This lopsided combination of pastoralism on the grassy hillsides and at higher elevations, along with sporadic agriculture in the more arable valleys and lowlands, necessitated involuntary labor in the form of Indian captives and Mexican peons. Even so, however, the number of man-hours needed to sustain the Southwest’s seasonal subsistence economy never remotely approached that required on export-driven cotton and tobacco plantations in the South.

Furthermore, New Mexico operated in large part on what historian Dan Usner has called a “frontier exchange economy,” with Hispanos obtaining many of their goods through barter-driven trading networks that involved peripheral nomadic Indian tribes. Exemplified by the large seasonal trade fairs at Pecos and Taos, this component of the Southwestern economy involved the exchange of animals, food, and items of native manufacture for staples of Euro-American origin and captives. In this sense, mid-1800s New Mexico lacked the telltale features of western capitalism—industrialization, the capacity for mass production, and extractive market resources—that many American newcomers hoped to encounter there. What they discovered instead was a variegated economic system that included hunting-and-gathering, pastoralism, subsistence

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agriculture, involuntary servitude, and even the extension of credit in the form of
merchandise, but rarely the exchange of hard currency.\textsuperscript{41} Despite the advent of the Santa
Fe Trade in 1821 and the concomitant commercial network established with Missouri
merchants, New Mexico remained a quasi-feudalist society with a hierarchical social
order—a primitive civilization, in the eyes of most American newcomers—that hardly
beckoned for the implementation of chattel slavery and market agriculture on a grand
scale. Southern efforts to extend slavery westward might therefore be seen not only as a
political ploy to secure additional pro-slavery representation in Congress and to prevent
any significant dissolution of the peculiar institution in places where it already existed,
but also as an effort to attain primacy over a region that might, in the event of sectional
warfare, contribute fighting men to the Southern cause.

Southerners valued the Southwest primarily for its geographic importance, not
because they hoped to establish profitable plantations and transport large numbers of
black slaves there, although this was the very ideology to which they turned during
debates on the topic. Since New Mexico linked slaveholding Texas with southern
California, the region would complete an uninterrupted coast-to-coast empire should the
South succeed in conquering New Mexico and California at the onset of a civil war.
During his tenure as secretary of war in the 1850s, future Confederate President Jefferson
Davis commissioned the Pacific Railway Surveys and supported the Gadsden Purchase in
advancement of a futuristic Southern strategy that saw New Mexico as the location of a

\textsuperscript{41} See Ross Frank, \textit{From Settler to Citizen: New Mexican Economic Development and the Creation of
transcontinental railroad linking the Gulf of Mexico to the Pacific Coast. Thus, Southern attempts to establish and uphold the right of slave ownership in New Mexico were predominantly ideological, a strategic machination seeking sectional geographic expansion not for the purpose of implanting chattel slavery and plantation agriculture, but rather for establishing a continental empire that would enable Southern cotton to be more easily exported worldwide.

It thus comes as little surprise that some politicians acceded to the fact that the Southwestern environment did not appear conducive to chattel slavery or plantation agriculture. Speaking before Congress in 1848, Vermont Representative George P. Marsh stated that the Mexican Cession lands “lie without the natural limits of slavery, and the institution cannot exist in those provinces, because it is excluded by physical conditions, and the economical law of profit and loss which they dictate.” In their arguments against slavery, some abolitionists and Free-Soilers contended that the Southwest, with its subsistence agriculture and pastoral economy, must “be inhabited and tilled only by freemen” because the absence of labor-intensive export crops like rice, cotton, sugar, and tobacco precluded any extensive demand for manual slave labor. That observation, while partially true, also assumed that slavery only existed in certain environments where particular crops grew, a fallacious notion that neglected to account for the thousands of unfree peons and captives toiling in Southwestern fields, pastures, and households. Expounding upon Marsh’s claims, Senator Truman Smith pledged that

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42 Ibid., 30th Cong., 1st Sess., August 3, 1848, Appendix, 1074. See also “The Slave Code of New Mexico,” New-York Daily Tribune, April 16, 1861; and Mark Stegmaier, “‘An Imaginary Negro in an Impossible Place’?: The Issue of New Mexico Statehood in the Secession Crisis, 1861-1862,” in New Mexico Historical Review 84 (Spring 2009), 271.
New Mexico “will and must be [a] free state, proviso or no proviso,” referencing the provocateur but moribund proposal of David Wilmot in 1846. Smith introduced published travelogues and reports from the Army Corps of Topographical Engineers to describe the Southwestern climate. All of these first-hand accounts sustained the contention that chattel slavery could not profitably exist in the arid deserts and high altitudes of New Mexico and Utah. Describing the Santa Fe region in 1846, Lieutenant William H. Emory reported quite bluntly that it “presents nothing but barren hills, utterly incapable, both from soil and climate, of producing anything useful.” Even Southerner Henry Clay, in attempting to lead a highly factionalized Congress to a compromise measure in 1850, pointed out that New Mexico, with its unsuitable climate, had nature itself on her side, which he equated to “a thousand Wilmot Provisos.”

Tennessee Senator John Bell joined anti-slavery congressmen in alluding to the dryness of the Southwest, proclaiming that, “African slavery can never find a foothold in New Mexico.” Even if territorial residents favored slavery in practice, principle, or both, Southerners would be unlikely to transport chattels there because, according to one

43 *Congressional Globe*, 31st Cong., 1st Sess., July 8, 1850, Appendix, 1178. Senator Thomas Hart Benton likewise mentioned the Wilmot Proviso: “The dogma of ’47 became an impediment to the territorial extension of slavery . . . [but] a new dogma was invented to fit the case – that of the transmigration of the constitution – (the slavery part of it) – into the territories, overriding and overruling all the anti-slavery laws which it found there.” Benton, *Thirty Years’ View*, vol. 2, 713.

44 *Congressional Globe*, 31st Cong., 1st Sess., July 8, 1850, Appendix, 1180-82. Other sources that Smith cited included: Lieutenant W.H. Emory; Lieutenant Abert; Lieutenant Peck; George Wilkins Kendall; and George F. Ruxton.


Pennsylvania senator, “Masters will hardly carry their slaves into a territory in which they will be likely to be free as soon as their feet touch its soil.” In making such claims these politicians merely reasserted the statements of New Mexico congressional delegate Hugh N. Smith, who in April 1850 acknowledged the region to be “entirely unsuited for slave labor,” but also paradoxically admitted that debt peonage, existing “in a quantity quite sufficient for carrying on all the agriculture of the territory,” effectively fulfilled regional demand for workers.

During discussions over a proposed compromise measure, Bell’s anti-slavery colleague, Massachusetts Senator Daniel Webster, remarked that, “No man would venture a farthing today for a great inheritance to be bestowed on him when slavery should be established in New Mexico.” Similarly, longtime New York politician Washington Hunt sarcastically offered a reward of $1,000 “for the discovery of a slaveholder who even wished to take his slaves thither.” Others refused even to lend credence to the issue, believing the impracticality of slavery in the Southwest to be so obvious that it scarcely warranted their time and attention. By invoking the climate as an argumentative point, such claims reverberated around the more familiar plantation slavery and maintained that, so long as irrigation was needed to grow crops, slavery could

48 Ibid., Appendix, June 29, 1850, p. 1005.


not logically or profitably exist in such a region. This Northern Whig stance had more to
do with providing a practical natural alternative to the ideological anti-slavery Free-Soiler
movement, which many saw as overly incendiary and antithetical to preserving the
union.52

Webster commended fellow northerner Truman Smith for having adequately
proven, “beyond the power of any conscientious man’s denial,” that slavery could never
logically exist in New Mexico, and for demonstrating to Northerners “that that which
they desire to prohibit will never need any prohibition there.”53 He reasserted this notion
in his personal correspondence as well, opining in a letter to colleague Thomas H.
Perkins that the debate should proceed no further because “there is not, & there cannot be
slavery” in California, New Mexico, or Utah.54 He remained convinced that New
Mexicans “to a man, are opposed to slavery” and believed all territorial inhabitants to be
“as warmly and decidedly” averse to it as the people of Maine. The statesman assured
his listeners that “Slavery of the African race does not exist in New Mexico” and
explained that the social and economic atmosphere of the region had no need for such a
system because “the use of cheaper labor [peonage] rejects it.” Invoking a final
hyperbolic analogy, Webster swore that chattel slavery was about as likely to gain a
foothold in New Mexico as it was to “be established on Mars’ Hill.”55

52 Brock, Parties and Political Conscience, 296-300.
54 Webster to Perkins, April 9, 1850, in Wiltse & Birkner, eds., The Papers of Daniel Webster, Vol. 7, p. 59.
55 Webster to R.H. Gardiner, June 17, 1850, in Daniel Webster, The Works of Daniel Webster, Vol. 6
(Boston, MA: Charles C. Little and James Brown, 1851), 572-73; on Webster’s congressional speeches
regarding the compromise measures, see Brock, Parties and Political Conscience, 296-300.
The forceful congressional interchange over compromise proposals resulted in a barrage of northern newspaper editorials that specifically cited New Mexico’s statutory retention of peonage, drawing comparisons between debt bondage and chattel slavery and attracting publicity to an already politically-charged issue.\(^{56}\) Despite Webster’s impassioned speeches in the halls of Congress, New York newspaperman and renowned abolitionist Horace Greeley nonetheless lambasted the senator for not taking more forceful action to prevent slavery from being established in the western territories. Writing in 1861, Greeley criticized the former congressman for what he perceived to be only a lukewarm resistance to slavery in the territories. According to Greeley, Webster’s opposition to the peculiar institution in New Mexico stemmed from slavery’s moral reprehensibility, and he had done little to affect the passage of laws to definitively prevent it in practice. “Ten years have since passed,” he wrote, “and Slavery is already there—there both in the abstract and the concrete—in the form of a slave law and in that of slaves.” Greeley grasped the realities of Southwestern slavery with much greater acuity than most Americans, recognizing peonage as an “abstract” form of slavery. His perceptive allusion to the “concrete” referenced the 1859 Slave Code (see chapter 6) and the fact that the territorial legislature continued to sanction involuntary labor in the form of “master-servant relationships.”\(^{57}\)


\(^{57}\) “Shall We Give Up New Mexico?” \textit{New-York Daily Tribune}, February 25, 1861.
While Webster’s belief that all New Mexicans, “to a man,” opposed slavery is an obvious fallacy for its universal inclusivity, the majority of the territory’s native Hispano inhabitants did seem either opposed to or ambivalent towards the institution, in part owing to Mexico’s earlier prohibition of slavery. In 1851, New Mexico congressional delegate Richard Weightman alluded to his constituents when writing that they mostly opposed the introduction of chattel slavery and, he believed, would one day seek statehood on a platform of free labor. Having already suffered undue hardship in recent years “as a political battlefield over which to settle the slavery question,” most Nuevomexicanos had no desire to choose sides on an issue “which in no way practically concerns them.”

Responding to Weightman’s claims, the anti-slavery National Era accused him of “bending his knee to the ruling power” in order to retain his position as a congressional delegate. “What can be expected of a Territory,” an editorialist asked rhetorically, “the first act of whose first Delegate is one of abject submission to the slave power?”

Most Anglo-Americans residing in New Mexico also acknowledged the irrationality of black slavery in the territory. Joab Houghton, a Santa Fe resident with a background in politics and law, wrote to Senator John M. Clayton in 1848 informing him that “any owner of slaves who should bring slaves to New Mexico would be ruined,” because plenty of peons and captives already satisfied the demand for labor there.

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58 Richard Weightman to H.S. Foote, December 16, 1851, in Congressional Globe, 32nd Cong., 1st Sess., March 17, 1852, 755 (emphasis in original). Weightman pointed out that, “The popular mind will . . . remain calm on this point, and the question of prohibiting, admitting, or remaining silent, concerning slavery, will be treated simply as a matter of policy in reference to being admitted to the Union.” Ibid.

59 Response to Richard Weightman, National Era, January 1, 1852.
introduction of African American slaves into the territory, he believed, would “produce the most deleterious effects upon the morals and the industrial interest of the country.”

Two politically-connected New Mexicans, Henry Connelly and James L. Collins, buttressed Houghton’s argument when writing that most inhabitants, including Hispanics and Pueblo Indians as well as recent Anglo-American arrivals, were unequivocally averse to slavery. Even New Mexico’s territorial governor on the eve of the Civil War, Abraham Rencher—a man whose public statements pandered to Northerners but whose personal sympathies espoused Southern interests—admitted that “no efforts on the part of designing men can ever disturb the public peace by agitating the question of slavery.”

Yet another obstacle to the introduction of chattel slavery in the Mexican Cession lands stemmed from geopolitical concerns. After the Mexican-American War, the Southwest shared an extensive international border with Mexico, a nation that abolished slavery years earlier and that therefore became a place where escaped slaves sometimes sought refuge. Many people asserted that slaves taken to New Mexico would have ample means of escape and, like runaways from South Texas and Louisiana, would enjoy the protection of Mexican citizens once they crossed either the Rio Grande or the newly-drawn east-west boundary from El Paso to the Pacific Coast. Because mountain ranges

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60 Joab Houghton to John M. Clayton, October 16, 1848, quoted in Ganaway, New Mexico and the Sectional Controversy, 21.


62 Abraham Rencher to William H. Seward, April 14, 1861, RG59, T17, New Mexico Territorial Papers, Roll 1.

with dense vegetation afforded cover and nearby Mexico already prohibited slavery, opportunities to escape abounded to such a degree as “to render such property valueless,” declared one Connecticut senator, whose remarks merely broadcasted the prior testimonials of many New Mexico residents. Several of the territory’s leading citizens explained that, unlike the deep waters and powerful currents of the Mississippi, Missouri, and Ohio Rivers, the Rio Grande was nothing more than a shallow stream at most points and would do nothing to inhibit escapees. Once they crossed over the river into Mexico, such slaves “would be as free as in the land of his forefathers” because Mexican citizens, opposed to slavery and still reeling from the loss of half their national domain in the recent war with the United States, would protect them from recapture and prevent their extradition. The continued enslavement of debtors and Indian captives throughout the Southwest and in Mexico, however, suggests that Hispanos were not as averse to slavery as some Americans imagined.

To be sure, New Mexico’s original constitution—written in 1850 by a group of delegates in anticipation of statehood—expressed a distaste for slavery, although the document was conceived with the assistance of Anglo-American newcomers with their own political and sectional agendas and therefore did not necessarily reflect Hispano sentiment. The framers resolved that slavery “is naturally impracticable” and could never tangibly exist in the region, noting that it only effected them with politically “evil tendencies” and must therefore be unambiguously rejected. Only a few months later,

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64 *Congressional Globe*, 31st Cong., 1st Sess., July 8, 1850, Appendix, 1180.

65 Connelly et. al. to Truman Smith, May 18, 1850, quoted in ibid.

New Mexico would be admitted into the union as a territory rather than a state, and the constitution never went into effect. Territorial Judge Joab Houghton, a transplant from New York, wrote many of the document’s anti-slavery provisions, and the abolitionist overtones perhaps reflected his own views more so than those of regional occupants.67 Regardless of what New Mexico’s constitution dictated relative to slavery, its ideological implications went widely ignored in congressional circles.

In May 1850, three New Mexicans, William Curtis Skinner, James L. Collins, and Henry Connelly, met with Senator Truman Smith to discuss slavery in the territory. The Connecticut politician based his subsequent congressional speeches on both this meeting and his prior written correspondence with those three individuals. At that time, Collins and Connelly remained sympathetic to the slavery cause; the former edited a pro-slavery newspaper, the Santa Fe Weekly Gazette, and the latter held dozens of Mexican peons, although he freed them several years later. At Smith’s insistence, Collins and Connelly produced a detailed written description of the slavery issue as it pertained to New Mexico. “Experience has shown,” they wrote, “how infinitely more dangerous – more savage – is an escaped negro, than the worst of an Indian tribe.” The two men called specific attention to the numerous Native tribes inhabiting the territory, pointing out that, like Mexican citizens below the border, they too would likely assist and protect fleeing black slaves. “The known sympathy of the Indian for a fugitive slave would secure him every protection at their hands which he could desire,” they wrote.68

67 Ganaway, New Mexico and the Sectional Controversy, 50.

68 Connelly et. al. to Truman Smith, May 18, 1850, quoted in Congressional Globe, 31st Cong., 1st Sess., July 8, 1850, Appendix, 1180 (emphasis in original).
In addition to the nomadic tribes inhabiting outlying regions, thousands of Pueblo Indians occupied permanent settlements in the more central portions of New Mexico and they, too, might be relied upon to protect black slaves. As with the lower and middle classes of the Hispano population, Pueblos sympathized with the enslaved and entertained “none of the prejudices against the color of the negro,” meaning that they would likely abet their escape whenever possible. Any compassionate disposition towards slaves on the part of New Mexico’s native peoples emanated at least in part from the ongoing captive trade. Having been so frequently exposed to the horrors of human bondage, it stood to reason that many Indians and lower-class Hispanos would be sensitive to the plight of escaped black slaves. In their seeming ambivalence to race, New Mexicans represented the polar opposite of most Easterners, whose prejudices drove them to abhor not just African Americans, but also the Indians and mixed-blood mestizos of the Southwest.

Setting aside the geographical and racial arguments against human bondage, Representative George P. Marsh invoked the popular abolitionist claim of morality, positing that only the human conscience could truly check the spread of slavery. “Slavery is everywhere profitable, under the management of a prudent master,” March proclaimed, and mere geographic or climatic concerns could therefore never prevent its spread entirely. Commending the abolition of slavery in some New England states, he delivered a pious diatribe to his Southern opponents, claiming that slavery in the North “was abolished, not because it was contrary to the economical law of profit and loss, but

69 Ibid.
because our fathers held it . . . to be contrary to the law of conscience and of God.”

Massachusetts Representative Horace Mann shared this theological tenet of abolitionism; insisting that the existence of slavery was strictly a matter of conscience, he provocatively declared that, “wherever the wicked passions of the human heart can go, there slavery can go.” Building upon this rationale, Senator Truman Smith pronounced that the only true obstacle to chattel slavery in New Mexico “results from principles and jurisprudence acknowledged by the whole civilized world.” Thus, from the ideological standpoint of staunch abolitionists, the issue of slavery in newly acquired territories should be viewed as a matter of ethics and humanity rather than economics or legality.

Abolitionists echoed a wide range of Northerners in their general assertion that chattel slavery could not exist in New Mexico or any other Southwestern territories. As one army lieutenant noted in 1846, peon slavery predominated throughout New Mexico, and the negligible profits to be gained from yet another form of involuntary servitude did not justify “the existence of negro slavery.” Senator Smith reiterated this supply and demand concept when telling his colleagues that slavery could never “be advantageously used in competition with the cheap peon labor of New Mexico,” and any Southerner venturing into New Mexico would therefore find it most economical to simply sell his

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plantation slaves and “employ the native labor of that country.” Thus some Easterners—albeit a minority—rightly connected the debate on slavery in the territories to the preexistence of peon labor in those regions and the comparatively minimal demand for manual labor in a localized subsistence economy.

Despite their opposition to slavery in New Mexico, antebellum abolitionists rarely demanded that peonage or Indian captivity be banned there. This anomalous oversight suggests that, while some Americans recognized these two systems at face value as forms of human bondage, many did not view them with the same abhorrence as they did black slavery. Many Easterners had personally witnessed Southern slavery, been exposed to both pro-and anti-slavery rhetoric and propaganda, and had read the heartrending slave narratives that began to appear in the 1830s, but they had never been offered a firsthand glimpse of peonage and Indian slavery in the western territories, nor did any published accounts from Indian slaves or Mexican peons exist. In what Joe Lockard calls “witness literature,” observers of slavery reported on what they saw in newspapers, pamphlets, and books, although in so doing they merely “condemned but did not act.” That is, most travelers were passive observers who criticized the evils of slavery not so much to elicit direct action against the system, but rather to assert their own morality in appeasement of conscience. This is precisely the disingenuous position that Horace

74 Congressional Globe, 31st Cong., 1st Sess., July 8, 1850, Appendix, 1180. Smith noted of peonage that, “the wages are only four dollars per month, and subsistence but twenty-four pounds of maize, or Indian corn, per week. This is not even ground or converted into meal, and the peon tastes scarcely one morsel of meat from the beginning to the end of the year.” Ibid.

75 For abolitionism and slave narratives in the print media, see Jeannine Marie DeLombard, Slavery on Trial: Law, Abolitionism, and Print Culture (Chapel Hill, NC: University of North Carolina Press, 2007), esp. 101-198.
Greeley accused Daniel Webster of taking during the debates over slavery in the territories following the Mexican-American War.\textsuperscript{76} 

The prevailing ignorance of Southwestern slave systems among Easterners also emanated from strong Anglo-American prejudices against Mexicans and Indians, whose racial, linguistic, religious, and cultural backgrounds rendered them ‘others’ at multiple levels. Indeed, such perceptions influenced the decision to invade Mexico just a few years earlier in perpetuation of American exceptionalism and the ideology of Manifest Destiny.\textsuperscript{77} Further evidence of such prejudices surfaced in military reports as well. J.F. Hammond, an army medical officer, believed that New Mexico’s servile population lacked any “spark of culture,” evincing instead a “painful combination of astuteness with impotency.”\textsuperscript{78} His observations reflected the common idealistic mentality of an era during which Americans perceived Indians and Hispanos on the western frontier as socially and culturally flawed, essentially nothing more than an impediment to the nation’s providential imperialistic expansion and a scourge upon more pure Euro-American bloodlines. Even Northern abolitionists who abhorred chattel slavery and disseminated a rhetoric of morality retained strong racial prejudices towards the very same peoples whose plight for freedom they espoused. Hammond’s viewpoint coincided with that of many others—Northern and Southern alike—who believed Mexicans and


Indians to be psychologically inferior and incompatible with the divine scheme of Manifest Destiny. It therefore comes as little surprise that many Easterners overlooked the existence of peonage and Indian slavery in New Mexico and often failed to even view them as forms of slavery.

The widely acknowledged impracticality of chattel slavery in the western territories did little to deter Southerners in their insistence that the institution be extended there in ideology if not in practice. Plantation-style agriculture never gained a foothold in the Southwest, but the practice of holding humans in servile bondage continued to enjoy the wholehearted ideological support of Southerners from the moment the territory fell under the dominion of the United States. More than anything else, black slavery was a nonstarter in New Mexico because hacendados and political elites already possessed sufficient means for suppressing indigent citizens and captive Indians into a condition of permanent servitude and simply did not need an additional labor force. Seemingly undeterred by Northern onslaughts, pro-slavery interests fought to preserve New Mexico’s peculiar institution in any form possible, endeavoring to make it a slave territory under the guises of peonage and captivity if nothing else.

Systems of involuntary servitude existed in the Southwest long before the installation of western capitalism and Constitutional principles. Throughout the colonial period, New Mexico’s social structure resembled that of the American South in that a

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79 Mora, Border Dilemmas, 43-65.


small, land-rich contingent of the population comprised a veritable provincial aristocracy. At the outbreak of the Civil War in 1861, a Union soldier noticed that only a few hundred “rich Mexicans” lived in the territory.\(^{82}\) Although they represented a small percentage of the total population, these ricos reigned supreme over territorial affairs and controlled vast tracts of land, oftentimes traceable to Spanish and Mexican land grants. To develop and maintain the arable portions of these lands and to raise livestock on the grassy hillsides, patrónes, or masters, employed the traditional methods of debt peonage and Indian slavery.\(^{83}\) Within the boundaries of these large landholdings small villages frequently appeared, with laboring peons as the principal inhabitants. On vast pastoral ranges, lower class peon laborers “made little villages around the ground of the lord of these estates,” a practice which, over centuries, had a colonizing effect on many parts of northern New Mexico and segregated the lower classes of peons from the families of the landed aristocracy.\(^{84}\)

James Josiah Webb, a merchant and trader on the Santa Fe Trail, noted in his memoirs that by the time he first arrived in the province in the early 1840s, peonage “was a fixed institution.”\(^{85}\) When Brigadier General Stephen W. Kearny occupied New Mexico during the Mexican-American War, the temporary legal code that he implemented implicitly acknowledged the existence of slavery by mandating that only

\(^{82}\) John Ayers, “A Soldier’s Experience in New Mexico,” in *New Mexico Historical Review* 24 (October 1949): 260.

\(^{83}\) Taylor, *In Search of the Racial Frontier*, 74.

\(^{84}\) Ayers, “A Soldier’s Experience in New Mexico,” 261.

“free male citizens” would be able to vote in the new territory.\textsuperscript{86} Touring New Mexico a decade later, United States Attorney William W.H. Davis observed that debtor servitude remained the predominant form of labor in New Mexico, having originated during the Spanish colonial era and being recently codified in a territorial statute.\textsuperscript{87} Many congressional leaders, when debating the slavery issue as it pertained to the land acquired from Mexico, cited this preexistence of involuntary servitude as ample precedent for its retention and legal sanction. One politician explicitly understood peonage as a form of slavery when outlining its legal history in the Southwest, noting that it existed under former Mexican statutes and was merely perpetuated in the more recent master-servant act of 1851.\textsuperscript{88} This became a focal point for congressional deliberations prior to New Mexico’s admission into the Union as a territory on September 9, 1850. Another senator sardonically summarized the crux of the entire debate when he insisted that any assertion of previous Mexican laws remaining valid “is to say, in other terms, that we are subject ourselves to the laws of a foreign nation.”\textsuperscript{89}

Hugh N. Smith, New Mexico’s congressional delegate, corroborated the shaky ground upon which this viewpoint rested. Regarding the statutory preexistence of slavery in New Mexico, he informed Daniel Webster that it “had been altogether abolished by the laws of Mexico,” although such abolitionist doctrine effected only racial slavery and in

\textsuperscript{86} Organic Law of the Territory of New Mexico,” in 30\textsuperscript{th} Cong., 1\textsuperscript{st} Sess., November 23, 1846, House Exec. Doc. No. 60, p. 179.

