



## **Religious Pilgrims or Pirates with Ideas?**

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### **Introduction**

According to Webster's dictionary, the legal definition of piracy is defined as "an illegal act of violence, detention, or plunder committed for private ends by crew or passengers of a private ship or aircraft against another ship or aircraft on the high seas or in a place outside the jurisdiction of any state."<sup>1</sup> Said another way, piracy is the unauthorized use of another's production.<sup>2</sup> The provenance of Colonial-American history tells us that the United States of America was founded as a so-called "sovereign-state" while also building an empire on the

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<sup>1</sup> See [<https://www.merriam-webster.com/dictionary/piracy>].

<sup>2</sup> See *Id.*

extortion of black and brown bodies.<sup>3</sup> Historians estimate that about twelve and a half million Africans were stolen from Africa to be sold as slaves in the Trans-Atlantic Slave Trade.<sup>4</sup> About eleven million of those chattel-enslaved humans survived the conditions of the voyage imprisonment; some half-a-million Africans were trafficked for labor/production while those humans were also bred with one another like livestock in the English-speaking colonies.<sup>5</sup> Estimates of ten times as many of the stolen Africans endured similar conditions of bondage and extortion at the whim of the Spanish empire.<sup>6</sup>

Examining the social construction of reality as a mechanism of natural language, neuroscience, and developmental psychology may illuminate how the legal history of colonization (institutionalized racial and economic subordination) remains present today. If considered as a function of piracy, where piracy is held constant as an intercommunal crime, the continuous and quantifiable deprivation of “non-whites” access to historic and contemporary institutions of cultural influence may serve to indicate the extent to which the international criminal conduct of slavery continues unrepaired today. This report will argue that “non-whites” remain minoritized today in persistently white institutions because these communities also remain physically, mentally, spiritually, and economically dominated as a continuing function of the same Eurocentric institutional powers and ideas that initially concerted the international human-trafficking scheme known today as the institution of trans-Atlantic slavery.<sup>7</sup>

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<sup>3</sup> See Cheryl I. Harris, Whiteness As Property, 106 Harv. L. Rev. 1709, 1714 (1993).

<sup>4</sup> See <https://www.abhmuseum.org/how-many-africans-were-really-taken-to-the-u-s-during-the-slave-trade/>

<sup>5</sup> See *Id.*

<sup>6</sup> See *Id.*

<sup>7</sup> See *supra* note 3, at 1757.

This report aims to critique the international legal history of American chattel-slavery and provide decolonial thought perspectives for discussing the provenance of any human rights historically deprived from African human-beings initially trafficked to the Americas and their descendants that remain socioeconomically and culturally subjugated by the similar “sovereign-state” apparatuses today. Part I will provide a brief historical overview of the symbiotic relationship between historical conquests of European piracy and the legalization of “whiteness” as the most privileged social status in the United States of America. Part II will argue that—historically—the United States’ legal institution have never secured so-called “freedom” for the American descendants of slaves simply because the descendants remain beholden to the information distribution mechanisms of the colonial-settler institutions. The conclusion will expand on the claim that institutional tools of piracy continue to uphold historic Eurocentric mechanisms of cultural oppression, erasure, and other systematic human rights violations.

The contentions in this report serve as a decolonial frame for contemporarily analyzing a function of confluences between the provenance of international legal history and morality. Without systemic reforms centering the perspectives of the most oppressed Black and Indigenous communities of color, the legalized deprivation of equal and equitable access to the full protection of the rule of law may continue to prevail as pirate’s legal precedent. At the same time, the plethora of pillaged economic privileges preserved by the unshared provenance of legal history and original textual authority said to make up Anglo-American law may replicate the generational harms of racial and economic subordination in order to uphold “whiteness” as the ideological center of the public.

### **The Provenance of Anglo-American Legal History and Piracy**

Indeed, “[t]he origins of whiteness as property lie in the parallel systems of domination of Black and Native American peoples out of which were created racially contingent forms of property and property rights.”<sup>8</sup> Said another way, the legal foundation of any notions of property rights in the United States are built on the intention of racial and economic domination.<sup>9</sup> The social construction of race and property were intentionally conflated to establish a doctrinal precedent of Anglo-American property.<sup>10</sup> Because this doctrinal precedent was established by “the conquest, removal, and extermination of Native American life and culture [and became repeatedly] ratified by conferring and acknowledging the property rights of whites in Native American land,” all public and private property rights granted by a colonial-settler government are more accurately stolen entitlements.<sup>11</sup> Thus, the privileges and institutional access afforded with “whiteness” today originate from the success of the pirates who sought to exterminate Native American life and live luxuriously by systematically exploiting Black people.

Still, legal analysis of the history of piracy is needed to uncover how pirates, as opposed to pilgrims, successfully trafficked stolen Africans and wantonly plundered the resources of the Americas. “Piracy was fairly prevalent during the early days of the American Republic and at a time when the seas were infested with brigands who made a regular practice of robbery and seizure of merchant vessels for private gain.”<sup>12</sup> Piracy can include a range of activities. “Acts of piracy may include homicide, robbery, burning or enslavement.”<sup>13</sup> “It is

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<sup>8</sup> *See supra* note 3, at 1714.

<sup>9</sup> *See supra* note 3, at 1715.

<sup>10</sup> *See supra* note 3, at 1716.

<sup>11</sup> *See supra* note 3, at 1716.

<sup>12</sup> § 10:42.Piracy, 1 *The Law of Seamen* § 10:42 (5th ed.).

