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Mexican Religion on Trial: Race, Religion, and the Law in the U.S.-Mexico
Borderlands

A Dissertation submitted in partial satisfaction
of the requirements for the degree of

Doctor of Philosophy

in

History

by

Daisy Vargas

September 2018

Dissertation Committee:

Dr. Jennifer Scheper Hughes, Chairperson

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The Dissertation of Daisy Vargas is approved:

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ABSTRACT OF THE DISSERTATION

Mexican Religion on Trial: Race, Religion, and the Law in the U.S.-Mexico
Borderlands

by

Daisy Vargas

Doctor of Philosophy, Graduate Program in History
University of California, Riverside, September 2018
Dr. Jennifer Scheper Hughes, Chairperson

My dissertation, *Mexican Religion on Trial: Race, Religion and the Law in the U.S.-Mexico Borderlands*, presents three critical junctures in United States history (between the nineteenth century and the present) to explore political and legal discourses surrounding Mexican Catholicism after the Mexican-American war. This research employs historical, archival, and ethnographic methods. My analysis of numerous legal case studies, law enforcement training manuals, oral histories, ethnographic methods, and archival documents reveal processes by which Mexican Catholic practices and performances become signifiers of illegality and criminality, used as evidence against the inclusion and extension of national and cultural citizenship. While the surveillance of Mexicans communities reflects increased anxiety and suspicion about immigrant communities and their religions in the 9/11 period, this history positions contemporary legal debates on Mexican religion within a larger history of anti-Mexican and anti-Catholic attitudes in the Southwe

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Introduction

This dissertation is a legal history of popular Mexican religious practices in the United States after the Mexican-American War. It presents three distinct historical moments reflecting religious practices popular among Mexican American communities, paying particular attention to longer histories of legislation, persecution and criminalization through the twentieth century and the contemporary moment. I argue that contemporary legal conflicts related to Mexican popular religion are rooted in a longer history of anti-Mexican and anti-Catholic sentiment. These three historical moments span the late nineteenth century to the present. I begin with the Hermanos Penitentes in Atrisco, Albuquerque, New Mexico, a Catholic lay confraternity asserting their right to their ancestral worship places in the face of changing economic interests and redevelopment projects. This is followed by the history of curanderismo in California in the twentieth century, when Mexican folk healers found themselves under the scrutiny of both the medical establishment and state officials. After my discussion of curandero practices in botanicas in the late twentieth century and the present, I conclude with the contemporary practice of law enforcement and racial profiling practices related to Catholic material culture. Though rooted in a longer historical narrative, all three chapters reflect contemporary practices of religion among Mexican communities.

I situate my analysis at the intersection of histories of settler colonialism, religion, race and critical criminology. Foundational to discourses of citizenship, criminal illegality, and secularism that have circulated around Mexican religious

practice, is a history of occupation, displacement, violence, and empire. These histories provide the crucial context for understanding the United States' relationship to religious practice in annexed and ceded Mexican territories and also in relation to indigenous and Native American experience. Recent work on Mexican religion focuses on transnational devotional traditions, religious conversion to Protestantism, and migrant labor.¹ While my work also contributes to the history of Mexican immigration, I strive to engage the long history of Mexican communities with ancestral and territorial claims to the Southwest before American occupation.

This project is situated in the context of relevant literature related to Mexican American histories of religion. Scholar of religion, Gaston Espinosa's 2008 historiography of Mexican American religion begins with the ecclesial histories of religion in the Southwest at the turn of the twentieth century, using an "ethno-phenomenological" approach in employing theological concepts to religious histories.² Luis D. Leon, historian of Chicana/o religion, positions history in a postcolonial frame, decentering and disrupting dominant historical narratives of Mexican-American religion. Leon's historiography of Chicana/o religion, "Terror of

¹ See Jacqueline Maria Hagan, *Migration Miracle: Faith, Hope, and Meaning on the Undocumented Journey*, (Cambridge: Harvard University Press, 2009); Daniel Ramírez's *Migrating Faith: Pentecostalism in the United States and Mexico in the Twentieth Century*, (Chapel Hill: University of North Carolina Press, 2015); Julia G. Young's *Mexican Exodus: Emigrants, Exiles, and Refugees of the Cristero War*, (New York, Oxford University Press, 2015);

² Gaston Espinosa, "History and Theory in the Study of Mexican American Religions." *Mexican American Religions: Spirituality, Activism, and Culture*, 2008.