\textsuperscript{87} William W.H. Davis, \textit{El Gringo, or, New Mexico and her People} (Santa Fe, NM: Rydal Press, 1938), 98.

\textsuperscript{88} “Slavery in the Territory of New Mexico,” 36\textsuperscript{th} Cong. 1\textsuperscript{st} Sess., House Report No. 508, p. 32.

\textsuperscript{89} \textit{Congressional Globe}, 31\textsuperscript{st} Cong., 1\textsuperscript{st} Sess., February 12, 1850, Appendix, 208. See also Childers, \textit{The Failure of Popular Sovereignty}, 108-109, 145-46.
fact did nothing to suppress or limit peonage and captivity.\textsuperscript{90} Mexico did indeed approve several measures outlawing slavery and regulating relationships between masters and servants between the years 1821, when it gained its independence from Spain, and 1846, when the Mexican-American War commenced. Southerners contended that preexisting anti-slavery laws became extraneous the moment Mexico ceded the territory to the United States, at which time the mandates of the U.S. Constitution immediately applied to those lands. Contrarily, Northerners insisted that previous Mexican slavery statutes continued in full force until territorial officials abrogated them, an understanding with roots in the American conquest of New Mexico. When Brigadier General Stephen W. Kearny’s Army of the West took possession of Santa Fe in August 1846, he immediately issued a proclamation declaring that “the laws hitherto in existence will be continued until changed or modified by competent authority,” thereby acknowledging congressional authority to legislate more definitively on the issue at some future date.\textsuperscript{91}

The first such controversial decree appeared in Mexico’s 1824 constitution and primarily involved the transatlantic slave trade. The law forbade trafficking or commerce in slaves and granted instantaneous freedom to any bondsmen brought into the country. It required the immediate seizure of sea-bound slave-trading vessels and called for the imprisonment—for a period of up to ten years—of any persons found to be complicit in such activities. The edict reinforced earlier Spanish regulations banning the slave trade

\textsuperscript{90} Smith to Webster, April 9, 1850, in Wiltse and Birkner, eds., The Papers of Daniel Webster, Vol. 7, p. 62.

\textsuperscript{91} “Messages of the President of the United States, with the Correspondence, therewith communicated, between the Secretary of War and other officers of the Government, on the Subject of the Mexican War,” April 28, 1848, 30\textsuperscript{th} Cong., 1\textsuperscript{st} Sess., House Exec. Doc. 60, p. 170.
and prohibited any person from taking slaves into Mexico, whether for the purpose of
selling them or for retaining them as personal servants.92

A second regulatory measure of April 15, 1829 demarcated the true point at which
Mexico abolished slavery and reiterated that all persons formerly held in a condition of
servitude were henceforth free. The primary difference between this law and Mexico’s
1824 constitutional provision arose from the fact that it allowed slave owners to be
compensated for their freed slaves “when the condition of the Treasury admits it.”93 The
stipulation that masters be remunerated for their liberated slaves sought to ease the
transition to a non-slaveholding society and stifle any public outcry that might emanate
from such a decree. Unfortunately for Mexican slaveholders, a chronically overspent
national treasury never facilitated the issuance of such reimbursements.

The Mexican president at that time, Vicente Guerrero, was himself the progeny of
a multi-ethnic Afro-mestizo relationship, which might help to explain the passage of an
act banning the African slave trade during his incumbency. Guerrero could scarcely have
imagined that, twenty years after being signed into law, the Mexican slave code would
become an object of debate in the United States Congress. One U.S. senator, while
denying the validity of the law as it pertained to New Mexico after the 1846 conquest,
referred to Guerrero’s decree as “waste paper,” an assertion to which Northern
abolitionists vehemently objected.94 Pennsylvania Senator James Cooper, for example,

92 Quoted in Congressional Globe, 31st Cong., 1st Sess., February 13, 1850, Appendix, 151 (emphasis in
original).

93 Ibid.

94 Ibid., February 12, 1850, p. 208.
not only believed these Mexican anti-slavery laws to be commendable but also insisted that they remained valid and effective in the Southwestern territories, a suggestion that many in the room found audacious and even laughable.  

A third and final Mexican slave statute of April 4, 1837 repeated (almost verbatim) the stipulations of the preceding two laws, once again banning slavery and reaffirming the right to compensation for any slaveholder despoiled of his human property upon entering Mexico. The passage of three nearly identical mandates betrays the Mexican government’s failure to effectively enforce the first two. Indeed, the country’s vast territorial domain made it difficult for the government to uphold such regulations in its sparsely populated frontier provinces, especially New Mexico, a difficulty that American lawmakers came to appreciate in later years. Continuous reverberations in political leadership, an omnipresent threat of coups, and perpetual financial insolvency meant that the Mexican national government exerted minimal effort towards the enforcement of antislavery provisions.

Congressional dialog on the validity of Mexican laws during the 1848-1850 sessions is emblematic of the rampant sectionalism that fueled such debates, with all rationality sometimes being thrown to the wind during the course of such exchanges. Because Mexican laws prohibited slavery, Northerners voiced strong support for their continuance and sought to see them incorporated into a new set of regulations for New Mexico. Conversely, Southerners denied that the laws remained applicable. Georgia Senator John Berrien summarized his section’s position when stating that earlier laws,

95 Ibid., July 1, 1850, Appendix, 1010.
96 Ibid., February 13, 1850, p. 151.
“with whatever authority they may have been enacted while California and New Mexico were a part of the Mexican republic, ceased instantly upon their transfer to the United States.” Had Mexican law upheld the institution of slavery, Northern and Southern positions on the matter would no doubt have been reversed.

Northerners cited legal precedent in support of retaining the preexisting laws of conquered territories, alluding to instances in which the U.S. Supreme Court ruled that civil and municipal codes relating to property ownership in ceded foreign land remained in force until government officials annulled or replaced them. Senator Cooper cited seven different court cases that established this legal standard. The primary basis for his argument emanated from the 1828 Supreme Court case *American Insurance Company v. Canter*, in which Chief Justice John Marshall addressed the issue as it pertained specifically to territorial acquisitions. Upon reverting to American sovereignty, a ceded territory dissolved all formal relations with its former country and came under the jurisdiction of the United States. Marshall explained that the transfer of land from one nation to another involved a complementary and obligatory shift in allegiance on the part of those residing there, but acknowledged that any law regulating “the intercourse and general conduct of individuals,” including property rights and, by extension, slavery, would remain in effect until modified “by the newly created power of the state.”

In other words, upon the acquisition of a foreign territory, the existing law of the land continued in full effect until the conquering nation abrogated or amended it.

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98 Ibid., July 1, 1850, Appendix, 1011.

Northern abolitionists used this ruling to argue for the continuation of Mexican anti-slavery laws, pointing out that no new edicts had yet been enacted to replace the old ones. According to Southern logic, however, this argument did not apply to the present situation because the Supreme Court ruling pertained to civil laws involving “the intercourse between citizen and citizen” and therefore had no impact on political mandates involving slavery.\footnote{Ibid.} Senator John C. Calhoun conceded that foreign municipal laws proven to be consistent with the American political system might remain unchanged, but he insisted that this should have no impact on slavery in New Mexico. Based on his interpretation of preexisting Mexican municipal law, Calhoun concluded that “the peonage system would continue, but not to the exclusion of such of our citizens as may choose to emigrate with their slaves or other property.”\footnote{Cralle, ed., \textit{Speeches of John C. Calhoun}, Vol. 4, p. 499.} According to Calhoun, the Northern argument contradicted itself inasmuch as Mexican laws prohibited chattel slavery but upheld peonage, which in principle and practice was merely a modified form of involuntary servitude. Because slaves were not considered citizens, Northerners countered that Mexican civil and municipal laws could not, under the U.S. Constitution, continue to regulate slavery in New Mexico. The entire debate hinged upon one question: did a law regulating slavery constitute a “civil or municipal law,” or a “public or political law?” If the former, then Mexican legislation could not remain in effect beyond the moment of American conquest.
Speaking to the House of Representatives on July 29, 1848, Richard S. Donnell of North Carolina announced once again that Mexican law abolished enslavement and proclaimed in no uncertain terms that “African slavery, as it exists in the Southern States, was forbidden in that territory at the time it became, by cession, a part of our country.”

Missouri Senator Thomas Hart Benton, who claimed to have been averse to slavery in principle since early adulthood, concurred in the view that Mexican anti-slavery provisions had not been automatically repealed when the Southwestern domain shifted to American jurisdiction. In New Mexico and California, he pointed out, slavery had already been abolished at the time of the American conquest and could be reintroduced there only if Congress passed a new law to that effect.

Addressing political colleagues on July 8, 1850, Senator Truman Smith offered a detailed description of slavery laws in New Mexico, beginning his diatribe with the straightforward comment that slavery had been abolished in New Mexico prior to it being ceded to the United States. “If the ordinances and laws of Mexico abrogating slavery do not continue, yet it may be assumed that there is no law authorizing it,” he reasoned, “and this is just as serious an obstacle to the introduction [of slavery] as a positive law forbidding it.” Because Mexican statute applied to the region at the time of the American conquest, Smith contended that those laws remained valid and enforceable, and


103 Benton, _Thirty Years’ View_, Vol. 2, pp. 697, 759, quotation on 695.

104 _Congressional Globe_, 31st Cong., 1st Sess., July 8, 1850, Appendix, 1180 (emphasis in original).
that by simply recanting such edicts Congress could not “reintroduce slavery” without passing an entirely new law to that effect.\(^{105}\)

Still other Northerners feared that previous Spanish and Mexican mandates outlawing slavery would prove insufficient in preventing its eventual extension into the Southwest, demanding that Congress enact additional measures to ensure that black men and women could never be taken to those territories as slaves. Vermont Representative George P. Marsh again questioned the validity of Mexican law, warning fellow Northerners about the veracity of such abolitionist doctrine and suggesting that U.S. courts would be unlikely to recognize another nation’s legal codes. Skeptical of what judges might rule in the event of litigation, he cited this ambiguity as sufficient justification for the enactment of additional measures outlawing slavery in the Southwest.\(^{106}\)

Marsh focused on Mexico’s 1824 federal constitution, which he claimed had merely regulated slavery rather than abolish it. To be sure, the language of the constitution banned slavery only in that republic’s states; New Mexico and Alta California had been provinces—similar to territories in the U.S. body politic—and it remained a matter of interpretation as to whether the Mexican constitution had indeed outlawed slavery there along the same lines as the more southerly states. Subsequent laws passed in 1829 and 1837 were also questionable in their ultimate effect, in part due to chronic civil and social unrest in that country. The general instability of the Mexican

\(^{105}\) Ibid., 1085.

\(^{106}\) Ibid., 30\(^{th}\) Cong., 1\(^{st}\) Sess., August 3, 1848, Appendix, 1073.
government made it difficult for American lawmakers to determine whether or not that country’s congressional bodies even had the power to pass acts that superseded the 1824 constitution.107

These legal loopholes jeopardized the Northern movement to ban slavery in the far western territories. “Though slavery may have been abolished by Mexico,” Marsh concluded, “yet American slaveholders may now revive it, by removing to the Territories and carrying their slaves with them,” a possibility that, however unlikely, nonetheless necessitated congressional action.108 Forcefully broadcasting the Southern viewpoint, Senator Calhoun sprung to his feet and condemned all anti-slavery interpretations of New Mexico’s legal situation. At the moment Congress ratified the Treaty of Guadalupe Hidalgo in 1848, he insisted, Mexican sovereignty “became extinct” in the ceded territory and the U.S. Constitution came into effect.109 As one of the most vocal and preeminent pro-slavery representatives of his time, Calhoun voiced the sentiments of many Southerners when he asserted the irrelevance of all Mexican laws. Their Northern counterparts had, they believed, strayed woefully awry in embracing the notion that another country’s statutes prohibited the extension or regulation of slavery within the American national domain.

Future Confederate President Jefferson Davis, at the time a Mississippi senator, likewise deflected the Northern argument with his own forceful invective: “Did we

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107 Ibid. (Emphasis in original).

108 Ibid., 1072-73.

109 Quoted in Benton, Thirty Years’ View, Vol. 2, p. 713. In a personal response to Calhoun’s view on the issue, Benton wrote, “History cannot class higher than as a vagary of a diseased imagination this imputed self-acting and self-extension of the Constitution.” Ibid., 714.
admit territory from Mexico subject to the constitution and laws of Mexico? Did we pay fifteen millions of dollars for jurisdiction over California and New Mexico, that it might be held subordinate to the law of Mexico?” the senator asked rhetorically during a February 1850 speech.\(^{110}\) Davis recalled the negotiation process antecedent to the signing of the Treaty of Guadalupe Hidalgo, during which time United States minister plenipotentiary Nicholas Trist discussed the slavery issue with Mexican commissioners. Trist purposefully sidestepped the topic of slavery in the actual treaty to avoid setting a controversial precedent, informing his ambassadorial counterparts that “the bare mention of [slavery] in any treaty . . . was an absolute impossibility.” He understood that any provision either including or excluding slavery in the ceded territory could not be considered without inciting political turmoil in the halls of Congress. Trist only slightly exaggerated the gravity of the situation when he told Mexican diplomats that, “If it were in their power to offer me the whole territory described in our project, increased tenfold in value [and] covered a foot thick over with pure gold, upon the single condition that slavery be excluded therefrom, I could not entertain the offer for a moment, nor think even of communicating it to Washington.”\(^{111}\)

Davis alluded to this intentional omission of Mexico’s slave laws as evidence that such mandates could not remain in effect after the treaty had been signed. He quoted the Constitutional recognition of slave property as validation for the Southern cause, noting that the founding document ensured all American citizens the same legal protections


\(^{111}\) Quoted in ibid (emphasis in original).
regardless of sectional affiliation. Mexico’s abolition of slavery during the 1820s, he insisted, became irrelevant the moment that it ceded New Mexico and California to the United States, whereupon that entire region came under “a sovereignty to be measured by our Constitution, not by the policy of Mexico.”\textsuperscript{112} This was precisely the viewpoint that the Supreme Court upheld seven years later in the Dred Scott case.

The most comprehensive analysis of preexisting Mexican laws and their impact on the extension of slavery into New Mexico came from Kirby Benedict, chief justice of the territorial supreme court in the years leading up to the Civil War. Explaining his ruling in the 1857 peonage case \textit{Mariana Jaremillo v. Jose de la Cruz Romero} (see Chapter 3), Benedict expounded upon previous Spanish and Mexican slavery statutes, analyzing the intended effects of those laws and addressing many of the same unresolved issues that congressmen had raised several years earlier.

Benedict began by acknowledging the longtime existence of debt peonage in New Mexico. Comparisons first had to be drawn between the common perceptions (and misperceptions) of peonage versus slavery as institutions of involuntary servitude. Identifying them as essentially one and the same system in principle, Benedict opined that slavery “ceased to exist” during the Spanish colonial era, citing an act of the Cortes of Spain on August 6, 1811 as the official moratorium. Spanish law thereafter prohibited any person from selling another’s liberty, or engaging in any other act that might be

\textsuperscript{112} Ibid.
perceived as human trafficking. In Benedict’s estimation, all forms of involuntary
servitude had been banned in New Mexico by decree of its mother country in 1811.\textsuperscript{113}

After gaining independence in 1821, Mexican lawmakers passed their own edicts
defining and regulating slavery, all of which reinforced previous Spanish law and
included additional sanctions for violations. According to Benedict, such legislation
demonstrated “the Mexican spirit” on the topic of slavery and would be the guiding
principle for his pending legal interpretation.\textsuperscript{114} Mexico’s 1829 decree defined master-
servant relationships, acknowledged the existence of servitude, and placed numerous
restrictions upon masters, or \textit{patrónes}. Nobody in Mexico would ever again be born into
slavery, and six months after the law’s inception “the introduction of slaves” would be
forever prohibited.\textsuperscript{115} The law also forbade whipping and other forms of corporal
punishment, with a provision allowing servants and slaves to sue an abusive master for
“excessive chastisement.”\textsuperscript{116} This and other Mexican statutes applied equally to New
Mexico and had effectively banned racial slavery—while specifically allowing
peonage—in that territory many years prior to the 1846 U.S. conquest.

Having thus established the parameters of preexisting Spanish and Mexican laws
relative to slavery in New Mexico, Benedict examined the territory’s mid-century
transition in sovereignty. He specifically cited the inception of the Kearny Code in

\textsuperscript{113} Mariana Jaremillo v. Jose de la Cruz Romero, January 1857, in Charles H. Gildersleeve, \textit{Reports of
Cases Argued and Determined in the Supreme Court of the Territory of New Mexico from January term 1852 to January

\textsuperscript{114} Ibid., 197.

\textsuperscript{115} Quoted in \textit{Congressional Globe. 30th Cong., 1st Sess.}, August 3, 1848.

September 1846 as the first instance of American law being implemented there, noting that the document failed to address servitude and therefore left the institution intact by virtue of salutary neglect. Because the Kearny Code lacked any specific wording relative to masters and servants, Benedict reasoned that a _patrón_ could only “recover his debt from his servant or peon, as in the ordinary way from another debtor.”

Although this opinion highlighted the system of peonage more so than that of chattel slavery, it did nonetheless define both institutions as involuntary servitude. Thus, Benedict’s comments relative to Mexico’s peon regulations could be construed as equally applicable to any form of coerced labor, and he essentially reaffirmed that slavery had been outlawed multiple times through the mandates of both Spain and Mexico. Of all the commentary on Mexican slavery laws, however, German-born Doctor Adolph Wislizenus, who visited New Mexico in connection with the 1846 American invasion, provided the most concise explanation. Describing the system of debt peonage that he encountered almost everywhere he went, Wislizenus wrote that, “this actual slavery exists throughout Mexico, in spite of its liberal constitution; and, as long as this contradiction is not abolished, the declarations of the Mexican press against slavery in the United States must appear as hypocritical cant.”

While remaining mostly ambivalent towards chattel slavery—viewing it through the tunnel vision of political expediency rather than economic practicality or moral standing—the inhabitants of New Mexico vehemently defended their right to retain

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117 Ibid., 201.

118 Dr. A. Wislizenus, _Memoir of a Tour to Northern Mexico, Connected with Col. Doniphan’s Expedition, in 1846 and 1847_ (Washington, DC: Tippin & Streeper, 1848), 24.
Indian captives and indebted peons. Superintendent of Indian Affairs James S. Calhoun noticed in 1850 that the recent transformation in political sovereignty and nationality had little effect on New Mexicans when it came to their outlook on captivity and peonage.

“They yet think that the right to buy and sell captives is perfect, and that no human power can disturb that right,” he wrote, explaining that “trading in captives has been so long tolerated in this territory, that it has ceased to be regarded as wrong.”119 Although Calhoun clearly referred to Indian captives, his allusion to exchanging human property extended to peons as well. There seems to have been widespread confusion, especially among federal lawmakers, about the difference between Southern slavery and New Mexico’s traditional forms of bondage. This ambiguity existed to some degree among Anglo-Americans living in New Mexico as well, many of whom had difficulty judging the sentiments of Hispanos when it came to the slavery issue. As late as January 1861, with the first shots of the Civil War just weeks away, those in the East remained perplexed as to New Mexico’s stance on slavery. Congressional leaders could not discern the true sentiments of the people, having been bombarded with innumerable “contradictory and self-stultifying reports” from various territorial residents.120

That nobody—not even leading territorial officials—quite understood the actual prevailing sentiment on slavery in the Southwest is exemplified in correspondence between Daniel Webster and Hugh N. Smith during the congressional debates. Webster wrote to Smith on April 8, 1850 asking that he, as New Mexico’s representative, explain


“what the fact is, at the present time, respecting the existence of slavery in New Mexico.”\footnote{121} Smith’s response contradicted Governor Calhoun’s earlier claim that local residents retained slave labor. He assured Webster that New Mexico “is a free territory” and that he knew of no persons there “who are treated as slaves,” with the exception of a few black men accompanying military officers and other temporary residents. “The strongest feeling against slavery universally prevails throughout the whole territory,” he concluded in a rather simplistic analysis, carefully avoiding any mention of the peons and captives that his Hispano constituents held and, with political acumen, deflecting attention toward chattel slavery.\footnote{122}

Still others believed that Hispanos would reject the implementation of chattel slavery on racial pretenses. While serving as Polk’s Secretary of State during the Mexican-American War, James Buchanan—who proclaimed in 1826 that slavery constituted “a great political and a great moral evil” from which the nation might never recover—perceived the impending crisis that would follow annexation of Mexican territory. Writing to a colleague in 1847, he confided his opinion that it would be unlikely for Hispanos to “reestablish slavery” after having banned the institution years earlier vis-à-vis the three Mexican statutes. Buchanan’s reasoning, however, revolved around a personal prejudicial belief that New Mexicans were themselves “a colored population,” and he betrayed his own ethnocentrism when writing that, “among them the

\footnote{121} Daniel Webster to Hugh N. Smith, April 8, 1850, in Webster, \textit{The Works of Daniel Webster}, Vol. 6, pp. 548–49.

\footnote{122} Smith to Webster, April 9, 1850, in Wiltse and Birkner, eds., \textit{The Papers of Daniel Webster}, Vol. 7, p. 62.
negro does not socially belong to a degraded race.” In other words, Buchanan saw both Mexicans and African Americans as racially and socially inferior and did not believe that two such groups could interact on a civilized level without the paternalistic oversight of white men.\textsuperscript{124}

According to a New York editorialist in Albany, New Mexico’s Hispanic population deserved little if any blame for either pro- or anti-slavery movements in the territory, attributing regional agitation over the issue to implanted federal officials who propagated all such political maneuverings.\textsuperscript{125} In an attempt to counter local proclamations in favor of slavery and to encourage the citizens to oppose human bondage, the American and Foreign Anti-Slavery Society published a lengthy statement and distributed it among territorial residents. The 1849 pamphlet, provocatively entitled “Address to the Inhabitants of New Mexico and California . . . on the Social and Political Evils of Slavery,” implored Hispanics to reject the introduction of a “detestable institution” into their territory. Heedless of the fact that their audience had just recently been naturalized as American citizens and that many of them continued to identify with their former nation, the abolitionist authors declared that “Patriotism and Christian benevolence” must be the guiding lights for them in their resistance to slavery. The booklet urged that they “tolerate no servile caste kept in ignorance and degradation” and


\textsuperscript{125} “The New Mexican Delegate,” in \textit{Daily Albany Argus}, July 26, 1850.
claimed that the Society’s members would rather see New Mexico and California
“forever lost” to another country rather than allow them to “be converted by the
American people into a region of ignorance, vice, misery, and degradation by the
establishment of human bondage.” One cannot help but notice the irony in such a
statement. Involuntary servitude had existed for generations in the area and had indeed
propagated a discernible “servile caste” but, due to the swarthy efforts of New Mexicans,
those institutions remained mysterious to many Americans. The failure of the
proclamation to condemn peonage and captivity suggests that the organization was only
lukewarm in its pursuit of abolition and indicates that a political and sectional intent
superseded any pietistic one. Had the Society’s members sought universal emancipation
on moral premises, they might have included peons and captives in their crusade for slave
liberation.

United States military authorities in Santa Fe moved abruptly to suppress the
Anti-Slavery Society’s potentially incendiary edict. Such maneuvering, however, failed
in its intended effect. The editor of Santa Fe’s primary newspaper, William G. Kephart,
served as an agent for the organization and had been deliberately dispatched to New
Mexico with orders to “show the inhabitants the advantages of free over slave labor.” He
used the newspaper as a platform to broadcast an abolitionist agenda and conspired to
enlist Catholic priests to his cause, noting that with ecclesiastical aide “and God’s

126 Address to the Inhabitants of New Mexico and California on the Omission by Congress to provide them
with Territorial Governments and on the Social and Political Evils of Slavery (New York, NY: American
& Foreign Anti-Slavery Society, 1849), 55; for background on the pamphlet see Ganaway, New Mexico
and the Sectional Controversy, 25.

127 Quoted in Lawrence R. Murphy, “Antislavery in the Southwest: William G. Kephart’s Mission to New
approbation of the work,” his success would be ensured. The Protestant missionary even went so far as to lodge malicious verbal assaults “of the rankest character” against any Anglo-American who brought black slaves into the territory.

Kephart’s abolitionism in New Mexico caught the attention of many congressional lawmakers, some of whom feared that he might incite the population to violence in the same manner that agitation over slavery brought Kansas to turmoil in 1854. Richard H. Weightman, the territory’s delegate to Congress and a personal rival of Kephart, attacked his foe publically and accused him of using the “garb of a missionary” to conceal his machinations under a disingenuous veil of morality. Deeply concerned with the situation, Weightman belittled anti-slavery activists as conspirators who hoped to incite “treason and rebellion” against the federal government and assured Congress that Kephart’s efforts to bring New Mexico’s people to their knees over slavery had been in vain. The Society’s pamphlet was circulated throughout New Mexico, with copies printed in both English and Spanish, in order to urge the people “to set up an independent government unless exempted from the curse of slavery.” Ultimately, the abolitionist undertaking failed to sway public sentiment, in part because Kephart did not speak Spanish himself and showed little interest in the Hispanic culture. Despite controlling the territory’s only newspaper at that time (the Santa Fe Weekly Gazette) and using it to

128 Ibid., 21.

129 Ganaway, New Mexico and the Sectional Controversy, 54. Judge Spruce M. Baird, originally from Texas and an avowed Southerner, disapproved of Kephart’s anti-slavery exertions in New Mexico and complained that he used the newspaper as an outlet for “his abolition doctrines.” Ibid.