<sup>13</sup> *Id.*

not necessary that the motive be plunder, or that the depredations be directed against the vessels of all nations indiscriminately, it being sufficient that the act is an act of depredation on the sea with a felonious purpose.”<sup>14</sup>

Supposedly, the question as to whether the human-trafficking that hallmarked the era of Trans-Atlantic Slavery is answered by,

“...the conclusion that the liability of the vessel to seizure, as piratical, turns wholly upon the question whether the insurgents had or had not obtained any previous recognition of belligerent rights, either from their own government or from the political or executive department of any other nation; and that, in the absence of recognition by any government whatever, the tribunals of other nations must hold such expeditions as this to be technically piratical.”<sup>15</sup>

In 1885, American courts were describing piracy as “the offense of depredating on the high seas without being authorized by any sovereign state, or with commissions from different sovereigns at war with each other.”<sup>16</sup> These shared meanings for “piracy” seem to indicate a symbiotic relationship between slavery and piracy laws that historically absolve the liability of European slavers who were commissioned to traffic humans from Africa merely because of the textual authority of the permission declared onto them by their own respective sovereigns.

Again, by articulating a requirement for a need to gain a sovereign’s permission to plunder as a matter of law, the European powers dominating the provenance of chattel-slavery’s legal history could obscure the inherent dehumanization of pirating Black and Indigenous people. This reasoning also provides for speculation around why those European settlers that would go onto govern the colonies of America would also never be required to pay reparations for

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<sup>14</sup> *Id.*

<sup>15</sup> The Ambrose Light, 25 F. 408 (S.D.N.Y. 1885).

<sup>16</sup> *Id.*

slavery themselves. Because colonists gained permissions from their sovereign monarchs to begin the slave trade across the high-seas, and were subsequently endowed by the authority of the ruler of divine right, the colonists were probably not understood by themselves to be acting as pirates. The same reasoning could be applied when analyzing the legal history of the establishment of all European-based colonial-settler states including those of the Spanish, French, and Dutch empires.

### **The Mind and Body Dilemma**

The social studies of information distribution reveals that “people’s biological constitution does not...order their relationship to their environment,” and instead that human-beings must interpret, define, and endow their surrounding environment with meanings in order to survive.<sup>17</sup> When humans endow their environment with meanings that are shared, humans simultaneously promote the coordination of action.<sup>18</sup> The intersubjective nature of the environmental meanings endowed within a given cultural radius assume objectivity, status as Truth, distinguishable from the individual’s experience.<sup>19</sup>

Given that legalized slavery existed across more generations in the United States of America than not, it is important to consider the generational repercussions impacting the African descendants in the west of whose ancestors were enslaved by Europeans; because about ten times as many Africans were stolen and forced into South America as were into North America, the contemporary issue of determining appropriate compensation in the form of economic reparations for slavery requires an analysis with an international scope. The process for

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<sup>17</sup> Peter Berger & Thomas Luckmann, *The Social Construction of Reality*, Inside Social Life, Readings in Sociological Psychology and Microsociology, Seventh Edition, Oxford University Press, 1966.

<sup>18</sup> *Id.*

<sup>19</sup> *See Id.* at 9.

indoctrinating children into a shared intersubjective experience is known as socialization; the objective of socialization as a process is to bridge a gap in the shared reality of the collective and that of the individual.<sup>20</sup>

Further, slavery, as a generational-wealth building institution in the Americas and reality for Black people born into it, a more deeply engrained reality for those born into the institution notwithstanding that contemporary social science tells us that the relationship between shared realities and that of the individual is never concrete.<sup>21</sup> The correspondence between objectivity and subjectivity must constantly be maintained and confirmed in natural language conversation by that which is most often taken for granted.<sup>22</sup> The enslaved were constantly brutalized to reaffirm their racial and economic subordination across colonial-settler states of North, Central and South America.

Ultimately, if a natural language that functions to classify, typify, and define experiences, while reinforcing the prospects of intersubjective assumptions as expressed through the language granted by the oppressor, then those formerly enslaved and their descendants remained consciously enslaved by to the ideological barriers of the colonizer. Shared meanings and social definitions constituting reality also include meanings for the kinds of people, identities, or psychologies may be manifested from within a given society; a so-called “intersubjective” meaning may also define how a society’s populations may think, feel, and behave.<sup>23</sup> The assessment of an identity or an individual’s behavior is, therefore, always relative to the broadest construction of a given reality.<sup>24</sup> These processes of socialization may apply across artificially

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<sup>20</sup> *Id.*

<sup>21</sup> *Id.* at 10.

<sup>22</sup> *Id.*

<sup>23</sup> *See supra*, note 17, at 10.

<sup>24</sup> *Id.*

created national borders. In America, “[b]ecause the children of Blackwomen assumed the status of their mother, [more] slaves were bred through Blackwomen's bodies” as a method for increasing the quantity of the labor production force.<sup>25</sup> The children born into servitude also had to be socialized to the world around them; their primary and secondary socialization processes were also defined by the conversational and lived reaffirmations of the reality they lived as enslaved human-beings.

## **Conclusion**

In sum, the core of Anglo-American common law assumptions do stem from the institutionally favored implicit and explicit biases of those that benefit most by phenotypical proximity to the legacy of historic piracy behind the colonization of the United States and the Global South. This claim is valid even after a right to private present and future property interests in the value of their own physical labor was legally redacted from the individual property-owning white man by the so-called “Emancipation Proclamation,” because without access to the tools for sharpening critical thinking skills that are hoarded in persistently white higher education institutions, cycles of generational poverty are reinforced. More literature discussing the processes of primary socialization/secondary socialization, legal history, and generational trauma could be used to further uncover and assess the extent of the enduring subjugation of the oppressed person’s thoughts based on the social studies of information distribution and the lack there of.

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<sup>25</sup> See *supra* note 3, at 1719.