Postcolonial History,” employs a Chicana/o Studies approach, beginning with the colonial histories of Mexican indigenous religion, and traces Mexican-American history into the twentieth century to the Chicana/o movement of the late 1960s, tying Mexican religious expression to Chicana/o nationalism.³ Timothy M. Matovina’s *Latino Catholicism; Transformation in America’s Largest Church*, provides a comprehensive history of the Latina/o Catholic experience to highlight their presence and impact on the contemporary United States Catholic Church.⁴ Historian Brett Hendrickson turns a critical gaze towards the politics of curanderismo and cultural exchange, making it clear that contact between different cultural groups in the U.S.-Mexico borderlands “highlights[s] the political, economic, and cultural differentials of power.”⁵ Hendrickson, as well as other Religious Studies scholars including R. Andrew Chesnut, Lois Lorentzen, and Frank Graziano, also focus their studies on Mexican and Mexican-American folk saints, paying particular attention to their geographic and political positions in the American Southwest and their transnational appeal.⁶

³ Luis D. Leon, “the Terror of Postcolonial History,” *La Llorona’s Children*, Berkeley: University of California Press, 2004.

⁴ Timothy Matovina, *Latino Catholicism: Transformation in America’s Largest Church*. Princeton University Press (2011).

⁵ Brett Hendrickson, *Border Medicine: A Transcultural History of Mexican American Curanderismo*. New York: New York University Press (2013), 184.

⁶ See R. Andrew Chesnut’s *Devoted to Death: Santa Muerte, the Skeleton Saint* (2012), Frank Graziano’s *Cultures of Devotion: Folk Saints of Spanish America* (2006), Lois Lorentzen’s “Devotional Crossings: Transgender Sex Workers, Santisima Muerte,

While Hendrickson touches on issues of cultural appropriation and racial exclusion, scholars of critical race theory and ethnic studies propose more substantial examinations of power and citizenship.⁷ Often the marginalization of Mexicans and Mexican Americans in the United States is coded in the religious language of morality and ethics. These historical and ethnographic approaches provide important interventions into the field of Latina/o studies, creating more robust understandings of American religion and the American religious experience, inclusive of Mexican-American religious practice. I seek to contribute to this vital conversation by engaging more centrally with critical race studies, by foregrounding contemporary issues of religion and criminality in the U.S.-Mexico borderlands.

The methodology of this dissertation highlights the importance of interdisciplinary research, as it draws from the fields of history, religious studies, anthropology, ethnic studies, and legal studies to argue that religion is a central category in the study of race and citizenship in the United States. *Mexican Religion on Trial: Race, Religion, and the Law in the U.S. Mexico Borderlands* is an American history of religion that emerges from the bottom of the nation-state, both literally (geographically) and figuratively (with an underrepresented group), challenging

and Spiritual Solidarity in Guadalajara and San Francisco,” in *Religion and the Corner of Bliss and Nirvana: Politics, Identity, and Faith in New Migrant Communities* (2009).

⁷ This includes works by Susannah Heschel, “The Slippery Yet Tenacious Nature of Racism: New Developments in Critical Race Theory and Their Implications for the Study of Religion and Ethics,” in *Journal of the Society of Christian Ethics* 35: 1 (2015), 3-27.; Jonathan Lightfoot, “Race, Class, Gender, Intelligence, and Religion Perspectives,” in *Race, Gender, and Class Journal* 17, No. ½ (2010), 31-38..

and de-centering existing analytical frameworks that privilege the history of East Coast, Euro-American, Protestant Christian experience. To residents of the Spanish and Mexican Southwest, Manifest Destiny and westward expansion were one of many foreign invasions and occupations. Central to this research, then, is an analysis of anti-Mexican attitudes and religious responses that moves beyond questions of immigration and centers on communities with experiences of “the border cross[ing] [them].”