130 R.H. Weightman to H.S. Foote, December 16, 1851, in Congressional Globe, 32nd Cong., 1st Sess., March 17, 1852, p. 755 (emphasis in original); see also Spruce M. Baird to Sam Houston, September 28, 1851, in Speech of Hon. Richard H. Weightman of New Mexico, 16.
disseminate the American and Foreign Anti-Slavery Society’s abolitionist rhetoric, “no excitement took place in New Mexico,” Weightman wrote with undisguised relief.131

Kephart’s brief stay in New Mexico lasted only from his arrival in 1850 until January 1853; with his newspaper nearing bankruptcy and personal expenditures mounting, he had little choice but to abandon his anti-slavery mission and return home to the Eastern states.132 By the time of his departure, Kephart had become highly frustrated in his cause, owing to the lack of support that New Mexicans showed. “The controlling influences here are pro-slavery,” he lamented, “and almost the whole of the American population is from the slave states.”133 Kephart’s experience epitomizes the ongoing confusion among American outsiders relative to New Mexicans’ perspectives on the slavery issue. Whereas men such as Hugh Smith and Richard Weightman—both of whom represented the territory in Congress—swore that Hispanics disavowed the peculiar institution in both practice and principle, others like Kephart believed the entire population to be wedded to the Southern pro-slavery cause. With this lack of consensus among congressional lawmakers and political activists, it comes as little surprise that they debated the issue so vigorously but to such little avail.

Congressional deliberations over slavery in the territories lasted for the better part of two years, commencing with the Treaty of Guadalupe Hidalgo in February 1848 and not culminating until September 9, 1850 with the passage of the congressional


132 Murphy, “Antislavery in the Southwest,” 6-7.

133 Kephart to Rev. George Whipple, February 20, 1851, quoted in Murphy, “Antislavery in the Southwest,” 22.
compromise accord. The brainchild of an aging but determined Henry Clay, the conciliatory legislation temporarily assuaged both pro- and anti-slavery factions but also laid the groundwork for the impending political conflagration of the 1850s.\textsuperscript{134} It allowed for the admittance of California as a free-soil state and for Utah and New Mexico to be appended as territories under the premise of popular sovereignty, granting residents the ability to decide for themselves on the slavery issue. Clay’s efforts brought temporary closure to some of the most heated sectional debates the nation had yet seen, averting for another decade the imminent secession of the Southern states.

These efforts at the national level almost exclusively addressed chattel slavery, which scarcely existed in New Mexico and, many argued, could never be profitably implemented there. Debt peonage and Indian slavery, long entrenched in Southwestern culture, had become a mainstay of everyday life just as black slavery was an omnipresent characteristic of the South. Congressional leaders neglected to account for the disparities in these systems of servitude when formulating policy objectives. On one telling occasion, during a Senate debate over the 1850 compromise measure, an amendment sought to include a provision “that peon slavery [be] forever abolished and prohibited” in the territories. Many legislators scoffed at the proposal, with one senator standing and proclaiming sarcastically, “I move to amend that amendment by striking out the word ‘peon,’” a quip that instigated laughter throughout the chamber. Veteran Senator Thomas Hart Benton retorted, pronouncing the amendment to be worthy of consideration. In place of the word “slavery,” he suggested that the more all-encompassing term

“servitude” be substituted. The entire debate on peonage versus slavery ultimately failed to provide any meaningful solutions, with many senators believing that Congress lacked the power to legislate on slavery in the territories. In this, one gets a sense of the general ambivalence toward Mexican peons and Indian captives. Many officials either neglected or refused to recognize such persons as involuntary servants and thus avoided legislating on what they perceived to be a non-issue.

In the years immediately following the Mexican-American War, congressional discourse on slavery in the Southwest had little direct impact on preexisting systems of bondage. Nor, for that matter, did the Compromise of 1850 satisfactorily resolve the issues that arose concerning the extension of chattel slavery into New Mexico. Most importantly, the debates laid the rhetorical groundwork for Reconstruction policymakers seeking to expand the Thirteenth Amendment to encompass peonage and captivity, as these antebellum political arguments developed precedents that helped to define and even expand the free-labor ideology of postwar legislators and reformers. Within the context of antebellum sectionalism, however, more than two years of deliberation on slavery in the Mexican Cession lands revealed the pervasive indecisiveness of federal lawmakers on such issues, their indeterminacy culminating in the Civil War a decade later. The debate carried on and, ultimately, the territorial legislature passed laws throughout the 1850s that would have more immediate consequences for the nature of debt peonage and Indian

135 Congressional Globe, 31st Cong., 1st Sess., June 5, 1850, p. 1135. In support of this claim, Senator Pratt said, “This peonage, to which the amendment . . . was intended to apply, was servitude existing by virtue of the contract of the individuals. Here, then, is this servitude existing by the recognized law of that country. Now, what right has Congress to interfere with the vested rights of these people . . . which are guaranteed by the treaty [of Guadalupe Hidalgo] between this country and Mexico?” Ibid.
slavery, while simultaneously placing New Mexico firmly within the camp of the Southern cause.
CHAPTER 7

NEW MEXICO’S TERRITORIAL SLAVE CODES

The antebellum regulation of African Americans—both free and enslaved—has commonly been attributed to the Southern states. Legislators, especially those in the South, frequently promulgated statutory regulations that governed everything from miscegenation to everyday mobility, effectively stripping blacks of most rights. Scholars have largely overlooked the fact that popular sovereignty in the West induced territorial lawmakers to consider similar legislation, often as a symbolic political declaration. This held especially true in the Territory of New Mexico, where local officials approved numerous measures throughout the 1850s that closely resembled slave laws in the Southern and so-called Border states. In so doing, New Mexicans again thrust themselves into the center of tense debates over slavery and became a pawn for Northern and Southern politicians in that larger ideological conflict.

While historians have acknowledged anti-Hispanic and anti-Catholic sentiment as leading factors in New Mexico’s stifled statehood ambitions during the years between the Mexican-American War and the Reconstruction era, scholars must also recognize the passage of strict slave codes—within the context of antebellum sectionalism—as a tertiary reason for the territory’s struggle to achieve enhanced recognition among the American public. With rampant strife plaguing discussions about slavery during the two decades following the Mexican-American War, the existence of territorial codes became a liability for those seeking some measure of political equality at the national level. Exhibiting revulsion for coercive labor as well as the implementation of laws mirroring those already in place throughout the South, many Northerners hesitated to acknowledge
New Mexico’s residents as their equals, and the legislature’s adoption of such measures influenced Americans’ morally- and ethnically-driven distaste for the newly-acquired territory.

Following passage of the Compromise of 1850, both Utah and New Mexico Territories legislated on slavery based on the premise of popular sovereignty. With the slave issue demanding attention, lawmakers in both territories enacted measures that essentially upheld the right of citizens to hold slaves and regulated the activities of all black persons.\(^1\) Although the laws of the two new territories differed substantially in their particulars—owing in large part to disparities in religious views on the part of Utah’s Mormons and New Mexico’s Catholics—they served, in the most fundamental sense, to legalize slavery in both regions. The infamous 1859 New Mexico Slave Code, which one abolitionist dubbed “the most cruel, mean and barbarous slave-code that disgraces any State or Colony in the Western hemisphere,” proved to be a political liability and placed the infant territory at the forefront of public controversy on the eve of the Civil War.\(^2\)

Scholars of slavery have taken their cue from antebellum politicians in misinterpreting the nature of preexisting slave systems in the western territories. Just as Congressmen in the 1850s attempted to construe their platforms for sectional debate upon the existence or nonexistence of slavery in the Southwest based solely upon notions of African American servitude, so too have historians perpetuated this misconception. A


leading scholar of slavery once observed that New Mexico “perversely became the only jurisdiction in American history to enact a slave code for a slaveless society,” but this statement presents multiple inaccuracies. First and foremost, New Mexico was far from being slaveless, with thousands of Indian captives and Mexican debt peons detained in systems of coerced servitude that effectively stripped them of fundamental liberties. Secondly, the territory contained a number of black slaves, belonging primarily to U.S. Army officers who transported them when reassigned to New Mexico’s military posts. The territory’s slave code pertained specifically to African Americans and refrained from mentioning either Indian slavery or debt peonage, the two systems of involuntary servitude that flourished in the Southwest.

By the time New Mexico became an official U.S. territory in September 1850, it had already been under the dominion of the United States for over four years, an interval during which the region was governed by laws that General Stephen W. Kearny and his officers enacted after the 1846 conquest. Instituted in September of that year, the so-called Kearny Code neglected to mention slavery in any form. Its authors, mostly lawyers from Missouri serving as officers in Kearny’s volunteer regiments, may have purposely omitted slavery from the statutes in order to avoid sparking an incendiary issue. They intended the laws to be only temporary until federal officials decided upon either territorial or statehood status for New Mexico. A subsequent congressional report noted that, because the Kearny Code lacked any guidance on involuntary servitude, Mexico’s former laws “recognizing the system of peonage” remained in place and

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Southerners who traveled to New Mexico with slaves were therefore “protected in their possession and enjoyment of them as property.”

This situation remained unchanged when Congress approved territorial status for New Mexico on September 9, 1850. Southerners utilized the preexistence of debt peonage and captive servitude as a basis for slavery being extended westward, inferring that the status quo remained intact because the Kearny Code did not address the issue. The widespread presence of Mexican peonage and Indian captivity therefore provided impetus for debate, both locally and nationally, on sectional issues.

Throughout the 1850s, New Mexico’s territorial legislature approved numerous measures regarding involuntary servitude independent of those enacted at the federal level. These various edicts mirrored policies that the Spanish Crown had instituted centuries earlier in its New World empire. Before the first European colonists arrived in New Mexico in the 1500s, Spanish laws prohibited African miscegenation and instituted stringent regulations on all such interracial liaisons. As the sixteenth century progressed, additional mandates limited the mobility of blacks and prohibited them from carrying weapons.

While these laws primarily targeted Central American colonies with significant numbers of African slaves, New Mexico’s status as a Spanish province meant that the regulations likewise applied to any black persons in that region. These edicts

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5 New Mexico passed laws in 1851, 1857, and 1859 regulating peons as well as both free and enslaved black persons. For Utah’s 1852 servant law, see Acts, Resolutions and Memorials Passed by the Session[s] of the Legislative Assembly of the Territory of Utah (Salt Lake City, UT: B.R. Young, Printer, 1852).

would be repeated, almost verbatim, two-and-a-half centuries later in the territorial slave codes. Thus, early territorial legislative maneuverings merely represented the statutory reintroduction of anti-black racism in New Mexico.

As early as October 14, 1848, New Mexicans petitioned Congress in anticipation of possible admission into the Union as a state. The memorialists made themselves clear when asking that Congress pass a measure explicitly prohibiting slavery in the territory.\(^7\) Not surprisingly, the petition sparked an uproar among Southerners who hoped to extend slavery into the Mexican Cession lands. The incident initiated two years of continuous debate over slavery in the territories, followed by ten more years of reverberating pro- and anti-slavery legislation being enacted in Utah and New Mexico.

When a council of New Mexicans, comprised mostly of native Hispanos, petitioned Congress in October 1848 seeking organization as a territorial government, they specifically stated that “we do not desire to have domestic slavery within our borders” and requested protection from the introduction of slaves until statehood might be granted.\(^8\) In May 1850, shortly before being actually admitted as a territory, New Mexico’s pro-statehood bloc produced a constitution and submitted it to Congress.\(^9\) The delegates charged with presenting the document to federal lawmakers had explicit instructions that, during deliberations over the various clauses, they must insert “a

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8 “Petition of the People of New Mexico,” October 14, 1848, 30th Cong., 2nd Sess., Senate Misc. Doc. 5.

provision which shall secure the compliance with contracts between masters and servants,” a direct protection of peonage in an otherwise anti-slavery manifesto.\textsuperscript{10} Many, however, still feared that the chaos arising from political factionalism might instigate a regional acceptance of racial slavery along with peonage. One northern senator feared in 1850 that “confusion, disorder, and lawlessness” in the territory might enable slavery to be introduced there, stating that, “advantage may be taken of this condition of things to entail upon the people an institution totally repugnant to their wishes and feelings.”\textsuperscript{11} Henry Connelly and James L. Collins, both of whom had lived in the Southwest for many years and knew the sentiments of the residents well, foreshadowed the results of New Mexico’s constitutional convention in early 1850 when predicting that, “there is not the remotest probability that any constitutional sanction would be given by our citizens to the introduction of African slavery among us.”\textsuperscript{12} Their prophetic notion would ultimately prove correct.

Although New Mexico’s statehood constitution became irrelevant once Congress admitted it as a territory, the document attested to the influence of slave debates in

\textsuperscript{10} RG59, T17, New Mexico Territorial Papers, Roll 1, “Instructions to the Convention Delegates,” pp. 20-22. Writing in 1856, the territorial secretary noted that memorials to Congress “declared in unequivocal terms that the people did not desire domestic slavery in their midst, nor did they welcome the introduction of slaves into New Mexico. And yet these same memorialists recognized a system of domestic servitude called ‘peonage’ which existed at the time throughout New Mexico. Indeed, it was recognized by statute. The only practical difference between peonage and negro slavery was that the peons were not bought and sold in the market as chattels.” William W.H. Davis, \textit{El Gringo, or, New Mexico and Her People} (Santa Fe, NM: Rydal Press, 1938), 98. See also Robert W. Larson, \textit{New Mexico’s Quest for Statehood, 1846-1912} (Albuquerque, NM: University of New Mexico Press, 1968), 15-16; Mark J. Stegmaier, \textit{Texas, New Mexico and the Compromise of 1850} (Kent, OH: Kent State University Press, 1996), 53, 66.

\textsuperscript{11} \textit{Congressional Globe}, 31\textsuperscript{st} Cong., 1\textsuperscript{st} Sess., June 3, 1850, Appendix, 1010.

\textsuperscript{12} Henry Connelly, William Curtis Skinner and James L. Collins to Truman Smith, May 18, 1850, quoted in \textit{Congressional Globe}, 31\textsuperscript{st} Cong., 1\textsuperscript{st} Sess., July 8, 1850, Appendix, 1180 (emphasis in original).
territorial politics at that time. The first article of the constitution explicitly outlawed slavery and mandated that nobody over the age of twenty-one could be held in servitude.\textsuperscript{13} Legislators identified peonage as a form of consensual bondage, entered into from sheer necessity by debtors who, owing substantial sums of money, had to choose between servitude or incarceration. In allowing individuals “to be bound by their own consent,” the law deliberately did nothing to alter the longstanding Southwestern tradition of debt bondage.\textsuperscript{14} Northern newspaper editors were quick to notice this discrepancy and criticized the document’s misleading nature. “It may exclude African slavery,” observed one New Yorker, “but we are very much mistaken, if the system of slavery which has existed in the whole of Mexico for a great many years, and known as peonage, is not tolerated and provided for by that instrument.”\textsuperscript{15}

The constitution denied blacks and Indians (free or otherwise) the right to vote but reiterated an anti-slavery objective, noting that involuntary servitude, “wherever it has existed has proved a curse and a blight to the State upon which it has been afflicted, - a moral, social and political evil.”\textsuperscript{16} Most residents remained indifferent towards this decree because chattel slavery had not previously concerned them. Brevet Major Henry Lane Kendrick, stationed in Santa Fe at the time, observed that only three topics seemed

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\textsuperscript{13} Jack D. Rittenhouse, \textit{The Constitution of the State of New Mexico, 1850} (Santa Fe, NM: Stagecoach Press, 1965), 14.
\textsuperscript{14} Ibid.
\textsuperscript{15} “Important from New Mexico—Slavery and Peonage,” \textit{New York Herald}, July 18, 1850 (emphasis in original).
\textsuperscript{16} Rittenhouse, \textit{The Constitution of the State of New Mexico}. 34, 45.
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to interest New Mexicans: “Taxation, which they dislike; slavery, which they hate, and Texas, which they most cordially abhor.”

New Mexico’s statehood constitution contained unmistakably duplicitous characteristics. It prohibited chattel slavery, yet it left wholly intact the traditional systems of debt peonage and Indian slavery, neglecting to even mention their existence. This political maneuvering failed to deceive abolitionists. A slew of condemnatory newspaper articles appeared, with one editorialist declaring that New Mexico’s statehood constitution “not only allows a continuance of peon slavery, but of slavery in any and every form.” Some of the more politically attuned territorial citizens alluded to this anomaly as evidence of a political double standard. Charles A. Hoppin, a resident of the Mesilla Valley and a sutler for United States troops stationed at the village of Doña Ana, pointed out this contradiction in his private correspondence. The constitution, he believed, sought to ensure the political support of Northern Free-Soilers while simultaneously appealing to the wishes of local voters by not impinging upon their traditional systems of servitude. It likely owed to this nonchalant protection of peonage that New Mexicans turned out almost unanimously in favor of the measure: in a popular vote on the 1850 constitution, 6,771 residents approved while only thirty-nine cast their ballots in opposition.

17 Quoted by Stegmaier, Texas, New Mexico and the Compromise of 1850, 66.


19 Stegmaier, Texas, New Mexico, and the Compromise of 1850, 119.

Anti-slavery interests also used New Mexico’s constitution in their arguments against the introduction of chattel slavery into the region. In the North, state legislatures adopted resolutions supporting the exclusion of slavery from the new territory, praising the proposed constitution and mandating that congressional representatives ensure that these regions be exempted from involuntary servitude, except as punishment for convicted criminals.\(^\text{21}\) The statehood charter came before Congress in May, four months prior to the acceptance of the Compromise of 1850. Because of the timing, the New Mexican constitution had become a focal point of debate. Representative Truman Smith, a Connecticut Whig, thought that public sentiment opposed slavery and also believed that, “the American, whether from the free States or slave States, the Spaniard of the full blood, and the mixed Spaniard and Indian race, are all alike opposed to negro bondage.”\(^\text{22}\) His colleague in the House, master of oratory Daniel Webster, concurred by reiterating that territorial inhabitants should be afforded popular sovereignty and commending New Mexicans for having supposedly expressed themselves against slavery.\(^\text{23}\)

The 1850 statehood constitution reflected only the views of a small portion of territorial inhabitants. Many of New Mexico’s prominent Anglo-American citizens, from both the South and the North, promoted racial discrimination through their words and


\(^\text{22}\) \textit{Congressional Globe}, 31\(^{\text{st}}\) Cong., 1\(^{\text{st}}\) Sess., July 8, 1850, Appendix, 1180.

actions. The first territorial governor, James S. Calhoun of Georgia, spoke passionately on the issue during an address to the legislature on June 2, 1851. “Free Negroes are regarded as nuisances in every state and territory in the Union,” he thundered, “and where they are tolerated Society is most depraved.” Calhoun, who implored the legislature to pass a code prohibiting blacks from even entering the territory, was himself an anomalous figure. As New Mexico’s superintendent of Indian affairs he openly disavowed regional systems of servitude, yet simultaneously embraced laws promoting racial discrimination towards African Americans. Such contradictory viewpoints pervaded the dispositions of New Mexico’s elite classes (both Anglo and Mexican), and ultimately resulted in the passage of numerous prejudicial laws at the territorial level. Calhoun died of illness before completing his first term as territorial governor, but within just five years the legislature would indeed live up to his expectations. From 1851 until the early months of the Civil War, proceedings in Santa Fe reflected a pronounced shift away from the antislavery sentiment manifested in the original statehood constitution.

The first indication of this ideological turn came on July 20, 1851, when the territorial legislature passed the “Master and Servant Law,” or “peon law” as it came to be known in everyday parlance. The mandate defined the relationship between masters and their peons and, in so doing, became a catalyst for future legislative measures. Similar edicts had been approved between 1821 and 1846, while the territory remained under Mexican rule, but this represented the first attempt to legally uphold human

24 James S. Calhoun, “Message to the Legislature of the Territory of New Mexico,” June 2, 1851, RG59, T17, New Mexico Territorial Papers, Roll 1.

25 For the entire text of the law, see RG46, Territorial Papers of the U.S. Senate, Roll 14 (New Mexico, 1840-1854).
bondage after the American occupation. Originally intended to regulate only voluntary
debt-related servitude, the overall ambiguity of the statute resulted in it being widely
abused and provided ample legal mechanisms for subjecting many additional people to
involuntary servitude. The law, however, only regulated peonage in its traditional form
and entirely neglected to mention Indian slaves or free black persons in the territory.

Two years after the law’s passage, policymakers implemented a measure granting
local authorities the power to place servants in public auctions whenever their master no
longer wished to employ and sustain them. Coupled with the 1851 Master and Servant
Law, this provided the impetus for additional legislative action that imposed strict
regulations upon Mexican peons, Indian captives, and African Americans. For the
remainder of the decade, New Mexico’s legal directives coincided with the stance of
dominant Southern Democrats in Washington, as territorial leaders sought to preserve
their interests in captives and peons while appealing to federal legislators on broader
sectional issues.

During the 1856 legislative session, New Mexico lawmakers passed “An Act
Concerning Free Negroes” that delineated stringent guidelines for any colored person
venturing into the territory. Democratic Governor David Meriwether, a native of
Kentucky, approved the measure on January 29, 1857, less than two months prior to the

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26 William F.M. Arny, Executive Message of December 2, 1862, RG59, T17, New Mexico Territorial
Papers, Roll 2 (emphasis in original). Evidence of the law being somewhat malleable is found in a letter
from Representative Miguel A. Otero in which he misconstrues several sections, making peonage appear to
be a benign system. See Otero to the editor of the Washington, D.C. Constitution, January 12, 1861,
reprinted in the Santa Fe Weekly Gazette, February 16, 1861.

27 Laws of the Territory of New Mexico, Fourth Legislative Assembly, 1852-1853 (Santa Fe, NM: Gazette
Printing Co., 1853).
U.S. Supreme Court’s ruling in the Dred Scott case, which seemed to affirm the direction in which the territorial legislature was heading with such enactments.\textsuperscript{28} Although it contained only seven short sections, the law confirmed the discriminatory intentions of the legislators. Section one mandated that “no free negro nor mulatto of the African race” could remain in the territory for a period of more than thirty days. If such persons attempted to establish permanent residency, they would be subject to a fine of one hundred dollars and hard labor for up to two years.\textsuperscript{29} This provision clearly contradicted the anti-slavery sentiment outlined in the null 1850 statehood constitution. The one-hundred-dollar fine also exceeded the repayment capability of such persons and essentially meant that they would be subverted to servitude in fulfillment of the debt, thus ensuring a lifetime of bondage under the guise of peonage.

Even in New Mexico, far-removed from the Eastern states, anti-black racism proliferated among members of the lawmaking class. Both Anglo-Americans from the United States as well as aristocratic New Mexican landholders realized that most residents did not entertain ethnocentric sentiments. The territorial legislature therefore took preemptive action, hoping to minimize the likelihood of miscegenation between the Mexican population and newly-arrived African Americans by implementing strict punishments for anybody found guilty of such activity. The possibility of ethnic intermarriage was further exacerbated by the fact that, “among the lower classes the Mexicans know no distinction of color, and the women as soon intermarry and cohabit,

\textsuperscript{28} Executive Journal of the Territory of New Mexico, 1856-1857, RG59, T17, New Mexico Territorial Papers, Roll 1.

\textsuperscript{29} Laws of the Territory of New Mexico, Sixth Legislative Assembly, 1856-1857 (Santa Fe, NM: Office of the Democrat, 1857), 48.
with a negro as one of their own race.” If indeed black slavery did become a permanent fixture in the region, some territorial residents feared that intermarriage would cause “the negro blood [to] be generally diffused through the population.”

The 1857 law also contained numerous stipulations that prohibited African Americans from interacting with territorial residents. Black persons caught cohabiting with white (or Mexican) women would face up to three years in prison, and any female accomplice to such interaction would likewise be subject to incarceration. Furthermore, any minister who sanctified such a liaison would be obliged to pay a hefty fine. Thus, the legislature enacted a veritable no-tolerance policy for interracial relations. In this the lawmakers actually promulgated nothing new; anti-miscegenation laws remained commonplace throughout the United States and served to reinforce popular notions of a racial hierarchy in which both Americans and Mexicans viewed themselves as superior to blacks. The lawmakers’ actions reflected a continuing consciousness of the pervasive desire to retain _limpieza de sangre_ (cleanliness of blood) among the region’s inhabitants by socially denigrating African Americans and imposing strict penalties for those caught in violation of such edicts.

The act included numerous additional provisions intended to ensure compliance. Upon emancipating his slaves, a master was obligated to escort the liberated party to the territorial border before setting them free. Even black persons merely passing through

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31 Rachel F. Moran, _Interracial Intimacy: The Regulation of Race and Romance_ (Chicago, IL: University of Chicago Press, 2001), 17. Moran notes that, while thirty-eight states at one time banned black-white relationships, none ever banned Latino-white relationships because “treaty protections accorded former Spanish and Mexican citizens the status of white persons.” Ibid.
New Mexico were required to post a bond in the amount of one hundred dollars to ensure good behavior. The law regulated the movements and actions of all black persons in New Mexico, but it did nothing to either promote or denounce involuntary servitude in an ideological sense. While Indian captivity and Mexican peonage remained in place throughout the territory, black slavery was virtually nonexistent due to its rightfully perceived economic impracticality in the region. But New Mexicans could not ignore the issue forever; sectional debates continued to plague Congress, and territorial lawmakers would soon be forced to declare a united stance either for or against slavery—if not in fact, then at least in principle.

Such independent and misleading action on the part of a territory was not without precedent, having already occurred in more easterly regions where the population remained divided over the slavery issue. The creation of Indiana Territory (1803) and Illinois Territory (1809) enabled inhabitants there, who remained geographically isolated, to adopt local statutes that ignored or contradicted pro- and anti-slavery federal mandates without much backlash. Residents in the southerly portions of these two new territories skirted the provision of the Northwest Ordinance that prohibited involuntary servitude by using a variety of tactics, including indentured servitude as a modified form of human bondage, while simultaneously appearing to be in compliance with the law because they held no black slaves. In Illinois, legislators passed laws that upheld indentured servitude

32 *Laws of the Territory of New Mexico, Sixth Legislative Assembly*, 48-50. New Mexico Governor Henry Connelly addressed this law in an 1865 speech: “The law regulating free negroes is in discord with the legislation of Congress [as well as] the proclamation of the President abolishing slavery and restoring to civil rights the freedmen of the African race.” He encouraged his colleagues to remand the law, noting that any statute “should be made to conform to the status now occupied by that race, under the laws of Congress.” “The Fourth Annual Message of Governor Connelly,” December 1865, RG59, T17, New Mexico Territorial Papers, Roll 3.
but also retained black slave codes in order to give an appearance of compliance with the territorial anti-slavery provision. In the 1850s, New Mexicans did much the same when they passed the 1851 master-servant act—which legally affirmed debt peonage in practice—as well as the 1857 and 1859 slave codes, both of which regulated black peoples and slavery.

Two years after the 1857 sanctions became law, territorial policymakers took an even larger stride towards promoting an anti-black, pro-Southern agenda. On January 22, 1859, Representative Pedro Valdez of Taos County introduced a bill entitled “An Act to Provide for the Protection of Property in Slaves in This Territory.” The legislation passed on January 26 by a vote of 23-1 and promptly received approval from the thirteen-member council, after which Democratic Governor Abraham Rencher signed it into law on February 3. The decree remained in effect until December 10, 1861 and, during almost three years of enforcement, incited repeated controversy at the congressional level. Ironically, New Mexico’s provisions presupposed by a full year the controversial Senate Resolutions that Mississippi Congressman Jefferson Davis proposed on February

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2, 1860. Suggesting the adoption of six pro-slavery decrees, the future Confederate president demanded that territories be forbidden from legislating on slavery until applying for statehood, at which time residents could make that determination on their own under the premise of popular sovereignty. In the interim territorial period, Davis wanted Congress to impose a universal slave code to regulate such areas in the absence of strong local leadership.37

Often referred to simply as the “Slave Code,” New Mexico’s 1859 act contained thirty sections and represented the most all-encompassing regulatory device that the territory had yet employed relative to the subject. It no doubt made Jefferson Davis proud, and may well have influenced his Senate Resolutions on the matter a year later. With chattel slavery virtually nonexistent in New Mexico, the Slave Code was primarily a symbolic gesture. As a testament to the superfluous nature of such legislation, a 1790 Spanish census recorded only eight black (or mulatto) slaves in the province and seventy years later things remained little changed, with the 1860 U.S. census enumerating a mere sixty-four black persons in the entire territory.38 To secure support among citizens, the code’s designers ensured that it would have no impact on New Mexico’s preexisting institutions of Indian slavery and Mexican peonage.39


38 Alicia V. Tjarks, “Demographic, Ethnic and Occupational Structure of New Mexico, 1790,” in The Americas 35 (July 1978), 74; Eighth United States Census (1860). Neighboring Utah Territory was home to fifty-nine African Americans in 1860, of whom twenty-nine were categorized as slaves. Ibid.

39 “An Act to Provide for the Protection of Property in Slaves in This Territory,” Laws of the Territory of New Mexico, Eighth Legislative Assembly, 1858-1859 (Santa Fe, NM: A. DeMarle, 1859), 80.
The law strictly prohibited any assistance to runaway slaves, requiring that anybody convicted of aiding and abetting escaped servants be sentenced to at least four years in prison. Military personnel sometimes helped in the recovery of fleeing servants, especially when they belonged to army officers. In June 1854, an unnamed female slave belonging to one Major Fry took flight; in the events that followed the woman escaped, and one of the troops, Private James W. Guillan of Company G, First Dragoons “accidentally shot himself” and died. Thus, efforts to recapture fugitive servants did not always prove successful and sometimes came at a much greater cost than might have been anticipated.

The most controversial aspect of the Slave Code involved a stipulation that “totally prohibited” the emancipation of any slaves within territorial boundaries. The law itself explicitly stated that it did not apply to peons, who constituted the vast majority of servants in the territory. In effect, it protected debt bondage as an economic and social institution while condemning free black persons based solely on race and political ideology. Antebellum legislatures, composed mostly of New Mexico’s elite landholding class, held personal interests in peonage, not black slavery. The composition of these

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40 Ibid., 64-66. In the event that a reward was not offered, the person delivering the runaway slave back to their master was entitled to “demand and recover from such owner or master the sum of twenty dollars, besides ten cents for each mile of travel to and from the place where such apprehension was made.”

41 “Fatal Accident—A Soldier Shot Himself,” Santa Fe Weekly Gazette, June 17, 1854.

42 “An Act to Provide for the Protection of Property in Slaves in This Territory,” Laws of the Territory of New Mexico, Eighth Legislative Assembly.

43 An 1867 newspaper article reiterated the extent to which legislators acted with complicity in peonage and Indian slavery: “J. Francisco Chaves’ immediate family . . . has beyond the shadow of a doubt the most numerous lot of Mexican peons and Indian slaves of any one family in New Mexico. . . . Outside of this, his connections by close degrees of consanguinity, are the largest holders of this species of property in the country and exert an almost insurmountable influence in behalf of its perpetuation.” “Peonage in New
legislative bodies ranged from fifty-five to ninety-five percent Hispanic in the 1850s; few Anglo-Americans were elected to these offices, and they therefore exerted their influence on New Mexican lawmakers in other ways. In order to achieve passage of the Slave Code in a predominantly Hispanic legislature that remained indifferent towards chattel slavery, Territorial Secretary Alexander M. Jackson assured lawmakers that the mandate “would protect their own system of peonage.”

The law mirrored legislation that one might expect in slaveholding states, and indeed many of the provisions were modeled on similar codes enacted in the South. This caused anxiety among Northern abolitionists and Free-Soilers, who saw the extension of black slavery westward as an expansion of Southern political power. Remarking on the 1860 census and the comparatively diminutive number of black slaves in New Mexico, one New Yorker editorialized, “True, it would have few slaves, but what of that? Our objection is to widening the base of the Slave Power. Delaware has few slaves; but slavery rules and uses her as thoroughly as though she had twenty times as many.”

The code represented the chicanery of leading citizens, who exerted their pro-slavery influence on civic leaders to advance their own political and economic agendas.

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Mexico,” *Santa Fe Weekly Gazette*, February 2, 1867. Chaves was serving as New Mexico’s delegate to Congress at the time the piece appeared in print.


One Civil War-era observer, W.W. Mills, observed that most Hispanos “knew but little about the questions involved in secession” and slavery.\textsuperscript{48} Another editorialist referred to New Mexicans as “ignorant” when explaining that they voted in favor of the law only after being promised that it “would have no real effect on this Territory,” a thinly veiled allusion to peonage and captive slavery.\textsuperscript{49} Abolitionist Horace Greeley deplored the Slave Code and wrote a lengthy report in his newspaper, the \textit{New-York Daily Tribune}, in which he stirred up impassioned readers by claiming that, “zealous slavery propagandists fill all the important federal offices” in New Mexico. The recent enactment of the Slave Code seemingly affirmed these men’s fears that the territory had come under the complete control of pro-slavery interests.\textsuperscript{50}

\textsuperscript{48} W.W. Mills, \textit{Forty Years at El Paso, 1858-1898} (El Paso, TX: Carl Hertzog, 1962), 37.

\textsuperscript{49} “Interesting Letter from New Mexico,” \textit{Montpelier Watchman & State Journal}, June 10, 1859.

One individual to whom these men referred was Miguel A. Otero, the territory’s delegate to Congress in the years leading up to the Civil War, who manipulated New Mexican legislators into embracing his desired sectional stance. Born in Valencia County on June 21, 1829, Otero studied law in New York and St. Louis before returning to the territory in 1852. He held the distinction of being educated in prestigious American schools, something highly unusual among native New Mexicans of that time period. Otero quickly ascended in political prominence and, in 1855, announced his candidacy—as a member of the Democratic Party—for the position of congressional delegate. After being elected Otero relocated to Washington, D.C., where he courted

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51 Laura E. Gómez, *Manifest Destinies: The Making of the Mexican American Race* (New York, NY: New York University Press, 2007), 98-99; Larson, *New Mexico’s Quest for Statehood*, 64. On Otero’s activities relative to statehood and slavery during his time as Congressional representative, see Mark Siegmaier,
and later married Mary Josephine Blackwood, a member of an influential pro-slavery family from Charleston, South Carolina. Otero’s relationship with Blackwood exposed him to Southern social circles and helped to shape his viewpoints on sectional issues.\(^{52}\) Prior to the Civil War, many people viewed Otero as a man whose sentiments belonged wholeheartedly to the Southern cause, a belief stemming primarily from his advocacy for the Slave Code. Horace Greeley, a nemesis of Otero, lambasted him in a series of 1861 newspaper editorials, calling him a “half-breed Hidalgo” and “an avowed Secessionist” who he accused of personally authoring New Mexico’s Slave Code.\(^{53}\)

As a congressional delegate and one of the most influential men in the territory, Otero played a significant role in the passage of the Slave Code. In 1861, a Republican representative from Wisconsin blamed him of being complicit in the law’s approbation, stating that Otero “had something to do with getting up the existing slave code in that Territory, a code which . . . would mantle with blushes the face of Caligula.” Otero sprang to his feet and shouted that, “I do not own a slave, and have nothing to do with slavery.”\(^{54}\) Although speaking truthfully in stating that he did not personally own slaves or peons, he effectively dodged the larger issue, that being his overall support for such institutions in principle. The entire exchange between the two lawmakers likely emanated from a Washington, D.C. newspaper’s recent publication of a letter from Otero

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\(^{52}\) William Need to Simon Cameron, Undated, quoted in Ganaway, New Mexico and the Sectional Controversy, 90.


\(^{54}\) Congressional Globe, 36\(^{th}\) Cong., 2\(^{nd}\) Sess., January 22, 1861, p. 515.

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praising New Mexico’s Slave Code. “I commend the wisdom and applaud the patriotism that prompted the enactment of such a code,” he boasted in his correspondence, “and I denounce as false and malevolent the allegation that said code is one of signal atrocity and inhumanity.”

Foreseeing political benefits for his constituents, Otero vigorously defended New Mexico’s slave codes throughout his tenure as territorial representative, drawing the ire of his anti-slavery colleagues in the process. In private correspondence with the U.S. marshal in New Mexico, Otero admitted that his primary motivation in advocating the Slave Code stemmed from the fact that its passage would be “advantageous to our Territory” and reiterated that the implementation of a strong slave code would also “direct political attention” towards New Mexico. Two years later, during a heated debate with Pennsylvania Representative Thaddeus Stevens on the House floor, Otero once again defended the law and had portions of it read aloud while challenging Stevens on every point he made. Otero’s efforts ultimately proved futile and his remarks invoked mirth throughout the chamber, especially when he attempted to read the law in Spanish. The shrewd Stevens got the last word in the argument, telling his listeners that “slavery in New Mexico means nothing more than parental admonition.” Those in attendance

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55 The letter appeared in the January 12, 1861 issue of the Washington (D.C.) Constitution and was reprinted a month later in the Santa Fe Weekly Gazette. See also Stegmaier, “New Mexico’s Delegate in the Secession Winter Congress, Part 2: Miguel A. Otero Responds to Horace Greeley, and Greeley takes Revenge,” in New Mexico Historical Review 86 (Fall 2011), 513-23.

56 Miguel A. Otero to Charles P. Cleaver, December 24, 1858, quoted by Stegmaier, “A Law that Would Make Caligula Blush?” 212.
responded with a resounding chorus of laughter, effectively denigrating the greenhorn New Mexican representative and bringing closure to the tense oratorical exchange.\textsuperscript{57}

Otero also advanced his stance on slavery in private correspondence with subordinate civil officials. He wrote to Territorial Secretary Jackson on December 16, 1858 requesting that he “draw up an act for the protection of property in slaves in New Mexico” and do whatever necessary to ensure that it passed in the legislature. He went on to inform Jackson—a staunch Southern sympathizer who would later fight for the Confederacy during the Civil War—that federal laws, the U.S. Constitution, and even the recent Dred Scott case all “establish property in slaves in the territories” and could therefore be used as supporting doctrine when lobbying for the law. Once it passed, Otero instructed Jackson to distribute copies of the code to newspapers throughout the South.\textsuperscript{58}

A Mississippian by birth and an acquaintance of future Confederate President Jefferson Davis, Jackson was amenable to Otero’s views on slavery even before he received the letter in December 1858 asking that he “draw up” the measure. Several months earlier, Jackson had indicated that the territorial legislature would likely pass

\textsuperscript{57} Cong. Globe, 36\textsuperscript{th} Cong., 2\textsuperscript{nd} Sess., January 29, 1861, p. 623.

\textsuperscript{58} Otero to Jackson, December 16, 1858, Quoted by Aurora Hunt, Kirby Benedict: Federal Frontier Judge (Glendale, CA: Arthur H. Clarke Co., 1961), 113; portions of the letter are also referenced in “The Slave Code of New Mexico,” New-York Daily Tribune, April 16, 1861. The New York Herald was one of the predominant pro-South newspapers operating in the North at that time. See Stegmaier, “A Law that Would Make Caligula Blush?” 212. Otero’s term as Congressional delegate ended March 3, 1861 and he was subsequently appointed Secretary of State for New Mexico on June 19 of that year, but the Senate declined his appointment. Upon learning of this, Otero wrote Secretary of State Seward, attributing his rejection to “the malicious and false representations made against me by my unprincipled personal and political enemies in the States.” Otero to William H. Seward, September 1, 1861, RG59, T17, New Mexico Territorial Papers, Roll 2. For Otero’s rejection by the Senate, see Stegmaier, “New Mexico’s Delegate in the Secession Winter Congress, Part 1,” 390, 391 n. 11.

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“some kind of slave code” during its next session. “Otero has let it be known,” he wrote, “that if New Mexico expects any favors from Washington, a slave code would be a wise move.” He attested to the fact that Governor Rencher and other leading officials favored such legislation, lending credence to abolitionist concerns that New Mexico harbored influential Southern ideologues who sought to incite secessionist fervor.59 Jackson also urged the appointment of fellow Southerners to leading government positions, adding further weight to implications that both he and Otero privately, if not publically, espoused the pro-slavery cause.60 The secretary put to rest any lingering uncertainty about his sympathies when he wrote in February 1861—just months prior to the Confederate invasion of New Mexico—that “the mass of Mexicans . . . are decidedly in favor of the institution of Slavery, and this sentiment has been steadily growing ever since the enactment of our Slave Code.”61

Writing to Commissioner of Indian Affairs Alfred B. Greenwood in June 1859, another resident of the territory warned of Otero’s pro-South inclinations, postulating that his influence in Washington relied upon the adoption of a territorial slave law. E.P. Walton claimed that Otero and his political cohorts blackmailed local citizens into supporting the slave policy and that he also threatened that any opposition to the code would prompt the military’s withdrawal from New Mexico, rendering territorial residents

59 Alexander Jackson to Robert Downs, August 16, 1858, RG59, T17, New Mexico Territorial Papers, Roll 1.

60 Ganaway, *New Mexico and the Sectional Controversy*, 67; Martin Hardwick Hall, *Sibley’s New Mexico Campaign* (Austin, TX: University of Texas Press, 1960), 14-16.

defenseless against debilitating Indian raids.\(^{62}\) As Walton’s letter revealed, anti-slavery Northerners residing in New Mexico at that time feared the worst.

The conspiracy theory regarding Southern agents secretly advancing their cause appeared in numerous letters just prior to and during the Civil War. One individual well acquainted with the Southwest, Territorial Secretary W.W.H. Davis, observed in the 1850s that only about five hundred Hispanos in the entire territory favored “the introduction of negro slavery” because they already had “a cheaper system of Labor in peonage.”\(^{63}\) In 1861, William Need—a Union soldier stationed in New Mexico and a devoted abolitionist—leveled numerous accusations against territorial officials in this same regard, claiming that their sole objective had been to invoke secessionist sentiment among the Mexican inhabitants.\(^{64}\) “Four-fifths of the voting population of New Mexico are utterly opposed to the incorporation of the slave code,” Need wrote to Secretary of War Simon Cameron. “Yet there it is, by virtue of the slave power exercising its influence through the accredited agents (civil and military) of the Federal Government. The officeholders, the tools of Jeff. Davis and company, put the slave code in the statutes of New Mexico and not the people, but in utter violation of their will and desire.”\(^{65}\) New

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\(^{62}\) E.P. Walton to A.B. Greenwood, June 9, 1859, RG75, OIA, M234, LR, NMS, Roll 549.

\(^{63}\) Quoted by Sunseri, *Seeds of Discord*, 118.

\(^{64}\) Sgt. Maj. William Need joined Company C, First Regiment of New Mexico Volunteers on July 16, 1861. For his complete service record, see New Mexico State Records Center and Archives, Frank McNitt Collection, Serial #10680, Folder 27.

\(^{65}\) William Need to Simon Cameron, September 27, 1861, in *The War of the Rebellion: A Compilation of the Records of the Union and Confederate Armies*, Series 1, Vol. 50, pt. 1 (Washington, DC: Government Printing Office, 1880-1901), 635. On alleged Southern conspiracies, see Michael Steck to Col. Pulston, January 22, 1865, Center for Southwest Research, Inventory of the Michael Steck Papers, Series 2, Roll 4; and “The Slave Code of New Mexico,” *New-York Daily Tribune*, April 16, 1861, in which the pseudonymous writer claimed, “As regards the efforts [that] the present (or rather the past) Administration has made to fasten Slavery upon our Territory, you are right . . . . For the last eight years the Federal
Mexico’s first five presidentially-appointed territorial governors did indeed hail from Southern states: James S. Calhoun (Georgia); William Carr Lane (Missouri); David Meriwether (Kentucky); Abraham Rencher (North Carolina); and Henry Connelly (Virginia). But not all of these men supported slavery, and in fact one of them, Henry Connelly, received his appointment from Abraham Lincoln and worked tirelessly to see the Slave Code repealed. Furthermore, of the five New Mexico military department commanders during the decade preceding the Civil War, three hailed from southern states, but just two fought for the Confederacy.\textsuperscript{66}

Northerners advanced these conspiracy theories during the months leading up to the Civil War and, in so doing, placed tremendous pressure on New Mexican lawmakers. Abolitionist Horace Greeley editorialized in December 1860 that “the most insidious and systematic efforts have been made to plant slavery” in New Mexico and expressed concern with the success of such endeavors. “A slave code of signal atrocity and inhumanity has been put through the Territorial Legislature, and is now in full force,” he continued, noting that, “everything conspires to make New Mexico . . . a slave state.”\textsuperscript{67}

A week later Greeley wrote that many territorial officials had been sent from the South and received their appointments because of “their known devotion to the slavery propaganda,” and also charged military officers who transported slaves when reassigned

\begin{footnotes}
\item[66] Ganaway, \textit{New Mexico and the Sectional Controversy}, 87.
\end{footnotes}
to duty at Southwestern forts with being especially culpable. “Under Pro-Slavery Federal
influences,” wrote the renowned editor of the New-York Daily Tribune, New Mexico “has
been transformed from a Free into a Slave Territory.”68 Otero responded quickly, telling
Ohio Senator George E. Pugh in January 1861 that Greeley’s allegations “are groundless
and untrue” and stressing that the slave code “had its origin within the borders of the
territory.” The law passed without any outside encouragement and therefore, as a strictly
localized piece of legislation, had not been “trammeled by sectional prejudices, and not
[induced] by fanaticism.”69

When it came to slavery, Northern newspapers proved to be an unrelenting
antagonist to New Mexicans generally and to Miguel Otero specifically. Greeley wrote
no less than seven editorials in the opening months of 1861 relative to slavery in the
Southwest, some of which reappeared in territorial newspapers for local distribution in
both English and Spanish.70 While Greeley’s abolitionism garnered strong opposition in
southern New Mexico, it met with mixed feelings in the northern portion of the territory,
where the general population found itself divided on the issue.71

Apprehensive of pro-slavery conspiracies, William Need also accused prominent
officials of being actively involved in the Southern plot to seize New Mexico. If one


71 See, for example, “The Slave Code of New Mexico,” New-York Daily Tribune, April 16, 1861, in which the writer claimed that the territory’s “native population know absolutely nothing of slavery; that they seldom read a paper; that they know little of the national irritability upon this subject.”
took Need for his word, Governor Connelly had “always been a Pro-Slavery man,” and even “owned negroes here” until he supposedly took them back to the South and sold them in the years leading up to the Civil War. “He is now a professed neutral Union man,” Need wrote, “provided the Union cause is the strongest.”\footnote{William Need to William Seward, August 8, 1861, quoted in Ganaway, New Mexico and the Sectional Controversy, 95-96 (emphasis in original). While Connelly did have a considerable number of peons at one time, there is no evidence that he ever owned black slaves in New Mexico.} The diatribe did not stop there. The conspiracy theorist believed that, despite being Republican appointees of President Lincoln, both Governor Connelly and Superintendent of Indian Affairs James L. Collins “were the friends of Mr. Pierce, of Buchanan, and Jeff. Davis,” making them nothing more than “slavery propagandists” who favored the Slave Code, opposed its repeal, and published secessionist rhetoric in the Santa Fe newspaper.\footnote{Need to Cameron, September 27, 1861, in War of the Rebellion, Vol. 50, pt. 1, p. 638.} Still bitter about the passage of the Slave Code, another individual claimed that the legislature rushed the statute through the process without even hesitating to reflect on the gravity of their actions.\footnote{Walton to Greenwood, June 9, 1859, RG75, OIA, M234, LR, NMS, Roll 549.}

Need’s accusations were only partially true. In regards to James L. Collins and the \textit{Santa Fe Weekly Gazette}, he was correct in asserting their advancement of the pro-slavery Democratic platform. Indeed, when the Slave Code became law in February 1859, Collins used his newspaper to editorialize in favor of the new measure.\footnote{New Mexico Slave Code, \textit{Santa Fe Weekly Gazette}, January 29, 1859.} But upon the subject of Henry Connelly, who served as territorial governor throughout much of the Civil War, Need’s accusations proved somewhat misguided. Connelly, who had resided
in the Southwest for the better part of three decades, did in fact own a considerable
number of servants at one time. Writing of his experiences in New Mexico during the
1840s, merchant James Josiah Webb recalled a conversation with Connelly during which
“he was boasting of the improved condition of his servants under his liberal management
. . . and he flattered himself that he was treating them with great generosity and kindness,
and was doing more to improve the condition of his servants than any of his neighbors.”
According to Webb, Connelly had 108 servants at his hacienda south of Albuquerque.76
By the time William Need wrote in 1861, however, Connelly had purportedly freed them
all and advocated the Northern cause.77 As governor, he not only called for the
immediate repeal of the Slave Code in his inaugural address, but he also spoke against
secession and devoted himself to thwarting the Confederate invasion of the territory.
Any accusations that he entertained pro-South sentiments or acted as a conspirator
therefore had no factual basis, and his previous status as a landowning servant-holder had
much more to do with traditional forms of coerced servitude in the region that with any
ideological devotion to chattel slavery or secession.

Still ranting about the Slave Code, Greeley complained that New Mexico had
been “reckoned an easy prey to the gathering forces of the Rebellion” and pointed out

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77 Interestingly, while virtually all records indicate Connelly to have been an anti-slavery man by the time
of the Civil War, at least one source suggests that he continued to retain servants. Testifying before a
federal investigative committee, Judge Kirby Benedict claimed, “As to federal officers holding this
description of persons [captive Indians] or trafficking in them, I can only say that I see them attending
the family of Governor Connelly, but whether claimed by his wife, himself, or both, I know not.” Statement of
Chief Justice Kirby Benedict, July 4, 1865, in “Condition of the Indian Tribes,” 39th Cong., 2nd Sess.,
that the territory “had been mainly under the training of Democratic officials of strong pro-slavery sympathies.” These officials—whom he did not name—had not only convinced the legislature to approve an act recognizing slavery, but also implanted the necessary safeguards to prevent its repeal.\footnote{Horace Greeley, The American Conflict: A History of the Great Rebellion in the United States of America, 1860-1865 (Hartford, CT: O.D. Case & Co., 1881), 20.} New Mexico’s new code, Greeley believed, constituted “the most atrocious Slave law ever known.”\footnote{“Mr. Robinson’s Proposition,” New-York Daily Tribune, January 5, 1861.} He clearly targeted Otero in these statements and also implicated Governor Rencher, who remained a quiet proponent of the South during his incumbency. In January 1861, a mere five months before the Confederate invasion of the territory, Greeley excoriated New Mexico’s territorial officials as secessionists and demanded that Rencher be removed from the governorship and replaced “by an able and wise Free-State man.”\footnote{Ibid.} Lieutenant Colonel Benjamin S. Roberts, stationed at Fort Craig in 1861, was even more succinct in his indictment of local bureaucrats. Writing to the assistant adjutant general in Santa Fe, he accused Rencher, Otero, and Collins of being fully complicit “in this [Southern] conspiracy.”\footnote{Benjamin S. Roberts to A.L. Anderson, August 21, 1861, in Wilson, When the Texans Came, 121.}

Otero delivered a direct rebuttal to these accusations in a letter that appeared a week later in the Washington, D.C. Constitution. Lambasting Greeley as “an unscrupulous demagogue and a vile calumniator,” Otero referenced the situation existing in 1850 when Congress admitted New Mexico into the Union as a territory and insisted that local opinion remained unchanged since that time. Any accusation that Southerners
conspired to implant slavery in New Mexico, he contended, bore no basis in fact. He accused the New York publisher of attempting to sway popular opinion in such a way that Northerners would become convinced of a government conspiracy, citing Democratic Presidents Franklin Pierce and James Buchanan as Greeley’s scapegoats.82

Calls for the repeal of New Mexico’s Slave Code arose almost instantly after its passage. Territorial Speaker of the House Levi Keithly introduced a countermeasure that called for its immediate nullification. He took this action at the behest of Representative John A. Bingham of Ohio, who sponsored a similar bill at the federal level. Keithly’s attempt summarily failed in the territorial legislature, owing in large part to his lackluster efforts, he having, according to Bingham, “taken no steps to get backers among the other members of the Legislature, as he believed the bill would pass on its own merits.” Anti-slavery advocates were less than amused with the proceedings in New Mexico and attributed the Slave Code’s retention to the conniving work of several influential men. The legislature adjourned immediately after Keithly introduced the measure, whereupon advocates of the law supposedly invited voting members to an afterhours party where “John Barleycorn did his work and ‘mint drops’ were freely administered where other means failed.” According to Bingham, “one of the Mexicans was offered the speakership

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82 Miguel A. Otero to the editor of the Washington, D.C. Constitution, January 12, 1861. The letter was reprinted in the Santa Fe Weekly Gazette on February 16, 1861 and in the Mesilla Times on March 2, 1861.
in exchange for his vote.” New Mexico’s pro-slavery men prevailed, because the abrogation bill never resurfaced and the code remained in effect.

Supporters of the Slave Code pointed to the protection of slave property in New Mexico as a necessity if the territory wished to experience any significant economic development or to increase its Anglo-American population. A special committee composed of five members and chaired by Manuel Salazar y Vigil subsequently convened to review Keithly’s nullification measure. In a reflection of the political divide, the committee’s report unanimously recommended against the repeal, outlining numerous reasons why the law should be upheld and claiming that it had had no negative impact on rights of person or property. The committee believed that the repeal attempt stemmed directly from Northern abolitionists, rather than from a desire to promote the common welfare. In upholding the property rights of slave owners, committee members cited “the celebrated case of Dred Scott” when explaining that, “the citizen whose property consists in slaves has the same right to bring them to and demand protection for his property in them, that any other citizen has.” Because New Mexico’s

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84 On the repeal attempts, see Stegmaier, “A Law that Would Make Caligula Blush?” 216-18.

85 The other four committee members were: Miguel A. Lobato; Candelario García; Antonio Tafoya; and Matías Medina. See Report of the Special Committee Upon the Bill to Repeal the Act of February 3, 1859, RG59, T17, New Mexico Territorial Papers, Roll 2.

86 Ibid.
Slave Code protected the same property rights as those found in the Constitution, the lawmakers recommended that the nullification bill be voted down.\textsuperscript{87}

In a letter to Secretary of War Simon Cameron, William Need advanced the opposing viewpoint, stressing the importance of abrogating the law in its entirety. “Slavery and peonage, twin relics of barbarism and the offspring of an oligarchy, have had sway and are held up as an example of patriarchal observance for the guidance of the masses,” he wrote, noting that this condition of things precluded “an enlightened standard of civilization, of progress, and improvement.” Need called upon Cameron and his powerful political allies in Lincoln’s cabinet to work towards a strategy for eliminating all forms of involuntary servitude in New Mexico. “Why,” he asked rhetorically, “should this slave code, more odious and bloody than the code of Draco, be longer suffered to pollute the statute laws of this Territory, where Daniel Webster declared that the ordinances of God had forbidden its introduction?”\textsuperscript{88}

Congress ultimately seized control of the issue. When the matter came up for debate in March 1860, Illinois Senator Stephen Douglas pointed out that, under the premises of popular sovereignty, New Mexico had every right to enact such a law. “Kansas has adopted a free state; New Mexico has established a slave territory,” he declared. “I am content with both. If the people of New Mexico want slavery, let them have it.” If the Slave Code was to be repealed, Douglas said, then the territorial legislature must rescind it without congressional intervention.\textsuperscript{89} Democratic

\textsuperscript{87} Ibid.

\textsuperscript{88} Need to Cameron, September 27, 1861, \textit{War of the Rebellion}, Vol. 50, pt. 1, p. 638.

\textsuperscript{89} \textit{Congressional Globe}, 36\textsuperscript{th} Cong., 1\textsuperscript{st} Sess., March 1, 1860, p. 916.
Representative John H. Reagan of Texas arose in concurrence, referencing the recent Dred Scott decision and rationalizing that “the territorial legislature has passed the necessary laws” for the protection of slavery under its entitlement to popular sovereignty.90 As a pro-slavery Texas congressman, Reagan perpetuated the opinion of his predecessor, Senator Thomas J. Rusk, who in 1850 directly referenced servants in New Mexico when proclaiming that, in conformity with the tenets of popular sovereignty, “it seems to me clear that the best plan that we can adopt is to leave this matter to the regulation of the people among whom it exists.”91 Despite these long-running misgivings on congressional interference with territorial self-government, Representative Bingham spearheaded the annulment effort by introducing a bill on May 10, 1860 detailing the particulars of New Mexico’s Slave Code. The following day the measure was passed along to the committee on territories, which called for a vote mandating the code’s immediate repeal.92

The thirty-eight-page House minority report, written by Representative Miles Taylor of Louisiana, staunchly rebutted the attempted abrogation of the Slave Code and seemingly upheld the opinions of Douglas and Reagan regarding popular sovereignty. Opponents cited the Organic Act upon which New Mexico had been admitted to the

90 Ibid., 928.


92 Ibid., 36th Cong., 1st Sess., May 11, 1860, p. 2059. The full title of Bingham’s bill (H.R. 64) was: “A bill to disapprove and declare null and void all territorial acts and parts of acts heretofore passed by the Legislative Assembly of New Mexico, which establish, protect, or legalize involuntary servitude within said territory, except as punishment for crime upon due conviction.” 36th Cong., 1st Sess., House Exec. Docs., Report No. 508 to accompany Bill H.R. No. 64, May 10, 1860, p. 1; Stegmaier, “A Law that Would Make Caligula Blush?” 220-21.
Union as a territory in 1850, a law stipulating that the legislature could pass its own decrees but that Congress would retain the right to approve or disapprove them. If New Mexico applied for statehood, it would be accepted “with or without slavery, as their constitution may prescribe at the time of their admission.” This created a dilemma because the citizens of New Mexico, according to the 1850 act of incorporation, retained the right to legislate on slavery. The same 1850 Organic Act, however, stipulated that any laws passed at the territorial level must be submitted to Congress, which had the authority to nullify them by a majority vote. Thus, according to the minority report, the proposition was one “of the gravest importance,” because the outcome had clear implications for congressional power as well as the rights of U.S. citizens living in the territories.93

The report succinctly defined congressional powers relative to New Mexico, explaining that its 1850 Organic Act allowed U.S. senators and representatives to approve or disapprove of laws that the territorial legislature passed. However, the authors also pointed out a logical fallacy in this argument when noting that, “it does not therefore follow . . . that the right to disapprove of every law passed by the legislative assembly of the Territory results from it.” The committee therefore concluded that, “Congress can no more legislate to exclude slavery from a Territory than it can from a State . . . what Congress cannot do directly it certainly cannot do indirectly.”94 Thus, according to


94 Ibid., 33-35. Italics added.
Southerners, abrogation of the Slave Code amounted to a question of Constitutionality and therefore had profound and far-reaching implications.\(^{95}\)

The minority contingent provided a detailed analysis of the Constitutionality question, going as far back as the Declaration of Independence to support their stance on the rights of temporary (territorial) governments and congressional powers generally. From the time of the national founding, Congress had never attempted to exert its power over municipal laws in a territory, “except under the pressure of a sectional feeling for the prohibition of slavery.” The Missouri Compromise and the Wilmot Proviso provided the two most applicable examples of this. Federal repeal of the Slave Code would therefore be “a palpable usurpation of power by Congress,” violating the premises of the Compromise of 1850 and constituting “a blow aimed at slavery itself.”\(^{96}\) In making these generalizations, the report did mention peonage, which Southerners acknowledged as both legal and justifiable, asserting that its existence should not be impinged upon. Despite any misgivings, the committee on territories reported the bill to the chamber without amendment, along with a recommendation that “it ought to pass.” The House approved it on May 10, 1860 by a vote of 97-90; when it reached the Senate, however, it died in committee, leaving the Slave Code temporarily intact.\(^{97}\)

Addressing the territorial legislature on December 4, 1861—more than a year after the failed congressional repeal—Governor Connelly spoke authoritatively against the law, noting the overall absurdity of its provisions and the potential political

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\(^{95}\) Ibid., 8-9.

\(^{96}\) Ibid., 27, 34-35.

\(^{97}\) Senate Journal, May 11, 1860, p. 459.
ramifications for New Mexico if it remained in effect. He informed his colleagues that most of the Slave Code’s provisions “are unnecessarily severe and rigorous” and recommended that the code be “entirely repealed.”98 The legislature responded quickly to Connelly’s suggestion; only two days after the gubernatorial address, a bill appeared before the council mandating the immediate abrogation of the law. Unlike the protracted process two years earlier when Levi Keithly introduced a similar nullification measure, this bill passed after only two days, without amendments, and by a unanimous vote of 22-0.99

Following the 1861-62 legislative session, Facundo Piño, president of the council, delivered an address outlining the various proceedings. In the resulting manifesto the legislators expressed, for the first time, an aversion towards chattel slavery, seemingly forgetting their previous embracement of the institution. “We are a free people,” they declared, “and our fathers ever abhorred negro slaves and slavery.”100 The January 29, 1862 declaration failed to mention debt bondage and Indian captivity, a testament to the hypocritical mindset of many New Mexican lawmakers. The legislature denounced black slavery without condemning Mexican peonage or indigenous slavery, recognizing that

98 First Annual Message of Governor Henry Connelly, December 4, 1861, RG59, T17, New Mexico Territorial Papers, Roll 2.


100 This statement relative to New Mexicans being against black slavery is corroborated by an earlier commentary printed in a Vermont newspaper. In 1859, E.P. Walton wrote that, “The people [of New Mexico] have always expressed themselves on the subject of Slavery in the most unequivocal manner, and I shall never believe their views have undergone a change until there is further evidence of it than the fraudulent passage of these laws.” See “Interesting Letter from New Mexico,” Montpelier Watchman and State Journal, June 10, 1859.
few Easterners—even those counting themselves among abolitionist forces—would notice such an omission.¹⁰¹

The repeal of the Slave Code and subsequent legislative proclamation claiming that slavery had, since time immemorial, been contrary to New Mexico’s interests clearly appealed to Northerners. New Mexico had long been linked to Missouri (a border state that never seceded) via the Santa Fe Trail and a lucrative trade benefitting hundreds of merchants on both ends of that road bound the two entities together in commerce. Such incentives influenced some New Mexicans, whose support for the Northern cause stemmed from a desire to preserve economic stability at the local level. Furthermore, at this early stage of the war, New Mexico relied heavily upon continued Union support. By the time Governor Connelly delivered his annual address on December 4, 1861, Rebel forces already occupied the entire southern portion of New Mexico and had declared the region a Confederate territory. Under such circumstances, policymakers had little choice but to repeal the Slave Code if they wished to retain federal support in thwarting the enemy invasion. As a Union territory, any failure to rescind the law would have been politically damning inasmuch as it would have discouraged the federal government from acting to retain New Mexico as a Northern possession. Indeed, when West Virginia applied for and was eventually granted statehood on June 20, 1863, it first had to abolish slavery in its own constitution, a prerequisite for admission into the Union that would apply to all formerly rebellious states as well as federal territories seeking statehood.¹⁰²

¹⁰¹ Address of the Legislative Assembly of New Mexico, January 29, 1862, RG59, T17, New Mexico Territorial Papers, Roll 2.

If there were any lingering doubts about rescinding the Slave Code, the circumstances surrounding West Virginia’s statehood bid reassured New Mexicans that they had pursued the proper course.

By 1862, Congress itself had passed an act prohibiting the peculiar institution in New Mexico, declaring that, “there shall be neither slavery nor involuntary servitude in any of the Territories of the United States.” As acting territorial governor in Connelly’s absence, William F.M. Arny duly notified the legislature of this act and praised their repeal of the 1859 law, proclaiming New Mexico to be comprised of “a free people.” Thus, after more than three years, the Slave Code came to an unceremonious end at the hands of both the territorial legislature and the United States Congress. Ultimately, it served as a lasting testament to the vacillation of New Mexico’s leading officials relative to the appropriate position on slavery. Legislators had attempted to anticipate the sectional stance that would be most politically and economically beneficial to them, and they acted accordingly when considering discriminatory slave laws. When it appeared that Southerners held the political advantage, the legislature, influenced by congressional delegates, passed pro-slavery legislation. Once it became clear during the Civil War that Union forces would retain control of the region, lawmakers promptly rescinded such laws in order to secure Northern support. In short, New Mexicans sought to stay on the winning side through their political maneuverings on slavery, while

103 Executive Message of Acting Governor William F.M. Arny, December 2, 1862, RG59, T17, New Mexico Territorial Papers, Roll 2.

104 Ibid.
simultaneously retaining debt peonage and Indian captivity as regional institutions—ones that they portrayed as falling outside the parameters of involuntary servitude.

Most New Mexicans remained indifferent towards chattel slavery, but necessarily took a stance on the issue at the behest of their territorial representatives. In the years leading up to the Civil War, both Northerners and Southerners looked to New Mexico for support and sought to enlist the territory to their respective causes. The outbreak of the war in 1861 and subsequent Confederate invasion of the territory only exacerbated preexisting tensions. Ultimately, the repeal of the Slave Code came about more as a result of the 1862 Union victory over Confederate forces in that territory than the personal sentiments of citizens and public officials. With Rebel troops having been ousted from New Mexico, the legislature had little choice but to repeal the code and hope, at the very least, to retain their long-entrenched systems of Mexican peonage and captive Indian servitude. Despite their efforts, however, both of those labor systems would be similarly outlawed in the aftermath of the Civil War.

The continuing reverberation of territorial law relative to chattel slavery and African Americans, coupled with the retention of debt bondage and Indian slavery, left Easterners confused about the political mindset of New Mexicans. With many Protestant Anglo-Americans already concerned about the prominence of Catholicism among a predominantly Hispanic culture, regional ambiguity on the slave issue exacerbated pessimism towards New Mexico. In the aftermath of the Civil War, with Radical Republicans directing Reconstruction efforts and abolitionism reigning supreme at the federal level, New Mexico’s former espousal of a slave code and retention of involuntary servitude systems rendered many politicians—and Northerners especially—apprehensive.
about granting the territory equal political representation concomitant with statehood
status. Territorial slave policies and racially motivated discrimination must therefore be
considered alongside anti-Catholic nativism and anti-Hispanic ethnocentrism as a
contributing factor in New Mexico’s stymied political aspirations in the mid-nineteenth
century.
CHAPTER 8

THE DECLINE OF PEONAGE AND CAPTIVITY IN THE SOUTHWEST

With the onset of the Civil War, stances on slavery began to take a pronounced shift among New Mexico’s occupants, most of whom had remained ambivalent on the issue prior to 1861. Whereas many territorial officials previously advocated discriminatory pro-slavery laws, such a position suddenly became a political liability once the North began to prevail in the war and regional inhabitants started sympathizing with the Union cause. In order to promote political and economic interests, local lawmakers and citizens necessarily adopted a lukewarm anti-slavery position beginning in 1862—a shift that, not coincidentally, corresponded with the Confederates’ retreat from the territory after a failed invasion attempt. The legislative repeal of the controversial 1859 Slave Code foretold of a doomed future for involuntary servitude in New Mexico. The ensuing decade would see the passage of local and national legislative measures designed to undermine coerced labor as a sanctioned social, cultural, and economic practice in the Southwest.

Although legislative emancipation originated with the First Confiscation Act on August 8, 1861, the first regulatory device that directly impacted New Mexico came in the form of a congressional mandate on June 19, 1862 that banned all forms of involuntary servitude in U.S. territories, an edict meant to apply primarily to black slaves, but that also encompassed Indian captives.\(^1\) Because peonage was represented as voluntary in nature, New Mexicans believed that it did not fall within the parameters of

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\(^1\) “An Act to Secure Freedom to all Persons within the Territories of the United States,” U.S. Statutes at Large, 36th Cong., 2nd Sess., Ch. 112, p. 432.
this act. In response to these laws, territorial legislators memorialized congressional leaders in January 1863 informing them that at least six hundred Indian captives lived in New Mexico and claiming that, upon liberation, such persons would “be placed in a far worse condition than they are now.” Employing the concept of compensated emancipation that so many Americans—including Abraham Lincoln in the early years of his presidency—advocated as a conciliatory means towards the desired end, they requested that the federal government appropriate funds to reimburse captive-holders and asked that another law be passed outlining the mode whereby indigenous slaves should be freed and repatriated.²

Fundamentally, territorial officials sought nothing more than to secure pecuniary redress for the liberation of captives while simultaneously understating the total number of Indians held in servitude. Somewhat characteristically, the memorialists neglected to mention indebted peons being detained in similar bondage, once again casting a veil over that institution in hopes of perpetuating a system from which landholders and other elites derived increased social standing.

Coinciding with the legislators’ memorial, President Lincoln’s Emancipation Proclamation became effective on January 1, 1863, symbolically (although not actually) freeing all slaves in the rebellious states.³ The order had no impact in New Mexico, a Union territory where a mere two dozen black slaves resided at the time, most belonging


to military officers who lived there only temporarily. Territorial residents did, however, continue to retain thousands of captured Indians and indigent peons in dependent servitude, constituting two forms of slavery similar in principle and only slightly variant in practice from that existing in the South. Northern abolitionists deployed Lincoln’s proclamation as a rhetorical tool, applying it to the slavery argument as it pertained to the western territories. The ideology behind the Emancipation Proclamation, they contended, encompassed all persons held involuntarily for servitude, regardless of race or class; by extension, this also included Indian slaves and New Mexican peons. At the local level, New Mexico Superintendent of Indian Affairs Michael Steck wrote as early as October 1863 that officials “were endeavoring to abolitionize [sic] the territory.” Not until ratification of the Thirteenth Amendment to the U.S. Constitution, however, did some slaves actually receive their freedom. Signed by President Andrew Johnson on December 6, 1865—well after the Confederate surrender at Appomattox—this amendment sought to liberate all persons subjected to involuntary servitude (except in cases of criminal conviction) in the United States and should have marked the moment at which debt peonage and captive slavery ceased to exist in the Southwest. This, however, proved not to be the case. An expansion of that amendment, in the form of a congressional anti-peonage statute stipulating that indebtedness did not constitute a crime

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4 Informal personal note, dated October 15, 1863, Center for Southwest Research, Inventory of the Michael Steck Papers, Series 2, Roll 3.


6 For President Johnson’s role in Reconstruction, see Simpson, The Reconstruction Presidents, 67-130.
punishable by servitude, would ultimately be needed in order to end New Mexican slavery.\textsuperscript{7}

Before the country arrived at that point, numerous proceedings played out regarding slavery and servitude in New Mexico. Just as it did following the ratification of the Treaty of Guadalupe Hidalgo in 1848, the slave debate proliferated once again in 1860-61, when Congress heard proposals for New Mexico’s promotion to statehood status, along with simultaneous bids to admit neighboring Colorado as a territory. For many ethnocentric U.S. politicians, the question of granting statehood could be summarized as a matter of “whether New Mexico, with its peons, with its wild lands, with its half-breeds and Mexicans, its mixed population, shall be free or slaveholding territory.”\textsuperscript{8} Once again, New Mexico found itself denigrated because of its systems of slavery and mestizo population. Newcomers from an American nation largely defined by racial and ethnic divisions remained hesitant to grant political equality to non-whites whose sectional proclivities remained a matter of mystery and reverberation throughout the antebellum era. Colorado did indeed become a territory—one statutorily devoid of slavery—but New Mexico failed in its quest to attain statehood, in part because of these reasons. The issue became especially contentious when Congress demarcated the boundaries of Colorado, because the adopted proposal included the northernmost portion of New Mexico (the San Luis Valley of today’s south-central Colorado). Since New Mexico existed under the premise of popular sovereignty and at that time retained its

\textsuperscript{7} Vorenberg, \textit{Final Freedom}, 241.

\textsuperscript{8} \textit{Congressional Globe}, 36\textsuperscript{th} Cong., 2\textsuperscript{nd} Sess., January 18, 1861, p. 455.
territorial slave codes, Northerners unequivocally objected to slave-free Colorado annexing a portion of New Mexico.\(^9\)

Illinois Senator Stephen A. Douglas questioned what might become of slaves held in the northernmost reaches of New Mexico upon that region’s transfer to free-soil Colorado. Addressing Congress, Douglas asked whether the proposal to detach a portion of New Mexico constituted an attempt to outlaw slavery and make it a free-soil territory. Sectional tension at this critical juncture—just prior to the Civil War—manifested itself in the ensuing debate, during which Missouri Senator James S. Green stood and proclaimed that the bill admitting Colorado “does not cut off five inhabitants, and not a single nigger.”\(^{10}\) Green might have been correct that no black slaves resided in that region, but many peons and Indian captives occupied the several villages along the upper Rio Grande, which became a part of Colorado once the bill passed. Many of those servants would remain in bondage despite being in purportedly free-soil Colorado. The new territory’s Anglo-American population centers of Boulder and Denver City, being situated on the eastern front range of the Rocky Mountains and thus far-removed from the San Luis Valley, coupled with paranoia surrounding the Confederate invasion of New Mexico occurring simultaneously to the south, allowed the plight of such involuntary servants to go unaddressed. Colorado’s admission as a territory did, however, provide an opportunity for proponents of New Mexico statehood to argue in favor of their cause.

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9 See Mark Stegmaier, “‘An Imaginary Negro in an Impossible Place?’: The Issue of New Mexico Statehood in the Secession Crisis, 1860-1861,” in *New Mexico Historical Review* 84 (Spring 2009): 281-83.

Ironically, it does not appear that any of New Mexico’s political leaders encouraged this action, although some Northerners, including Charles F. Adams of Massachusetts, endorsed the legislation in hopes of appeasing the South and averting civil war.\footnote{Stegmaier, “‘An Imaginary Negro in an Impossible Place?’” 271-73.} This sparked renewed angst throughout the chamber as politicians revisited the free-soil debate. Many individuals rejected the notion that New Mexico should be admitted to statehood, in part because it remained unknown as to where the native Hispanic population stood relative to slavery and sectional issues.\footnote{See Anthony Mora, Border Dilemmas: Racial and National Uncertainties in New Mexico, 1848-1912 (Durham, NC: Duke University Press, 2011), 88-94.}

Republican Representative Cadwallader C. Washburn of Wisconsin voiced opposition to statehood, believing the entire prospect to be a scheme for adding two pro-South senators in Congress and postulating that New Mexico would “give all its influence in favor of the institutions of slavery.” Washburn refuted any claim that New Mexico might become slaveless if granted admission. “I believe that the same power and the same party which has adopted in that Territory a slave code of the most barbarous character,” he proclaimed, “will adopt a pro-slavery constitution.”\footnote{Congressional Globe, 36th Cong., 2nd Sess., January 22, 1861, pp. 514-15.} New Hampshire Representative Mason Tappan shared Washburn’s concerns, recognizing that the promotion of New Mexico to “an equal footing with the other States” would implicitly sanction the 1859 Slave Code and disrupt sectional balance by admitting another slave state.\footnote{Ibid.} Many Republicans—and virtually all abolitionists—opposed New Mexico
statehood because of its Slave Code which, they argued, indicated that the territory had already bowed to Southern interests. To Northerners, New Mexico’s admission amounted to little more than additional pro-slavery representation in Congress. Once again, however, politicians remained focused on the potential expansion of chattel slavery and the ideology of abolition, casting aside as unimportant the thousands of captives and peons who remained involuntarily bound to their masters.

According to some, even New Mexico’s leading officials disagreed with one another over their constituents’ sentiments. This ambiguity sent a confusing message to federal lawmakers, rendering many congressmen hesitant to approve statehood for fear that New Mexico might lean further towards Southern interests. “Let Mr. Lincoln be inaugurated and make his appointments, and we trust all this will soon change for the better,” an editorial in Horace Greeley’s *New-York Daily Tribune* speculated, condemning New Mexico as unfit for statehood and hypothesizing that, “to admit her now is simply to make her over to slavery – the scheme has no other purpose.”

Attempts to achieve statehood fell flat in 1860-61, and New Mexico would remain a territory for fifty-one more years, its failure to ascend politically once again attributable in part to the continuing use of involuntary servants in territorial villages and haciendas.

Throughout the Civil War, many New Mexico officials publically denounced their predecessors for having been congenial towards slavery. Abraham Rencher, the last governor to express even the slightest proclivity towards the Southern cause, completed

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16 For a detailed analysis of the 1860-61 New Mexico statehood bill and the political maneuverings surrounding it, see Stegmaier, “‘An Imaginary Negro in an Impossible Place?,’” 263-90.
his term in office before the war commenced. New Mexico’s first wartime governor, Henry Connelly, professed loyalty to the Union, and within a year of the bombardment of Fort Sumter, South Carolina, the territory’s Hispano citizens rose against a Confederate onslaught and turned back the Texan invasion of 1861-62. This nationalistic unity on the part of New Mexicans—which had as much to do with their hatred for Texas as it did any prevailing sense of loyalty to the United States—convinced many Easterners by mid-war that most Hispanos supported the North. But while New Mexicans did coalesce to repulse the Confederate invasion and uphold the federal Union in principle, they did not necessarily unite for the purpose of advancing the abolition cause. Coerced labor remained common throughout the settlements, with many Hispanos continuing to subject debtors and captured Indians to dependent servitude. Although most residents had renounced black slavery and the legislature repealed the Slave Code, human bondage remained culturally and socially implanted. While the turmoil of the Civil War had little immediate effect on the discontinuance of the practice, the arrival of anti-slavery Lincoln appointees did bring greater awareness to the matter.

William F.M. Arny, appointed territorial secretary in July 1862, called direct attention to peonage and involuntary labor during his time in New Mexico. The forty-nine-year-old Arny arrived in the Southwest intent on advancing the Northern cause. Although he exhibited little opposition to the institution of slavery early in life, he experienced an ideological transformation in the 1850s during his involvement with the violently sectional Kansas political scene. Exerting a strong Republican influence from

the moment of his arrival, Arny helped to initiate a shift away from the Democratically-
controlled legislature that dominated territorial politics throughout much of the 1850s. 
Rumors even emerged in 1864 that Arny and a handful of his friends “were attempting to 
establish a [political] party upon an abolition basis” in New Mexico.18 Although those 
efforts never materialized, he still wielded his civic influence in perpetuation of the 
abolitionist cause during his five years as secretary and interim governor.19
Acting as temporary head of state during Henry Connelly’s illness-induced absence, Arny delivered a message to the territorial legislature on December 2, 1862, in which he openly addressed the continued existence of peonage and alluded to it as a disguised form of slavery. His speech came just months after Confederate forces had been driven from the territory, and wartime concerns about slavery stood at the forefront of legislative discourse. With New Mexico having remained under Union control, it became imperative that legislators nullify preexisting slave codes and free all involuntary servants, whether they be Indian captives or Hispanics held in debt bondage. Any failure to do so, Arny warned, would have severe political ramifications for the territory if the North won the war. Outlining preexisting territorial slave laws, he noted that such mandates continued to be “misrepresented by many” and therefore deserved careful explanation and consideration. He pointed out that Chief Justice Kirby Benedict had ruled in favor of the peon plaintiff in the 1857 case *Jaremillo v. Romero* and cited this important decision as precedent for the appropriate action the legislature should take relative to servitude in general. Arny concluded by recommending that legislators amend master-servant laws so that “the same course of proceeding was left a master to collect his debt from his servant or Peon as in the ordinary way from any other debtor.”

Arny’s message was important for several reasons. Legislators had already repealed the 1859 Slave Code, but in so doing they retained elements of earlier peon

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20 Executive Message of acting Governor William F.M. Arny, December 2, 1862, RG59, T17, New Mexico Territorial Papers, Roll 2 (emphasis in original).
laws, including the 1851 master-servant act. Predicting that many in the East would interpret peonage as a form of involuntary servitude, Arny implored his colleagues to similarly nullify that measure in order to maintain consistency in the abrogation of all laws protecting or promoting coerced labor. He failed, however, to acknowledge the continued existence of Indian slavery, an interesting oversight considering that his prior service as an agent for the Utes and the Jicarilla Apaches in 1861 exposed him to issues surrounding the captive trade.²¹

Even at the close of 1862, with the symbolic Emancipation Proclamation slated to go into effect on the first day of the new year, New Mexicans continued to resist change on the subjects of peonage and captivity by attempting to ignore their existence altogether. Arny’s omission of Indian slavery in his diatribe about peonage typified territorial politics of that era. Anti-Indian mindsets prevailed throughout the United States and transcended the ideological boundaries of sectionalism, allowing for captive servitude to proliferate even as legislators began to take aim at eradicating debt peonage. Furthermore, chattel slavery had mostly been shunned in New Mexico, primarily as a political gesture, but also in recognition of the fact that peons and captives already satisfied regional labor needs. The territory’s inhabitants therefore clung to their Indian slaves because they believed that that institution would be overlooked by Euro-Americans wishing to assimilate Native peoples through the very types of dependency

²¹ Lawrence R. Murphy, “William F.M. Arny: Secretary of New Mexico Territory, 1862-1867,” in Arizona and the West 8 (Winter 1966), 324. Arny served as Kit Carson’s successor as agent to the Utes and Jicarilla Apaches.
and assimilation that already characterized the evolution of indigenous slave systems in the Southwest.

Additional evidence that peonage and captivity persevered can be gleaned from the actions of several leading territorial and federal officials near the end of the Civil War. In a proclamation issued May 4, 1864, Governor Connelly warned New Mexicans “against further traffic in captive Indians,” because the Interior Department was already in the process of codifying a new policy “to have all Indians surrendered who have been sold into slavery.” Just over one year later, on June 9, 1865, President Andrew Johnson acknowledged the large number of New Mexico’s Indians who had been “seized and reduced into slavery” when he requested that the Executive Branch instigate “the effectual suppression of a practice which is alike in violation of the rights of the Indians and the provisions of the Organic Law” of New Mexico. Johnson’s various department heads subsequently circulated an order among their subordinates in the field “to take all lawful means to suppress” the enslavement of Indians.

The active involvement of President Johnson, a Tennessee Democrat who became the nemesis of Republicans after the Civil War, indicates that the abolition of captivity and peonage transcended not only the moderate and radical stances within the Republican party, but also the ideological chasms separating the two major national parties. James Doolittle, who directed the 1865 investigation of Indian affairs that ultimately prompted legislative action towards captivity, was in fact an ally of Johnson and did not typically

22 Proclamation of Governor Henry Connelly, May 4, 1864, in 1866 Annual Report of the Commissioner of Indian Affairs, 333.

23 Executive Order of Andrew Johnson, June 9, 1865, RG75, OIA, T21, LR, NMS, Roll 6.
side with the radicals. Despite the many discrepancies in policy objectives between the president and his radical counterparts during post-war Reconstruction, the two groups shared common ground regarding the eradication of Indian slavery and Mexican peonage in the Southwest, which helps to explain why the federal government took concrete action towards the abolition of those two systems of involuntary servitude.

Pursuant to the president’s mandate—which Johnson issued a full six months before signing the ratified Thirteenth Amendment into law—Secretary of the Interior James Harlan mailed a copy of the order to Commissioner of Indian Affairs William P. Dole with instructions to direct all Indian Service personnel in New Mexico “to discontinue the practice” of enslaving Native peoples. Harlan requested that agents report directly to his department on all instances of Indian slavery that came to their attention. “Such violations of the personal liberty of Indians, and the exaction from them of labor, should not be tolerated in a country professing to be free,” Harlan explained, reiterating his determination to use all resources at his command to induce an abrupt end to the practice.24 Commissioner Dole immediately wrote to New Mexico Superintendent of Indian Affairs Felipe Delgado, forwarding Johnson’s executive order and instructing him on how to appropriately comply with the decree.25 If the Indian slave trade was to be suppressed, it would require collaboration at all levels, beginning in Washington, D.C. and trickling down to individual agents in the field. Without complete cooperation, President Johnson’s order could never effectively be enforced, because of the scale on

24 James Harlan to William P. Dole, June 12, 1865, ibid.

25 William P. Dole to Felipe Delgado, June 14, 1865, ibid.
which Indian slavery remained embedded in Southwestern society and the extent to which residents attempted to hide and protect the institution.

The level of intragovernmental cooperation necessary to initiate and sustain the emancipation of Indian slaves and debt peons was not immediately forthcoming. In his 1866 annual report, Commissioner of Indian Affairs Dennis N. Cooley insisted that, “this office has done all that lay in its power” to eradicate Indian slavery and enforce the president’s mandate, yet the practice remained mostly unaffected because captive-holders did everything possible to resist these outside forces and retain their human subjects in bondage.26 “Those who hold them [captives and peons] are exceedingly sensitive of their supposed interest in them,” Judge Kirby Benedict explained just three months after the Civil War ended, noting New Mexico slaveholders to be “easily alarmed at any movements in the civil courts or otherwise to dispossess them of their imagined property.” The failure to undermine this longstanding trend owed to the fact that most New Mexicans who held peons or captives “have much popular influence . . . and the exertion of this influence is one of the means by which they hope to retain their grasp upon their Indian slaves.”27

Superintendent of Indian Affairs Michael Steck had alluded to the failures of these legislated emancipation efforts as early as 1864, writing that, “the civil authorities could not, for obvious reasons, accomplish the work of liberating the captive Indians at

26 D.N. Cooley to O.H. Browning, October 22, 1866, in 1866 Annual Report of the Commissioner of Indian Affairs, 33.

present” and recommending that the military authorities be ordered “to proclaim the immediate and unconditional emancipation of all Indians in this department, and that they be returned to their respective tribes.” As Steck noted, military emancipation had become the official Union wartime policy with passage of the First Confiscation Act in August 1861, and the government expanded that measure a year later when it approved the Second Confiscation Act on July 17, 1862, using the war powers clause of the Constitution as justification for freeing slaves in rebellious states.

Marking a shift in Abraham Lincoln’s wartime objectives, the Second Confiscation Act signified the transition from limited to universal emancipation using federal troops as a tool for accomplishing that end, with the Emancipation Proclamation officially transforming the Union military into an army of liberation. Just two months after the Second Confiscation Act became law, General Edward R.S. Canby, commanding the Military Department of New Mexico, issued a general order instructing army officers that they must reclaim any Indian captives “sold into slavery” and quarter them at their posts for protection. Steck, doubtless aware that many black slaves in the South achieved their freedom only with the aid of Union officers and soldiers, suggested that a similar approach be used in New Mexico to buttress otherwise ineffective legislative measures, and indeed Canby issued his order to that effect. In so doing, both the Indian agent and the department commander brilliantly applied the logic of universal

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30 Edward R.S. Canby, General Orders No. 81, September 9, 1862, RG75, OIA, M234, LR, NMS, Roll 552.
emancipation—as outlined in the Confiscation Acts and enforced by the U.S military—to New Mexico in furtherance of peon and captive liberation. As late as 1867, however, anti-slavery men acknowledged the failure of this policy when lamenting to federal officials that, “as for the peonage of Mexicans [and the captivity of Indians] neither the military authorities, nor civil authorities, nor the enactments of Congress can reach it except in the cases which are brought to the courts.”

In the rare instances when bondsmen did bring their grievances before a judge, there seems to have been a surprising success rate, as evidenced in the peonage cases heard in the New Mexico Supreme Court (see Chapter 3). Despite occasional litigation, however, civil and military officials could do little to eradicate peonage and captive slavery unless the oppressed servants could be induced to bring their own cases to trial. Differing personal and political objectives, accompanied by competition of egos at the territorial level, undermined the government’s attempts to intervene in Indian captivity. In New Mexico, Interior Department agents believed that orders suppressing Indian slavery had emanated from “greatly exaggerated” reports on the extent of the practice.

Superintendent of Indian Affairs Felipe Delgado, who succeeded Steck in that role, replied to Commissioner Dole two days after reading President Johnson’s moratorium and defended his superintendency against allegations that it ignored the widespread enslavement of Indians. “It is true,” he acknowledged, “there are among the citizens of this country a large number of Indian captives belonging to various tribes, that have been acquired or purchased from the Utah, Navajo, and other tribes.” Echoing the

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31 “Peonage in New Mexico,” Santa Fe Weekly Gazette, February 2, 1867.  

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ideological and theological views that Brigham Young and other Mormon authorities expressed a decade earlier, Delgado also claimed that “the object in purchasing them has not been to reduce them to slavery, but rather from a Christian piety on the part of the Whites, to obtain them, in order to instruct and educate them in civilization.”

Delgado invoked the argument of cultural tradition, informing Commissioner Dole that the enslavement of Indian women and children had been common practice in New Mexico “for the last century and a half” and that the Indians had, as a result of their captivity, been entitled to a “favorable, humane and satisfactory” life among their New Mexican captors. Despite his misgivings, Delgado assured his superior in Washington, D.C. that he would enforce the law and that he had in fact already informed his agents in the field that “under no pretext whatever” would the capture and exchange of Indians be thereafter tolerated. In 1866, perhaps in reference to the seemingly futile efforts of Delgado and his personnel, the commissioner admitted that the practice of Indian enslavement “continues to a greater or less extent” in some western departments.

This realization on the part of federal leaders in 1865-66 that captivity and peonage continued mostly unchanged in the Southwest emanated in part from former Superintendent Steck’s trip to Washington, D.C. just after the war ended. Once Delgado replaced Steck as New Mexico’s leading Indian agent, the longtime territorial resident and bureaucrat traveled to the national capital to settle outstanding accounts with the

32 Felipe Delgado to William P. Dole, June 16, 1865, RG75, OIA, M234, LR, NMS, Roll 552.

33 Ibid.

34 D.N. Cooley to O.H. Browning, October 22, 1866, in 1866 Annual Report of the Commissioner of Indian Affairs, 33.
Interior Department. He also carried laudatory letters introducing him to a number of high-ranking Republican officials, including Free-Soiler Salmon P. Chase, who had recently replaced Roger B. Taney as Chief Justice of the U.S. Supreme Court. The author of these letters, former Indian agent John Greiner, informed the recipients that Steck “is well posted as to the Peon system and its workings, in which I know you have ever manifested deep interest.”

As an avowed Republican who opposed slavery, Steck was exceptionally familiar with the machinations of New Mexican servant-holders after spending more than a decade residing in their midst. While his primary intent on the journey to Washington might have been to settle financial accounts and conduct personal business, he also advanced abolitionist motives and visited GOP officials to enlighten them about the continuing existence of involuntary servitude in the Southwest. The information he provided no doubt helped to influence the ensuing federal mandates that banned Indian captivity and debt peonage in more specific terms.

The issuance of additional anti-slavery decrees such as those targeting peonage and captivity coincided with a massive shift in national politics immediately following the Civil War, one that afforded incredible power and control to Northern Republicans who implemented Reconstruction policies. Had these radicals not risen to power at that time, it is improbable that much attention would have been directed towards peonage and Indian slavery in the Southwest. Already demonized by Democrats after the war as a “black man’s party,” Republicans endeavored to extend legislative emancipation to peons

35 John Greiner to Chief Justice Salmon P. Chase, June 11, 1865, Center for Southwest Research, Inventory of the Michael Steck Papers, Series 2, Roll 4.

36 On Steck’s loyalties to the Republican Party, see Steck to Col. Pulston, January 22, 1865, ibid.
and captives as well.\textsuperscript{37} Indeed, it was not merely the North’s increasing momentum in the war effort that drove New Mexican officials to rescind previous peon laws and slave codes, but also the ascension of Radical Republicans in Congress at war’s end and the subsequent ideological transformations that began at the national level and trickled down to state and local governments.\textsuperscript{38}

Under pressure from federal legislators, and recognizing that many anti-slavery Northerners had taken notice of the institution as one in dire need of reform, the territorial legislature pursued further action relative to involuntary servitude shortly after President Johnson issued his 1865 moratorium on the enterprise. On January 26, 1866, lawmakers amended existing laws in order to redefine debt peonage as a voluntary form of servitude.\textsuperscript{39} They did so in direct response to ratification of the Thirteenth Amendment a month earlier, essentially removing debtor servitude from the purview of Constitutional restraint by dropping the two-letter prefix from the word “involuntary” in their definition of peonage. Secretary Arny informed government officials that local legislators had “repealed the odious so called ‘Free Negro law’ . . . and amended the ‘Peon Law’ so as to make the servitude voluntary.”\textsuperscript{40} Such action, however, failed to trick abolitionists like U.S. Representative George P. Marsh, who earlier had demanded that peonage, a


\textsuperscript{38} See Murphy, “Reconstruction in New Mexico,” 99-110.

\textsuperscript{39} Journal of the Legislative Assembly, December 4, 1865 to February 1, 1866, New Mexico State Archives and Records Center, Territorial Archives of New Mexico, Microfilm Reel 3, Frame 157.

\textsuperscript{40} W.F.M. Arny to Benjamin F. Wade, January, 1866, RG59, T17, New Mexico Territorial Papers, Roll 3 (emphasis in original).
“barbaric relic of the ancient Roman law,” be explicitly outlawed along the same provisions as chattel slavery.\(^{41}\) In repealing the 1859 Slave Code, the territorial legislature neglected to take any steps toward suppressing Indian captivity and sidestepped the most important issue entirely, retaining the peonage system by changing their definition of it from involuntary to voluntary servitude. In so doing, they formulated their legislative rhetoric in direct defiance of the recently-amended U.S. Constitution. New Mexicans hoped that nullification of the Slave Code might satisfy radical anti-slavery interests and deflect their attention elsewhere, but ultimately their action had an inverse effect and brought about an expansion of the Thirteenth Amendment, vis-à-vis the 1867 Peon Law, that completely undermined debtor servitude.

While Hispano legislators slyly modified preexisting peon laws (first in 1862, then again in 1866), they also continued to disregard the rights of Indian captives held as servants. Addressing the legislature in December 1866 as temporary governor, Arny pointed out that captive slaves could no longer be taken or held without violating the Constitution, leaving no doubt that the Thirteenth Amendment applied to Indians as well as African Americans held in bondage. Although the practice of enslaving Indians had finally reached its symbolic statutory demise, large numbers of captive women and children continued to await repatriation to their tribes despite federal mandates requiring that masters manumit all involuntary servants.

Some female captives, having been baptized in the Catholic faith and married into Hispano families, wished to remain with their adoptive kinfolk. Many indigenous

\(^{41}\) *Congressional Globe*, 30\(^{th}\) Cong., 1\(^{st}\) Sess., August 3, 1848, pp. 1072-73.
women had borne children with their male overseers and declined opportunities for repatriation in order to remain with their mestizo children. “The question however arises,” explained Arny, “whether these Indians who have in former years been taken captive and held in servitude, but who have voluntarily chosen to remain in the families where they have for years lived, come under the above [Constitutional] amendment.” A serious predicament therefore arose in New Mexico. Federal law required that all slaves, regardless of race or ethnicity, be immediately freed. As Arny pointed out, however, some of them did not wish to return to their Native tribes. With this in mind, he questioned whether it might be “an act of inhumanity” to forcibly remove such Indian slaves from the families that fed and clothed them.\footnote{Second Annual Address of Governor Arny, December 1866, RG59, T17, New Mexico Territorial Papers, Roll 3.}

Just one year earlier, having received the executive order mandating that Indian slaves be liberated and the illicit trade in human flesh halted, Ute agent Lafayette Head reported that 148 captives remained in bondage in southern Colorado’s San Luis Valley alone.\footnote{Of the 148 captives, only 49 (or roughly one-third) were male. The vast majority (113) claimed Navajo origin. See Frank McNitt, \textit{Navajo Wars: Military Campaigns, Slave Raids, and Reprisals} (Albuquerque, NM: University of New Mexico Press, 1972), 442-46.} Of those, only one supposedly wished to return to her natal indigenous family. The remainder, according to the agent, “know not their own parents, nor can they speak their mother tongue,” prompting him to pose the question already on so many people’s minds: “what are we to do with these [captives]?”\footnote{Lafayette Head to John Evans, July 1865, RG75, OIA, NMS, Microcopy 234, Roll 553.}
Arny and Head both implied that the manumission of Indian captives might be a greater evil than the perpetuity of their servitude. Many such bondspeople had become dependent upon their masters and fictive kin for their own livelihood, a situation that mirrored that of some liberated black slaves in the South following the Civil War. Thus, the strategy that New Mexicans employed to baptize, marry, and procreate with captives largely succeeded in its purpose; those coercive tactics fostered strong psychological, familial, and social bonds between servants and masters, the result being that indigenous abductees often declined repatriation and voluntarily perpetuated their own captivity.

Neither President Johnson’s order banning Indian slavery nor the territorial legislature’s repeal of previous slave codes had the desired effect of unshackling New Mexico’s involuntary servants. While both actions did increase national publicity and exposure, they had little effect on the systems as they actually existed in the territory, and indeed the legislators’ thinly-veiled tactic of modifying the definition of peonage was purposefully antithetical to federal attempts to eradicate slavery. As was the case with the Southern chattel system, it would ultimately require an act of Congress to unravel peonage in New Mexico. Senator Charles Buckalew of Pennsylvania observed that the institution had become so deeply embedded in Southwestern culture that it simply could not die out on its own. “Eventually the courts will weed out this system in that Territory,” he prophesized, “but it will remain lingering there for a considerable time unless Congress shall interpose.” Once the federal government intervened, the senator believed that peonage would “fall to the ground at once.”

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oversimplification typified the misinformed manner in which many Easterners viewed unfamiliar systems of servitude. While federal legislation during the early Reconstruction period would indeed set in motion the legal processes necessary to disband peonage and Indian slavery, it was by no means a painless process as Buckalew seemed to believe it would be. Events over the ensuing three years would prove just how deeply-entrenched slavery had become in the Southwest.

During its autumn 1866 term, the New Mexico Supreme Court heard a case involving Tomás Heredia, a peon held involuntarily in satisfaction of debt at Doña Ana, a farming village along the Rio Grande in the southernmost portion of the territory. Heredia had recently fled from his master, José María García, whereupon the local justice of the peace overtook and remanded him back to the service of his creditor in accordance with the provisions of the 1851 master-servant act. At the district court trial, a jury recognized the validity of such unwritten labor contracts and upheld García’s right to retain Heredia in bondage. John S. Watts, serving as legal counsel for the aggrieved peon, filed an appeal and the case ultimately went to the territorial Supreme Court, which overturned the earlier decision on grounds that the 1851 peon law violated both a June 19, 1862 act of Congress banning slavery and involuntary servitude in U.S. territories, as well as the recently-ratified Thirteenth Amendment specifically outlawing slavery. New Mexico’s high court reached a unanimous decision, granting Heredia his freedom based on the fact that congressional action superseded that of any territorial legislature. In a

46 Tomás Heredia vs. José María García, December 4, 1865, Third Judicial District Court of New Mexico, at New Mexico State Records Center and Archives, U.S. Territorial and New Mexico Supreme Court Records, Box 3, No. 36.
blunt assessment, the justices declared that “the system of servitude heretofore prevailing in New Mexico, generally known as *peonage* and attempted to be regulated and enforced by statutory provisions under the title of relations between ‘master and servant’ [is] *involuntary servitude*—it is clearly prohibited and abolished by the act of Congress and the amendment to the constitution referred to.” In rendering this decision and explicitly describing peonage as involuntary servitude, the court directly overruled the law that legislators passed earlier that year redefining debtor servitude as a voluntary institution. The judges thus foreshadowed congressional action that would sustain this outcome and provide for nationwide enforcement. In the Heredia case, the New Mexico Supreme Court rendered the judicial foundation for an expansion of the Thirteenth Amendment to include debtor servitude; their regional action would have national ramifications for decades to come.

At the same time that the territorial Supreme Court passed down this decision in January 1867, debates on peonage at the federal level also proliferated, largely due to the passage of the Civil War amendments to the Constitution banning all forms of involuntary servitude and granting political agency to the formerly enslaved. Yet despite these laws, the practice remained mostly intact throughout New Mexico because of its secluded geographic position, which effectively veiled the prominence of coerced labor from everybody except those individuals who had traveled to the Southwest and witnessed the situation firsthand. The legislature’s renunciation of the 1859 Slave Code notwithstanding, Hispano landholders and civic leaders continued to detain Indians and

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47 Tomás Heredia vs. José María García, January 26, 1867, New Mexico Territorial Supreme Court, in ibid; “The Supreme Court on Peonage,” *Santa Fe Weekly Gazette*, February 2, 1867. Italics added.
indebted citizens as servants. On January 3, 1867, Radical Republican Senator Charles Sumner informed Congress that all available evidence implicated New Mexicans in the retention of a variation of slavery “which a proclamation of the President has down to this day been unable to root out,” clearly referencing Andrew Johnson’s recent executive order. “During the life of Mr. Lincoln I more than once appealed to him to exercise his power as the head of the executive, to root this evil out of the Territory of New Mexico,” Sumner claimed, but the more urgent demands of the Civil War had precluded his ability do so prior to the assassination, and it thus fell to Johnson to issue the order in June 1865.48

Although Lincoln did not take forceful action, in 1863 Sumner’s repeated inquiries into Southwestern slavery had led Indian Commissioner William P. Dole to solicit advice from his subagent in New Mexico, Michael Steck, relative to the most appropriate policy for affecting “the liberation and disposition of such Indians as are now held in bondage,” with specific reference to the Navajo tribe.49 Citing reports from Indian Department officials as corroborating evidence, Sumner himself conceded following the Civil War that, “this abuse has continued, and according to the official evidence it seems to have increased.”50 To further advance his argument, Sumner read aloud from the report of special agent Julius K. Graves, who a year earlier had conducted

48 Congressional Globe, 39th Cong., 2nd Sess., January 3, 1867, pp. 239-40; Murphy, “Reconstruction in New Mexico,” 104.

49 William P. Dole to Michael Steck, December 23, 1863, Center for Southwest Research, Inventory of the Michael Steck Papers, Series 2, Roll 3.

50 Congressional Globe, 39th Cong., 2nd Sess., January 3, 1867, pp. 239-40; Murphy, “Reconstruction in New Mexico,” 104.
investigations throughout New Mexico. “In spite of the stringent orders of the Government, the system continues, and nearly every Federal officer held peons in service,” Graves observed, noting that even the superintendent of Indian affairs “had half a dozen.”\footnote{Undated Report of Special Agent J.K. Graves, in 1866 Annual Report of the Secretary of the Interior, 137.} In response to this blunt indictment, territorial legislators maintained that the enslavement of Indians stemmed from “ancient custom” and that Hispanics who adopted captives treated them “as members of their own legal family,” allowing them all of the rights and privileges incumbent upon “legitimate children.”\footnote{New Mexico Territorial Legislature in reply to Julius Graves, January 30, 1866, RG59, T17, New Mexico Territorial Papers, Roll 3.} Thus many lawmakers continued to use cultural and filial considerations of dependency to justify the retention of Indian captives in New Mexican households.

Special agent Graves cited several specific incidents proving that territorial officials generally, and military officers particularly, held personal interests in slavery and peonage as economic institutions. One such reference pertained to Assistant Inspector General of the Army Nelson H. Davis. In August 1865, Davis ordered Captain James H. Whitlock, the commanding officer at Fort Selden in southern New Mexico, to “allow and assist” Don Pedro García in reclaiming a fugitive peon named Antonio Rodriguez. Whitlock responded dutifully by questioning the legality of such an order. “The laws of the Territory, according to my recollection, have made it a penal offense to return a man to another claiming him as his own,” Whitlock wrote, noting that the federal government had already abolished involuntary servitude and that such an order
contradicted that mandate. Furthermore, an article of war passed by Congress on March 13, 1862 prohibited military officers from using either their troops or their authority “for the purpose of returning fugitives from service or labor” to their masters, a decree applying primarily to escaped black slaves but that, by definition, also encompassed peons and captives.\footnote{“An Act to make an additional Article of War,” in U.S. Statutes at Large, 37\textsuperscript{th} Cong., 1\textsuperscript{st} Sess., Vol. 12, Chapter 15, p. 354.} Mindful of these legal underpinnings and their implications in transforming Union forces into an army of liberation, Whitlock boldly informed Davis that his order to capture and return peons to their owners “is directly contrary to my opinion of law and justice, and I will only do it on positive and unmistakable orders,” requesting further affirmation before taking any action.\footnote{Undated Report of Special Agent J.K. Graves, in 1866 Annual Report of the Secretary of the Interior, 137.}

Captain Whitlock’s fortitude ultimately succumbed to the dictates of the military chain of command. As a subordinate officer, he had little choice but to comply with the order, a fact that his superiors reiterated to him in no uncertain terms. Inspector Davis—ironically a native of Massachusetts, a bastion for abolitionist ideology—defended his order and upheld peonage as a legal institution. In explicit conformity with the 1851 master-servant law, he defined it as voluntary servitude, perceiving peonage to be an apprenticeship agreement between two contracting parties. “Not only can the master arrest and take his servant peon,” he wrote, “but the civil authorities are commanded to arrest and deliver the peon to his master when deserting him.” Davis condemned Whitlock for his insubordinate rebuke of the initial order. “You ask for explicit
instructions, and make use of disrespectful and threatening language,” he scolded. “The first will be granted, and the latter this time overlooked.” He ordered Whitlock “to aid in the rendition of peons when claimed by their masters” and concluded his admonition by naming Major James H. Carleton, commander of the New Mexico military department, as his authority for issuing the order and the person to whom Whitlock would be held accountable if he failed to comply.55

Accusations that military officers acted with complicity in perpetuating involuntary servitude arose periodically throughout the 1850s and 1860s, and the Davis-Whitlock incident seems to affirm the veracity of such claims. Indeed it had been military officers who initially took chattel slaves to the territory after the 1846 American conquest, and army personnel owned New Mexico’s approximately two dozen black slaves enumerated in the 1850 census. Previous congressional resolutions prohibited officers from taking action relative to peonage or slavery in New Mexico, nor could they directly aid in the efforts of civil officials to force the emancipation of servants, although the Confiscation Acts did grant some leeway and allowed for indirect military emancipation if and when runaway captives or peons arrived at an army post. As Davis’s order to Whitlock suggests, however, some officers paid little attention to these statutory requirements and intervened in master-servant relations as they deemed appropriate. Government resolutions notwithstanding, the army did occasionally confront slaveholders, especially Indian groups retaining Hispanos in bondage. In this the U.S. military perpetuated the double-standard that originated with Spanish and Mexican

55 Ibid.
officials, who continuously demanded that tribes surrender their captives while failing to require the same of settlers who held Indians in captivity. Furthermore, attempting to induce the manumission of slaves represented a conflict of interest according to some antebellum lawmakers, because the military officers making these demands sometimes remained amenable to the Southern proslavery cause and their efforts, therefore, were often lackadaisical at best.  

Finding it difficult to incite New Mexicans to action, Senator Sumner invoked the aid of Congress “to stop the practice” of peonage and captivity altogether and called upon the War Department to initiate an inquiry into Major Carleton’s issuance of orders that upheld institutions of bondage. “The administration of military affairs in the Territory of New Mexico has been a standing disgrace to this Government,” the senator thundered in an open indictment of Carleton’s policies and morality. Unfortunately for Sumner and his Radical Republican colleagues, the ambivalent sentiment toward peonage that characterized men like Davis and Carleton represented the norm rather than the exception in New Mexico. As seen in the case of Captain Whitlock, some subordinate officers did question the issuance of seemingly pro-slavery orders, aware that they contradicted federal laws prohibiting involuntary servitude. As the correspondence between Davis and Whitlock revealed, however, lower-ranking army personnel simply could not sustain such an argument in the face of orders from their commanding officers in Santa Fe and Washington. As long as Carleton continued to enable the capture of runaway servants

56 See, for example, “Peonage in New Mexico,” Santa Fe Weekly Gazette, February 2, 1867, which describes the actions of Major James H. Carleton relative to Indian slavery; Murphy, “Reconstruction in New Mexico,” 101.

through military force, the practice of holding peons would remain unimpeded. As a staunch authoritarian, Carleton imposed martial law and presided over a veritable monarchy in New Mexico’s military and civil affairs during the Civil War, until repeated complaints about his overextended authority prompted the War Department to transfer him to another theatre in 1868. For the five years that he spent in command of New Mexico, however, his unspoken support of peonage trickled down the military ranks and undermined the attempts of outsiders to uproot it.

A month after Sumner’s tirade in the Capitol Building, Republican Senator Henry Wilson of Massachusetts implored his colleagues to consider an act “to abolish and forever prohibit the system of peonage,” not only in New Mexico but throughout the United States. If approved, the law would supplement both President Johnson’s 1865 executive order forbidding the enslavement of Indians as well as the 1866 Civil Rights Bill, which stated in part that all Americans, regardless of “race, religion, or previous condition of servitude,” would be assured their basic rights.58 Taken collectively, the three decrees provided the legislative framework necessary to unravel all systems of coerced labor in the Southwest. Although the Thirteenth Amendment, the Civil Rights Bill, and other Reconstruction legislation were all conceived with African Americans and Southerners foremost in mind, reformers nevertheless utilized such edicts to assert the rights of captive Indians and indebted peons, marking the beginning of a crusade to liberate all involuntary servants in the Southwest.59

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58 Formally called “An act to protect all persons in the United States in their civil rights, and furnish the means for their vindication,” the bill was eventually declared unconstitutional by the U.S. Supreme Court. U.S. Statutes at Large, 39th Cong., 1st Sess., Ch. 31, pp. 27-29.

59 Murphy, “Reconstruction in New Mexico,” 102. In the well-known Slaughter-House Cases, Supreme Court Justice Samuel Miller wrote that, “Undoubtedly, while negro slavery alone was in the mind of the
Senator Wilson met with considerable resistance among his less radical counterparts, who demanded that he specifically define “what this thing called peonage is.” After a four-year Civil War, more than two decades of deliberation on captivity and debt bondage, and ratification of the Thirteenth Amendment, federal lawmakers had yet to reach a consensus on what exactly constituted involuntary servitude. Kentucky Senator Garrett Davis proclaimed that he had “seen a great deal of general statement about peonage,” yet admitted to having little understanding of how it operated or who it affected. Republicans enlightened him by describing it as “a system of modified servitude which is carried on to a great extent in New Mexico, and especially to a lamentable extent with the Indians,” specifically mentioning the use of force in holding such persons in long-term bondage. In so defining the institution, Wilson merely echoed previous explanations that had evidently been forgotten or disregarded over the preceding twenty years. The respondents similarly exhibited naiveté concerning peonage, in that they conflated debt bondage and Indian slavery as one and the same institution.

After hearing several definitions of peonage, all of which represented it as a form of involuntary servitude, Senator Davis snidely remarked that, “I have been for a good many years of my life in about the same state of slavery that . . . peons of [New] Mexico enact which passed the 13th Article, it forbids any other kind of slavery, now or hereafter.” Quoted in Douglas A. Blackmon, Slavery by Another Name: The Re-Enslavement of Black Americans from the Civil War to World War II (New York: Anchor Books, 2009), 253.

60 Congressional Globe, 39th Cong., 2nd Sess., February 19, 1867, p. 1571. Senator Davis continually referred to peonage in Mexico—not New Mexico—suggesting that he misunderstood the situation. This theory is buttressed by his subsequent statement that, “I think we are about to legislate on a subject that we know very little about.” Davis failed to differentiate between New Mexico (a United States territory) and Mexico (a sovereign nation).
have been.” He told onlookers that he had accrued significant pecuniary debts earlier in life, “and I have worked mighty hard to repay them.” As Davis saw it, his condition had been worse than that of peons, in that his creditors never supported him or provided food, shelter, and clothing while he worked elsewhere for wages to pay them off. He thus likened himself to having endured slavery simply by accruing debts, therefore failing to distinguish between owing money and repaying it without any hindrance on one’s liberty and mobility, and being subverted to a lifetime of involuntary labor, as in the case of New Mexico’s peons.

The Senate bill addressed the issue of New Mexican peonage, but it also cast a larger shadow by precluding involuntary servitude, in its various forms, from all parts of the United States. By abolishing peonage, proponents of the new law assured skeptics that they sought to do nothing more than limit creditors to customary methods of collecting debts without holding “the peon in slavery.” After striking out a section of the bill that would have unilaterally voided every peon’s debt and eliminated all liability, the Senate approved the measure on February 19 and submitted it to President Johnson, who signed it into law on March 2, 1867.

61 Ibid.
62 Ibid.
symbolized the end of peonage, although it would be some time before its implementation actually liberated involuntary servants in the Southwestern territories.

The Peon Law, as it came to be known, explicitly forbade any individual from holding another person “to service or labor under the system known as peonage,” specifically referencing New Mexicans as the most egregious offenders. All previous laws and regulations that “established, maintained, or enforced” involuntary servitude, including persons being held in satisfaction of debt, became null and void. It further mandated that anybody convicted of holding persons against their will or detaining former servants would be subject to punishment in the form of a fine ranging from one thousand to five thousand dollars or imprisonment for a period of up to five years, at the discretion of the judiciary.64

The new statute also addressed the problem that Senator Charles Sumner highlighted—that of the military department’s complicity in promoting and perpetuating debt bondage. Congress charged all military and civil officers in New Mexico with the responsibility of enforcement, codifying strict sanctions for anybody caught obstructing or interfering with the authorities when carrying out these duties. Any federal officer failing to uphold the law would face court martial and dishonorable discharge if convicted.65 The Peon Law provided strict and unambiguous consequences for anybody


65 “An Act to abolish and forever prohibit the System of Peonage in the Territory of New Mexico and other Parts of the United States,” U.S. Statutes at Large, 39th Cong., 2nd Sess., Ch. 187, p. 546. The law is also quoted in Proclamation by the Governor of the Territory of New Mexico, April 14, 1867, RG59, T17, New Mexico Territorial Papers, Roll 3. In 1869, Congress amended the bill to retroactively allow for
holding persons in bondage and showed no tolerance for the failure of federal and territorial officials to enforce the provisions of the act.

On April 14, five weeks after President Johnson signed the Peon Law, New Mexico Governor Robert B. Mitchell circulated a proclamation informing government officials and citizens of the provisions contained in the new edict. “In pursuance of the foregoing act of Congress,” Mitchell declared, “I do hereby proclaim all persons free within the Territory of New Mexico, who are held to service or labor by any statute or custom heretofore in force.” The governor promised strict compliance, warning that anybody continuing to hold captives or peons in a condition of slavery “will be severely dealt with” and prosecuted by the U.S. district attorney. With this congressional action and subsequent gubernatorial assurance that it would be enforced, it seemed that finally, after three centuries, New Mexico would be rid of its traditional systems of servitude and dependency. Peons and Indian captives were thus among the last involuntary laborers in the United States to be liberated by federal mandate, their emancipation coming a full two years after that of African American slaves in the South.

Even after Congress outlawed debt bondage in 1867, however, the institution did not immediately disappear in the Southwest. The Peon Law was little more than a duplication of the Emancipation Proclamation, inasmuch as it served almost exclusively as a symbolic measure and did little, if anything, to actively liberate servants. Just four months after the edict went into effect, Superintendent of Indian Affairs A.B. Norton

compensation of territorial officials for services rendered in compliance with the peonage law. Senate Bill 962, 40th Cong., 3rd Sess., February 19, 1869. p. 2.

circulated a memorandum to the leaders of each Pueblo stressing the importance of compliance. Realizing that some of the Pueblos were home to significant numbers of peons, Norton instructed Indian agent John Ward to ensure that those in authority at each respective location fully understood the orders and to “see that all persons retained as peons . . . be immediately released & set free from said bondage.”\(^{67}\) Norton’s order doubtless liberated some bondsmen, but certainly did not have a universal effect.

Prompted by the persistence of slaveholders and well attuned to the fact that few peons had actually been freed, Governor Herman M. Heath circulated a proclamation on June 10, 1868 condemning slavery “in every name and form.” As an avowed abolitionist, Heath declared the system of peonage to be “at variance with the principles of a Republican Government and repugnant to the moral, social and political advancement of the victims” and reiterated that “peonage and every other class of involuntary servitude” were forbidden in New Mexico. In a final attempt to ensure enforcement, the governor implored his colleagues to aid him in “utterly destroying the system of peonage in this Territory.”\(^{68}\)

Despite this forceful declaration and the continuing efforts of government agents, many households retained servants long after the Peon Law went into effect. This held especially true in northern New Mexico, where the system had become more culturally ingrained than in other regions. The northernmost counties of Rio Arriba and Taos, along with southern Colorado’s Costilla County and San Luis Valley, exemplified this citizen

\(^{67}\) A.B. Norton to John Ward and The Governors of the Pueblos of New Mexico, August 6, 1867, RG75, OIA, T21, NMS, Roll 8.

\(^{68}\) Proclamation of Herman M. Heath, June 10, 1868, RG59, T17, New Mexico Territorial Papers, Roll 3.
resistance.  In the seventeenth and eighteenth centuries, that portion of New Mexico had been among the first places that Spanish colonists settled. Involuntary servitude had existed in those regions the longest, having originated there before spreading to other areas as the population gradually dispersed. Just as the northernmost sector of New Mexico was the first to implement captive slavery, so too did it become the last to eradicate it. During the 1860s—two decades after New Mexico became a part of the United States—the Catholic Church recorded 849 captive baptisms, of which almost half (413) took place in Taos and Rio Arriba Counties. Even as indigenous slavery waned during the antebellum years, baptism continued to be viewed as a form of spiritual salvation for Indians, allowing for their legal adoption into New Mexican families.

The federal government responded swiftly to reports of residents who continued to hold hundreds of servants against their will. Indian Commissioner William W. Griffin, a Radical Republican and staunch anti-slavery man, conducted a full-scale investigation beginning in 1868. His probe revealed that many New Mexicans did indeed retain servants within their households, although most field laborers seem to have been liberated by that point. This likely owed to the fact that domestic slaves could be more easily concealed indoors. According to Griffin, eighty-seven percent of northern New

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69 In 1865 Indian Agent Lafayette Head counted eighty-eight Indian captives being held in the San Luis Valley and an additional sixty-five in Costilla County, Colorado. Head himself continued to hold captive Indian children at that time. Pedro León, a former slave trader, likewise held at least two Paiute captives as late as 1870. See Sondra Jones, The Trial of Don Pedro León Luján: The Attack against Indian Slavery and Mexican Traders in Utah (Salt Lake City, UT: The University of Utah Press, 2000), 95.


71 See Murphy, “Reconstruction in New Mexico,” 106-109.
Mexico households with peons had only one under their charge at that time, with most families having therefore liberated at least some bondsmen. Grinn’s investigation resulted in 363 cases being brought against citizens who illegally held servants after implementation of the Thirteenth Amendment and subsequent 1867 Peon Law. The majority of these were Indian captives, with relatively few individuals remaining in debt bondage at that time. This suggests that peonage succumbed to abolitionist pressure first while Indian slaves—mostly women and children carried away from their tribes during raids—remained in servitude longer. The ability of New Mexicans to retain captives with minimal public opposition owed largely to rampant anti-Indian sentiments during the post-Civil War years, as both U.S. troops and civilian settlers continued to suffer disastrous defeats at the hands of nomadic tribes in the West. With news of hostile engagements between Anglo-Americans and Indians continuing to trickle eastward, civilians felt little remorse for such “savages” and few humanitarians ever took up their cause to advocate for the enforcement of Indian captivity laws.

When Griffin arrived in New Mexico, he immediately ordered that all persons held as slaves be brought before him, whereupon he notified them of recent federal mandates prohibiting servitude and informed them that “they were strictly and absolutely free to live where and work for whom they desired.” From that moment on, liberated peons and captives would be “at perfect liberty to go where and when they pleased,”

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72 It appears to have been rare for any New Mexico household to maintain more than two peons at any given time. Only the wealthiest landowners held more than half a dozen servants. About 75 percent of New Mexican families held only one Indian slave and 89 percent held two or less. James F. Brooks, Captives & Cousins: Slavery, Kinship and Community in the Southwest Borderlands (Chapel Hill, NC: University of North Carolina Press, 2002), 240.

73 Murphy, “Reconstruction in New Mexico,” 106.
although many of them chose to remain among the families with whom they had been living as dependents for much if not all of their lives.\textsuperscript{74} This behavior mirrored that of some emancipated African American slaves in the South; many of New Mexico’s landless Indian and Hispano servants could not sustain themselves financially, and therefore opted to remain with their former masters and benefactors.

Griffin’s investigation resulted in a detailed report on the extent to which involuntary servitude lingered as late as 1868. Of the 363 servants that he recorded, a mere 70 claimed Mexican ancestry as peons held in debt bondage, while 293 were Indian captives. Peons comprised only 19 percent of these cases, while indigenous slaves represented 81 percent, indicating the extent to which Indian captivity superseded debt bondage at that point in time. All but eleven of those 363 persons received their freedom in the legal proceedings that followed. In Taos County alone, 2280 households possessed a total of 176 peons, and thus a mere seven percent of homes appeared to defy the federal peonage law. Santa Fe and Rio Arriba Counties had a combined 4438 households, of which only forty-eight held servants (five Mexican peons and forty-three Indian captives), implicating Taos County as the last bastion of peonage. Unfortunately, territorial officials never recorded the number of homes with involuntary servants prior to the passage of the 1867 law, so it is impossible to accurately determine how many originally housed servants.\textsuperscript{75} It is also unlikely that the investigation revealed the true number of slaves held in those households, as masters could have easily concealed their

\textsuperscript{74} William W. Griffin to Stephen B. Elkins, September 28, 1868, NA, RG46, U.S. Senate Territorial Papers, Roll 14.

\textsuperscript{75} Brooks, Captives & Cousins, 351-52, 403.
servants before the inquisitors arrived or, even more likely, coached their captives and peons on what to say in order to deflect scrutiny.

Nearly three hundred New Mexicans were subsequently arrested for violating federal law by holding peons and captives. Ultimately, only 171 defendants appeared before the New Mexico District Court. Not surprisingly, a number of prominent and influential territorial officials, as well as Catholic priests, could be counted among this number. One such individual, Juan Jose Santistevan of Taos County, testified before a federal grand jury and attempted to exonerate himself and his fellow slaveholders of any wrongdoing. Santistevan assured the jurors that all of the servants remained with their masters on their own free will. “I know as long as I can remember that the Indians have been as servants,” he explained, alluding to the slave raids that had become so common and asserting that this longstanding captive trade between Hispanos and Indians justified the holding of such persons as servants and dependents. Historian Laura Gómez notes that Santistevan’s testimony “presents a system of slavery that includes intergenerational transmission of slave status” that usually passed from parents to children to grandchildren within the same household. It came as little surprise when the grand jury failed to return a single indictment in any of the several hundred cases. Drawn from Taos County citizens, the jury consisted of Hispanos who defended the institution of peonage and

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76 Murphy, “Reconstruction in New Mexico,” 106.

would have never convicted their fellow citizens and friends for engaging in a practice that many of the jurors themselves had likely partaken at some point in their lives.  

Just as New Mexicans continued to hold involuntary servants, so too did the region’s nomadic tribes retain a significant number of captives, many of which they took during the preceding decades of continuous slave raiding. In 1883, nearly twenty years after passage of the laws prohibiting slavery, Navajo agent Dennis Riordan reported that the tribe possessed as many as three hundred captives, most of whom had been abducted during intertribal warfare. “A regular slave system has been in active operation amongst these Indians from time immemorial,” Riordan explained. “The slaves are descendents of war captives and of persons sold into slavery from other tribes,” many having been mere infants at the time of their abduction. He specifically named the Ute, Comanche, Apache, Moqui (Hopi), and Jemez groups as being complicit in the ongoing trafficking of captives. Riordan worked to free some twenty of those slaves, but found it difficult and at times even impossible to dislodge servants from the Navajo tribe, which often assimilated them into their families and culture.  

A year later his successor, agent John H. Bowman, explained in his annual report that “the Navajos still hold some slaves,” but admitted that he could not think of an effective way to emancipate them. “Mr. Riordan,  


79 Riordan to Price, August 14, 1883, in 1883 Annual Report of the Commissioner of Indian Affairs, 121. At any given time in the nineteenth century, Navajos held between 300 and 500 slaves, comprising about five percent of the tribal population. See Brooks, Captives & Cousins, 249.
while agent here, brought some of them away from their owners and set them free,” Bowman wrote, noting that those liberated quickly returned to their Navajo masters. Long-entrenched systems of acculturation therefore persisted in both New Mexican and Indian societies late into the nineteenth century, and there was no simple solution for mitigating the issue.

Debt bondage in New Mexico does not seem to have persisted to any significant degree after the 1870s, nor did the enslavement of Indians last much beyond the 1880s, but many of those already held in captivity and dependency would remain in that condition for the rest of their lives. The family of Lucien B. Maxwell, who at one time owned the largest land grant in New Mexico and employed a large number of captives and peons on his vast estate at Cimarron, retained fifteen servants in 1870, seven of them Indian children. In northern New Mexico communities, the 1870 census listed a considerable number of persons—almost invariably under the age of twenty—whose birthplace was either “Navajo Indian Country” or “Pah-Ute Indian Country.” By that time, however, these comprised an extreme minority: 6 percent of Abiquiu’s population; 5.5 percent of Tierra Amarilla’s occupants; and a mere 3.5 percent of the inhabitants at Ojo Caliente admitted to having been born Indian. The manner in which indigenous captives continued to be subjugated and otherized, however, becomes evident in the census records, where their occupations are invariably listed as “domestic servants.”

Contrarily, New Mexico-born persons of similar social status listed their occupation as

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80 Bowman to Price, September 3, 1884, in 1884 Annual Report of the Commissioner of Indian Affairs, 135-36.

“keeping house,” a much less suggestive term than that of servant.82 This same discrepancy in occupational descriptions occurred after the 1860s, when the recent federal investigations and indictments, along with the Peon Law, induced residents to substitute the words “laborer” and “housekeeper” in place of “servant” when reporting their household data for census records.83

The perseverance of involuntary servitude after the Civil War can be traced directly to the long-running entrenchment of such institutions in regional society and culture. Perhaps nowhere in the United States had human bondage resulted in a more thoroughly amalgamated crucible of race and ethnicity than in the Southwest, where more than three centuries of continuous miscegenation between Euro-American colonists and indigenous captives produced a society of dependency altogether contingent upon systems of slavery and fictive kinship. Beginning in 1846, and lasting into the early 1870s, Anglo-Americans habitually misperceived the interconnectedness of human bondage with the development of kinship and community structures. As a newly-acquired entity of the United States, New Mexico found itself fully enthralled—albeit as a mere pawn—in the antebellum sectionalism that ultimately drove the nation to internecine conflict. After the culmination of that war, Hispanos resisted efforts to

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82 1870 U.S. Census. At Abiquiu, the census listed 44 of 728 persons as being ethnically Indian; at Tierra Amarilla, 22 of 399; and at Ojo Caliente, 9 of 258. With the census having occurred only a year after the federal investigations of 1868-1869, it is plausible that many households would have been wary of informing the census-taker that they held captives and thus the record may not be an accurate representation of how many Indian-born persons inhabited northern New Mexico communities at that time.

83 Censuses taken at the New Mexico village of El Cerrito reflect this changing nomenclature for servants and slaves. In the records for 1850 and 1860, the term ‘servant’ appears under the occupational category for some residents, whereas in the post-1870 censuses, only the words ‘laborer’ and ‘housekeeper’ are used. Richard L. Nostrand, El Cerrito, New Mexico: Eight Generations in a Spanish Village (Norman, OK: University of Oklahoma Press, 2003), 183-204.
eliminate debt peonage and Indian slavery despite black slaves having already received their statutory freedom in 1865. Consequently, New Mexicans would suffer the hamstringing political and economic effects of their noncompliance during a post-Civil War era in which Reconstruction policies and Radical Republican abolitionists reigned supreme at the federal level of governance. This defiance of federal law also left a permanent imprint on American democratic philosophy regarding servitude and free labor, as the persistence of Indian captivity and Mexican peonage after 1865 resulted in federal legislation that specifically banned both forms of slavery and, in so doing, expanded the parameters of the Thirteenth Amendment by broadening legal definitions of involuntary labor in the Reconstruction and Jim Crow eras.
CHAPTER 9
CONCLUSION

The famous escaped slave Harriet Jacobs, whose twenty-seven years of traumatic bondage in the South mirrored the untold tales of countless captives and servants in the Southwest, wrote of slavery that, “only by experience can anyone realize how deep, and dark, and foul is that pit of abominations.”¹ After being held captive among the Navajos for much of his life, a young Hispano man escaped to Fort Defiance in 1854, where he made the following statement to Major Henry Lane Kendrick, the commanding officer at the post:

My name is Sixto. My Father I can not recollect, my Mother’s name is Chipita Chavez who lived near Abique [sic] when I was taken Captive. I had five Brothers whos [sic] names are Teodor, Jose Maria, Francisco, Panochito, the fifth ones name I do not recollect. Margarita and Luz was [sic] the names of my two Sisters. I was in the field early in the morning when I was taken by the Yutah Indians, who sold me soon after to the Navajoes with whom I have lived eight years, and most of that time have been ill treated. There were several others taken Prisoners, but whom I have not seen since.

Like the thousands of so-called “contraband” slaves during the Civil War, who ran to Union troops for protection from recapture, this captive sought out the military in hopes that soldiers might assist him in his plight for freedom. Major Kendrick transcribed Sixto’s story, appended it to a brief letter of introduction, and sent him to Albuquerque where, one month later, he was reunited with his family.²


² Transcription by Henry Lane Kendrick, June 22, 1854, RG75, OIA, T21, LR, NMS, Roll 2; Henry L. Kendrick to W.S. Messervy, June 22, 1854, ibid; J.H. Carleton to W.S. Messervy, July 11, 1854, ibid. A handwritten note appended to the letters states, “Sixto Martin (the captive) was delivered on July 24, 1854 to Bautazar Martinez and José Ramón Martinez.” Ibid.
In the following words, Marijenia Figueira described her similar experience of captivity among the Chiricahua Apaches to Captain James H. Whitlock of the Fifth U.S. Infantry—the same army officer who was reprimanded when he stood up to superiors after being ordered to deploy troops for the recapture a runaway peon in 1865:

My father’s family lived at Banamichi, a small mining town in Sonora. When I was seven years old the town was attacked by Indians. Myself and sister were taken prisoners and carried off; also a few other children of the town; besides this all of the people of the town were killed, including my father and mother. . . . I have been a prisoner fifteen years; am twenty two years old [now]. During the whole time I have been a slave for [Chief] Louis and his family; have been treated well; have never been married; have no children.

Whitlock’s troops had just routed the small Apache band with whom Marijenia was living in southwestern New Mexico; she was among the sole survivors, the troops having spared her life during the skirmish.³

Over the following generations, thousands of women and children in the Southwest shared the stigmatizing experiences of captivity related in the brief but succinct oral accounts from Sixto and Marijenia. Their stories are singular only insofar as an American official took the time to jot them down on paper, preserving for posterity an infinitesimal glimpse into a borderlands of human bondage and society of dependency wherein almost anybody, at any moment, might be swept away from friends and family and reintroduced into a culture and society altogether distinct from that in which they had been reared. This harsh reality for residents of the Southwest—Euro-American and

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Indian alike—remained just as true in the 1850s as it had been in the 1750s or even the 1650s.

While captivity and peonage gradually met their demise in the years following the Civil War, the legacy of those systems manifested itself in the lives of many northern New Mexicans, whose genealogy and culture emanate from the institutions of human bondage that for centuries characterized personal and communal interaction in the region. Social and ethnic continuities demonstrate that such cultural distinctions remain firmly implanted in northern New Mexico communities. The most well-known public display of this heritage is *Los Comanches*, a ritualized performance involving a Comanche chief (El Capitán) and a captive girl (La Cautiva) in a *rescate*, or redemption ceremony.⁴

Twentieth century oral histories from elderly Nuevomexicanos also relate tales of grandparents or other distant relatives being taken captive by Apaches or Comanches in the 1800s. Señor Don R. Casados, for example, was born in 1893 to a Hispanic family in northern New Mexico’s Mora County. He remembered a story that his father often told about one Teofilo Cordova, who had been abducted by Jicarilla Apaches and held captive for over seven years before making his escape. After describing the ordeal that the young man endured, Casados admitted that, “The Spanish-speaking natives of the Territory

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many years back used to do the same things. They used to steal young Indian women and kept them to work as maids. Later, some joined in marriage.”⁵ Many others told similar stories of ancestors carried into captivity, often while herding livestock or attending to chores in the fields, a testament to the lasting impression that enslavement left on the collective memory of New Mexican society.⁶

Among New Mexico’s genízaros, individual families and entire communities continue to perform rituals and ceremonies that celebrate a multiethnic legacy, the annual feast of Santo Tomás at the village of Abiquiú being one of the more well-known examples. In many instances, however, this cultural consciousness is not outwardly expressed. Describing his twentieth century upbringing as a genízaro in the Chama River valley, Gilberto Benito Córdova remembered the difficulty that he encountered when attempting to learn about his ethnic heritage. Family members dismissed his inquiries, telling the curious youngster that the people of Abiquiú were all Indians, “It’s just that they don’t talk about it . . . they are secret Indians, masquerading as Mejicanos.”⁷ After reaching adulthood, Córdova preserved and perpetuated cherished customs through published renditions of oral tradition and folklore. He explained in 1973 that, “Present day Abiquiu is a Hispano village three hundred and sixty three days of the year. The remaining two days the villagers are actively conscious of their Genízaro origin . . . Hispano culture is put aside and the Indian heritage of Abiquiu, which on other days is

⁵ Alfonso Griego, Voices of the Territory of New Mexico: An Oral History of People of Spanish Descent and Early Settlers Born during the Territorial Days (Published by the author, 1985), 55.

⁶ Ibid., 39, 55, 99.

scarcely evident, receives its tribute.”

Throughout northern New Mexico, Catholic descendants of eighteenth century genízaros continue to perform these ritualistic observances of their multifaceted ethnic and cultural backgrounds.

In 2007, as a further testament to this important aspect of Southwestern culture, the legislature passed a memorial “recognizing the role of genizaros in New Mexico history and their legacy” and proclaimed them a state-recognized tribe, highlighting the continuity and perseverance of ethnic identity and tradition in local Hispano communities. The cultural hybridity of New Mexico’s genizaros exemplifies the far-reaching impact of the captive slave trade. As Córdova himself proclaimed, “The truth is that the genizaros are both Indian and Hispano. Genizaros are living bridges between the Indian and Hispano worlds. Genizaros are at the same time, Indian and Hispano. Since many genizaros came from Plains tribes, genizaros are also cultural bridges between the Pueblo and Non-Pueblo worlds. This is what it is to be a genizaro.”

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10 House Memorial 40, State of New Mexico, 48th Legislature, First Session, 2007; Senate Memorial 59, State of New Mexico, 48th Legislature, First Session, 2007.

So too has peonage retained a place in the consciousness of New Mexicans. In 1921, an elderly man named Donaciano Sandoval related a story to Refugio Vigil about his lifetime of servitude at the homestead of former New Mexico Governor Donaciano Vigil. Sandoval claimed to have been a servant to Vigil since the age of sixteen, and remained in such a condition well beyond the Civil War. Toiling alongside several other bondsmen, he recalled that “they did not feel like slaves and were not treated as such by the Governor, but rather as members of his family to be reared into manhood for some purpose.” Vigil’s mindset reveals the extent to which patrónes succeeded in asserting power through their society of dependency, cultivating feelings of security and loyalty simply by placing a roof over the heads of their peons. Following the Civil War—probably in response to increasing federal enforcement of the 1867 Peon Law—Vigil offered Sandoval and the others their freedom, but they declined the opportunity. “The question arose what was still due the Governor on what had been out on them, and the Governor told them the amount,” but assured his subjects that they need not continue working in repayment of their debt and were “free to go.” Nonetheless, all but one of the peons elected to remain with Vigil, a testament to the pervasiveness of fictive kinship and patriarchal bonds of dependency that developed through captivity and peonage.12

In 1967—exactly one hundred years after Congress approved the Peon Law—the Albuquerque Journal featured a front-page headline reading, “Suit Says Man Held In Peonage 33 Years.” Abernicio Gonzales, a ranch hand near the rural town of Cabezón in northern New Mexico, filed suit against Joe Montoya, the son of a deceased rancher who

12 New Mexico State Records Center and Archives, WPA Collection, Folder 82, Donaciano Vigil Oral Histories, Testimony of Refugio Vigil, June 30, 1939.
negotiated a verbal labor contract with Gonzales in 1933. Illiterate and unaware of his rights, the thirteen-year-old peon’s mother had sent him to work in repayment of a fifty dollar debt. Although the mother’s pecuniary obligation was to be satisfied after just eighty days of her son’s labor, the ambiguous nature of their unwritten arrangement proved sufficient to keep Abernicio bound for the next three decades. As the owner of the ranch, Elias Montoya verbally agreed to pay the boy fifty cents per day “plus food, clothing, and shelter,” if he would continue working there, and assured the unsuspecting lad that the wages would be deposited into the bank for him. When Gonzales began asking for his money in the 1960s, the Montoya family demurred, and when the now-middle-aged man sought employment elsewhere, the landowners “forcibly returned him to the ranch” and “beat Gonzales on different occasions.”13

The case seemed as though it had been pulled directly from a 1850s territorial court file. In almost every particular, it matched the plight of New Mexican peons a century earlier. Just like Mariana Jaremillo in 1857, Gonzales had been sent to work in repayment of a parent’s debt, and a simple verbal agreement had ensured that the young man would remain in a state of servitude for much of his life. Montoya provided food and shelter for Gonzales—as did most patrónes in order to increase one’s sense of dependency—but when it came time to collect his wages for many years of hard labor, the unfortunate peon found that the assets did not even exist and his master had no intention of paying him. When the aggrieved Gonzales decided to terminate his verbal contract and seek employment elsewhere, Montoya remanded him to service at the

Cabezon ranch and resorted to physical force in order to keep him there. Most aspects of the 1851 master-servant act and the 1857 New Mexico Supreme Court rulings—including minors in bondage, verbal contracts, corporal punishment, and forcibly recapturing runaways—were reflected in the suit that Gonzales brought against Montoya in 1967.

In Albuquerque, United States District Attorney John Quinn and FBI Special Agent Leonard Blaylock sent details about the case to their superiors in the Civil Rights Division of the Department of Justice and awaited instructions on how to proceed. In the meantime, Albuquerque attorney Ed Parham, who handled the case for Gonzales, told newspaper correspondents that “almost half the Spanish-American or ranch workers in the northern New Mexico counties are laboring in semi-peonage.” Such individuals, he claimed, worked from sunup to sundown in exchange for food and housing, under the cultivated assumption that wages were being deposited into bank accounts to provide for their welfare in old age. “Abernicio is not alone,” Parham insisted, estimating forty to fifty percent of northern New Mexicans to be “in a state of semi-peonage” despite the federal minimum wage law having been recently extended to encompass agricultural workers and ranch hands. Just as they had done in the antebellum era, New Mexican landholders skirted ambiguous laws and manipulated verbal contracts in order to retain cheap dependent labor. By the 1960s, according to Parham, some ranchers even threatened to inform the Internal Revenue Service of any peon’s failure to report years of income whenever one complained about their situation or asked that their wages be
delivered to them.\textsuperscript{14} Thus, one hundred years after the fact, residual elements of debtor servitude continued to exist in northern New Mexico, operating within a system of labor that relied upon cultural tradition, geographic isolation, and a certain amount of salutary neglect in order to retain workers in bondage. The fact that Gonzales’s claims about his condition and treatment so closely resembled those of peons a century earlier suggests that, while debt bondage declined in prominence and visibility, it remained little changed in practice where it did continue to exist.

Peonage also assumed an active presence in modern Hispano culture and oral tradition. As a ten-year-old boy growing up near Belen, New Mexico in the mid-1950s, Anthony Romero recalls trips with his grandfather to visit “Don Silvestre,” from whom locals would purchase bottles of wine. As they quibbled over details of the transaction, the elderly winemaker would often motion towards the child while asking the grandfather, “\textit{cuánto por el peón?}” (“how much for the peon?”). “I assumed as a young boy that if my grandfather sold me to Don Silvestre, that he would put me straight to work in his vineyards,” Romero says, recalling that the dynamics of the situation made a strong impression on him. The circumstances surrounding the seemingly harmless question are compelling for their perpetuation of inegalitarian social relationships revolving around largely defunct systems of coerced labor and dependency. According to Romero, Don Silvestre and other locals used the phrase only in reference to children,

thus denoting status and authority in terms of age and applying the third level of other discussed in the introduction to this volume.

The fact that many nineteenth century parents contracted their children into peonage for repayment of debt suggests a more sinister element to Don Silvestre’s question, which also inferred leverage over Romero’s grandfather in the deal that was about to occur. The implication was that the young boy could be exchanged for the wine, should the man lack sufficient funds to buy the product outright. Furthermore, the insinuation that the lad could be purchased indicates a sense of ownership over him in much the same way that a *patrón* owned the labor of a peon in the 1800s, or that an eighteenth century master might trade an Indian captive for a horse or a gun in the Taos marketplace. While the question “*cuánto por el peon?*” was no doubt posed in jest—a grandfather in the 1950s would not have sold his grandson into peonage at the local vineyards, nor could Don Silvestre have bought a child without violating federal law—the language used and the circumstances surrounding the event speak volumes about the cultural legacy of peonage and dependency as markers of social status and authority in New Mexico.¹⁵

The two systems of slavery that evolved during New Mexico’s colonial period changed drastically throughout the nineteenth century, yet they remained an important element of the Hispano experience and continue to resonate in the modern era. While the cultural and ethnic components of peonage and captivity are known throughout northern New Mexico, their impact on judicial and political ideology in the United States remains

¹⁵ Interview with Anthony Romero, Santa Clara, New Mexico, September 16, 2014.
much more obscure in the historiography of American slavery. Despite this lack of recognition, debt bondage and Indian slavery became a catalyst for broadened conceptualizations of involuntary labor in the United States, resulting in an expansion of the Thirteenth Amendment to include additional forms of servitude beyond the familiar African-American chattel system of the antebellum South. Just as this narrative had two strands—one cultural and social, the other political and ideological—so too did the twentieth century legacies of captivity and peonage diverge in both directions. While these systems of servitude persevered in the oral traditions and cultural practices of Hispanics in the Southwest, debt peonage also attained newfound judicial importance in many Southern states during the Jim Crow era.

While debt peonage was largely eradicated in New Mexico, where expanding merchant capitalism and the arrival of the railroad in 1879 precipitated the proliferation of wage labor and free markets, the system shifted to the South and became a mechanism whereby rural plantations and farms, as well as corporate mining operations, retained African Americans in a modified form of labor bondage.16 As historian Steven Hahn has noted, “during the age of Jim Crow, a highly repressive regime of capitalist social

relations increasingly engulfed the [Southern] countryside,” with criminal lessees, chain gangs, peons, and sharecroppers filling the labor void that emancipation created. 17

The primary operational difference between the forms of peonage that existed in New Mexico and in the South involved the manner whereby a person came into debt. Criminal conviction provided the chief method for Southern corporations and white farmers wishing to secure cheap black labor. A nefarious petty charge—usually vagrancy, theft, gambling, or even cursing—was sufficient for local sheriffs to arrest anybody they wished and place them on immediate trial, the purpose being to impose a fine and court costs, which forced the accused individual (almost invariably a black man of working age) into a debt that they could not afford to repay. A nearby farmer or mine superintendent, acting as a sort of bail bondsman, would then cover the fines and fees for the unfortunate convicts in exchange for a prefigured duration of labor, typically several months to one year. Once a “convict” neared the completion of that term, new charges would often be levied, with masters and creditors accusing the peon slave of attempted escape, sexual assault, or some other contrived crime in order to prolong the servitude. In the South, then, debt peonage and convict labor became virtually synonymous within a penal system that perpetuated a sort of neo-slavery into the twentieth century. 18

In New Mexico, by contrast, little evidence exists to suggest that criminality was used as the method for creating a debt obligation, nor did a criminal lessee system


18 See Blackmon, Slavery by Another Name.
develop there to any significant extent. Instead, Nuevomexicanos in rural areas came into financial arrears simply by borrowing or purchasing consumer goods on credit, with the understanding that the amount owed would be repaid through an unwritten labor contract with the hacendado or landowner from whom they acquired the items or received the loan. In a system that might be likened to Southern sharecropping, many of New Mexico’s peons also worked as herdsmen on sheep ranches, where a *patrón* advanced them a certain number of animals to raise and shear in exchange for a predetermined portion of the wool harvest. Aside from the initial causes of indebtedness, however, the two regional systems of peonage operated similarly in that they permanently enslaved the indebted subject and provided strict punishments for those who attempted to escape or otherwise deviated from the terms of their labor contract. For this reason, the form of peonage that developed in mid-nineteenth century New Mexico, the political debates surrounding it during the Civil War era, and the laws passed to end it during Reconstruction all became critical precedents for early 1900s judicial proceedings that abolished debtor servitude in the Deep South.

Writing in 1888, Booker T. Washington lamented that the issuance of credit and concomitant debt servitude had already become a technique whereby “colored people on these plantations are held in a kind of slavery that is in one sense as bad as the slavery of antebellum days.” In 1935, the famed African American sociologist and political activist W.E.B. DuBois wrote of the postbellum era that, “the wage of the Negro worker, despite the war amendments, was to be reduced to the level of bare subsistence by

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taxation, peonage, caste, and every method of discrimination.”\textsuperscript{20} Thus, the same form of coercive labor that Congress banned in New Mexico subsequently appeared in the South within two decades of the Peon Law being passed and persisted there into the twentieth century. In this sense, Southwestern peonage served as an operational prototype for the systems of involuntary servitude that developed in the New South, a fact that many district and federal judges of the Jim Crow era explicitly recognized when tracing the precedent of oppressive labor regimes to the form of debt bondage that existed in territorial New Mexico.

Despite Booker T. Washington’s pleas for action, another decade would pass before the first major peonage case was brought before a judge. A Georgia district court heard a suit in 1899 charging the defendant with holding “persons of African descent” in bondage as peons. The prosecutor relied upon the 1867 congressional ban on peonage in New Mexico as the basis for criminality. District Judge William T. Newman ruled that the system of debtor servitude in New Mexico, upon which the 1867 law had been formulated, never existed in Georgia and that all allegations of wrongdoing were therefore ill-conceived. “It would be the merest perversion of this act to attempt to apply it to an ordinary case of restraint of personal liberty,” he declared, “and the case is not strengthened by the charge that the person so restrained is of African descent.”\textsuperscript{21} Several judges in Florida, Alabama, and Georgia disagreed with this ruling, which implicitly


\textsuperscript{21} United States v. Eberhart, 127 F. 252 (February 24, 1899). See also Blackmon, \textit{Slavery by Another Name}, 172-73.
found the 1867 Peon Law to be inapplicable because, according to Judge Newman’s subjective rationale, a law forbidding peonage could not be used if peonage did not exist in the first place.\textsuperscript{22}

In 1904, a similar case involving Samuel Clyatt of Florida and two runaway African American peons, Will Gordon and Mose Ridley, reached the U.S. Supreme Court and resulted in a ruling that upheld the constitutionality of the 1867 Peon Law. That landmark decision, written by Associate Justice David J. Brewer, specifically alluded to the 1857 case \textit{Jaremillo v. Romero}, in which New Mexico Supreme Court Judge Kirby Benedict provided the first judicial precedent on peonage in the United States. In 1901, the circuit court for the northern district of Florida passed down a conviction in the initial case, finding that the defendant forcibly returned the two peons, Gordon and Ridley, to a condition of bondage and therefore sentenced Clyatt to a somewhat ironic punishment of four years of hard labor. The appeal argued that the 1867 Peon Law, upon which the 1901 ruling had been formulated, pertained only to U.S. territories and had no legal bearing in the states. Furthermore, the appellants contended that the Thirteenth Amendment did not apply to peonage because that system did not constitute involuntary servitude—the exact same argument that New Mexico legislators advanced in the 1860s when amending territorial master-servant codes to define peonage as strictly voluntary.

To the charge that peonage had been variously classified as voluntary or involuntary in nature, the court decided that such a distinction emanated simply from the origin of the servitude in either debt or criminal conviction. Aside from the point of

\textsuperscript{22} For a similar case that utilized this argument, see Blackmon, \textit{Slavery by Another Name}, 226.
derivation, then, the characteristics of the actual labor were identical and therefore the court concluded that “peonage, however created, is compulsory service—involuntary servitude.” Delivering the court’s opinion, Justice Brewer described peonage as “a status or condition of compulsory service, based upon the indebtedness of the peon to the master,” and stressed that “the basal fact is indebtedness.” Using New Mexico’s Jaremillo v. Romero case as precedent and the 1867 Peon Law as supporting legal doctrine, the court recognized the applicability of the Thirteenth Amendment’s ban on involuntary labor to cases involving peonage, and therefore declined to reverse the conviction of Samuel Clyatt.23 The Supreme Court thus affirmed the far-reaching implications of New Mexican peonage for America’s judicial and political institutions.

Three years later, South Carolina District Judge William H. Brawley, who lost an arm fighting for the Confederate Army during the Civil War, conformed to the Supreme Court decision when ruling on a similar case involving peonage. The state of South Carolina passed a law in 1904 that recognized both written and verbal labor contracts, allowing for prosecution and imprisonment via chain gang for defaulted debtors, “the great body of [whom], as is well known, are negroes.” The law provided that conviction and chain gang service only satisfied the legal requirement for punishment and did not release debtors from their contractual obligation, effectively perpetuating servitude even after the guilty party satisfied court-mandated sentencing. The case involved Enoch and Elijah Drayton, African American twin brothers, who allegedly failed to complete the

tasks assigned to them by their creditor, R. Lebby Clement of Charleston County. The petitioners and their counsel alleged that the 1904 South Carolina statute “constituted an attempt to secure compulsory service in payment of a debt” and thus violated both the Thirteenth Amendment and the 1867 Peon Law.24

Like the Supreme Court before him, Judge Brawley invoked mid-nineteenth century Southwestern peonage as a judicial measuring stick when formulating his decision in the case. He quoted former territorial Secretary William W.H. Davis’s 1857 book *El Gringo; or, New Mexico and Her People* at length to describe the nature of debtor servitude “as it existed in New Mexico,” with the specific intent of demonstrating that a system of veritable slavery might result if South Carolina’s 1904 master-servant law remained in effect. The judge used the 1867 Peon Law and the 1904 Supreme Court ruling in the Clyatt case to support his opinion that the South Carolina statute’s only purpose had been to “secure compulsory service” and, in so doing, “provide a coercive weapon to be used by the employer.” In ruling the law unconstitutional, Brawley condemned peonage as a mechanism of social and physical oppression and declared that, “to compel one person to labor for another against his will is legalized thralldom.” Based on his readings of New Mexico peonage in the antebellum era, and in conformity with the legal doctrine that had been established over the preceding four decades in response to that Hispano labor system, Brawley discharged the two brothers as free men and affirmed unequivocally that any type of coerced labor “is as degrading as that of slavery.”25

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25 Ibid., quotes on 988, 992, 996.
Even with the Clyatt and Drayton decisions, however, salutary neglect towards peonage prevailed throughout the South for decades to come. The attorney general’s 1907 annual report noted 83 peonage complaints pending with the Department of Justice at that time. Prompted by the increasing prevalence of such lawsuits and widespread noncompliance with the Supreme Court ruling, United States Assistant Attorney General Charles W. Russell conducted a four-month investigation of debtor servitude in several Southern states. He submitted a formal report recommending “that an incessant fight be made against peonage,” pointing out that Congress must amend the legal definition to encompass “the holding of persons in servitude whether in liquidation of an indebtedness or otherwise.” Directly referencing the recent decision of Judge Brawley in South Carolina, Russell explained that Southern states used a variety of fraudulent methods to force blacks into a contrived debt, including laws pertaining to contract labor, vagrancy, and even basic employment. Such statutes, he said, “should all be wiped out or so amended as to be harmless for the purpose of enslaving workmen.”

Although a 1911 court case overturned Alabama’s debtor servitude laws, most residents—and even some local and state judges—ignored that ruling just as they had cast aside the Supreme Court decision six years earlier, and much like many New Mexicans had done following passage of the federal Peon Law in 1867. Not until the World War II era—when the Supreme Court heard two cases involving repayment of advance wages and breach of contract in Florida and Georgia—did the federal judiciary


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authoritatively preclude peonage in practice. The effectiveness of these two rulings, however, had less to do with a newfound dedication to compliance or enforcement on the part of Southerners, than with the fact that industrialized mining and mechanized farming had begun to render peonage obsolete and unprofitable.²⁷

Over the first four decades of the twentieth century, hundreds of cases were heard throughout the nation relative to debt peonage; in the vast majority of instances, the hearings pertained to black persons of lower social and economic status who had become veritable slaves on the basis of an imposed debt.²⁸ In this sense, the Thirteenth Amendment and subsequent Peon Law had only a moderate impact in alleviating persons from involuntary servitude, especially in the Southern states, which remained predominantly rural and required manual labor to sustain cotton farming and coal mining. Not until after World War II, following more widespread regional industrialization, did the need for agricultural workers begin to wane in the South. Thus, while peonage mostly disappeared in the Southwest by the 1870s, it persisted and even expanded in other regions until the 1940s.

In a chilling continuity, strict laws against “Slavery, Peonage, and Trafficking in Persons” remain in effect to this day and are outlined in the U.S. Code.²⁹ Indeed, the

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²⁹ Ch. 77, Title 18, U.S.C., Sec. 1581. The current law mandates that, “whoever holds or returns any person to a condition of peonage . . . shall be fined under this title or imprisoned not more than 20 years, or both.” The law was last amended in 2000, when the term of imprisonment was increased from ten years to twenty years. Ibid. See also Alexander Tsesis, *The Thirteenth Amendment and American Freedom: A Legal History* (New York, NY: New York University Press, 2004), 157-60.
legacy of human labor trafficking has deep roots in the Southwest and its systems of slavery, dating back to prehistoric times, when Native peoples exchanged captives between tribes. The Southwest is still the nation’s largest theatre for such trafficking, a reality that originated with the Indian slave trade and proliferated during the Spanish colonial and Mexican national periods. The illicit movement of people across geopolitical spaces and boundaries continues today with the illegal trafficking of undocumented immigrants through the deserts of southern California, Arizona, New Mexico, and Texas. One cannot help but notice some irony in the fact that the same sobriquet for Indian captives in colonial New Mexico’s casta system—coyote—is now the term used for the exploitative opportunists who guide Mexican and Latin American immigrants, including many children and even some sex slaves, across the international border in a network of human labor trafficking that exceeds the earlier system of Indian slavery in both sheer numbers as well as operational sophistication.  

The systems of coerced labor that first developed in Spanish New Mexico’s society of dependency became critical to the reformulation of political and legal thought during the Civil War, Reconstruction, and Jim Crow eras, and the legislative and judicial precedents set in the Southwest continued to influence American democracy and jurisprudence well into the twentieth century. Although chattel slavery dominated everyday discourse in the antebellum United States, and federal mandates during the Civil War—including the First and Second Confiscation Acts, the Emancipation

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Proclamation, and the Thirteenth Amendment—aimed primarily to liberate black slaves in the rebellious South, debt peonage and Indian slavery also played an important role in the nation’s nineteenth century ideological transformations. Just as many American lawmakers, judges, public officials, and humanitarian reformers came to understand in their own time that slavery was not confined to the South’s chattel system, so too must we as scholars and citizens begin to think about peonage and captivity within the paradigm of slavery, as they both significantly impacted the expansion of democratic free-labor ideology in the post-Civil War United States. Without the political and legal understandings of New Mexican peonage and captivity established during the antebellum and Reconstruction eras, federal district court judges and U.S. Supreme Court justices would have lacked the necessary precedents to attack similar systems of involuntary servitude that developed in the Jim Crow South. In order to fully understand American slavery and the changes in social, political, and legal institutions wrought by the Civil War, debt peonage and Indian slavery must be accorded their rightful place in historical discussions about the nation’s second democratic revolution and its legacy in shaping evolving American identities ever since.
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