Each chapter of this dissertation is focused on a distinct historical moment in religious history and practice, and thus each moment necessitates and employs a particular set of archives and methods. Archival research for the dissertation was conducted over an eighteen-month period in archives in New Mexico, Texas, California, and Chicago. In the summer and fall of 2016, I conducted archival research in Santa Fe, New Mexico in the National Archives and State Records Center. The archivists at the Fray Angelico Chavez History Library in Santa Fe, New Mexico also provided archival documents via email, as the library was unavailable for research during this time. In October and November of the same year, I conducted archival research at the Dolph Briscoe Center for American History and the Nettie Lee Benson Library Collection at the University of Austin Texas. In December 2016, I returned again to Santa Fe for research at the archives at the Archdiocese of Santa Fe. In March of 2017, I travelled to Chicago, Illinois for research in the historical records of the American Medical Association. Between Summer 2017 and Spring 2018, I conducted archival research at the University of New Mexico’s Center for

Southwest Research and the New Mexico District Court in Albuquerque before returning to California. In Spring 2018 I travelled to Sacramento, California for research at the California State Archive's and the California State Library. Between these longer trips, I also collected legal and archival documents from the San Bernardino County's Historical Archives and Records Center and the Los Angeles County Records Office.

Additionally while many court documents have yet to be digitized (as in New Mexico), numerous databases of court proceedings and legal documents are now accessible through digital archives. These internet repositories were essential in the locating of contemporary court cases and legal verdicts. The National Archives and Records Administration also provided access to prison records, arrest records, prisoner logs, and prisoner release dates. This original research, in conversation with the secondary sources and historiographical works concerning the post-1848 U.S.-Mexico borderlands, is the foundation of the following three chapters.

This archival work, was complemented by ethnographic field work. The groundwork for this dissertation began with my observations and interviews in Santa Ana, California's yearly Day of the Dead festival, Noche de Altares, led by community members resisting against racialized policing and gentrification. Less than ten miles away, I also conducted ethnographic interviews and fieldwork in an Anaheim *botanica*, a place also under suspected law enforcement surveillance and struggling to survive amidst economic changes. Between trips to the archive, I travelled to Falfurrias, Texas for ethnographic observations and interviews at the

Don Pedrito shrine. In New Mexico, my ethnographic observations included trips to the Taos and Atrisco moradas. In both 2016 and 2017, I was present at the protests against the Spanish Entrada celebrations in Santa Fe, where local Native American communities demonstrated against the commemoration of Spanish Conquest in New Mexico. There I witnessed the confrontation of native communities, local Hispano Catholics, and law enforcement, resulting in the arrest of various native activists in the vicinity of the Saint Francis Cathedral. In March 2018, I was also a participant observer in the Good Friday pilgrimage to Chimayo. These ethnographic observations, participation, and interviews provided the context for the following three chapters.

Mexican Religion and Race in the Nineteenth Century

As a contact zone within the borderlands territories of the United States, the Southwest proved a fertile ground for new expressions of racial domination and construction. Written across racial lines, the history of the Southwest is a history of American ideas about race and citizenship inscribed on a history of Spanish colonial rule over indigenous peoples and orientalist ideas about Asian immigrants.

California, with the end of the mission period in 1834 and the Mexican American War and the Gold Rush in 1848, became a hotbed of conflict over questions of belonging. The process of territorial expansion and the construction of racial ethnicities in the Southwest was strongly informed by religion. American Protestant tradition grappled with the Roman Catholicism of European immigrants arriving

from places like Ireland and Germany, as well as the inclusion of Mexican Catholics in desired southwestern territories, as in the (largely and still disputed) Treaty of Guadalupe Hidalgo.⁸ Mexicans, through both origin and conquest, embodied religious traditions that were to many Anglo-Protestant settlers markedly non-American, non-Protestant, and non-Christian. As historian John C. Pinheiro argues, the nineteenth century invasion of Mexico by the United States was thus rooted in a vision of Anglo-Saxon Protestant civilization. Mexican religion was seen as a weak and corrupt cultural trait, in need of rescue and rehabilitation, if not outright destruction.⁹ These ideas, alongside emerging ideas as a biological marker of inferiority and savagery, created an image of Mexicans as morally defective—lascivious, lazy, prone to drunkenness, and inherently criminal.¹⁰

Political and state surveillance and criminalization of Mexican and Mexican American religious practice has deep roots in United States history. Since the nineteenth century, Mexican communities have been associated with religious heterodoxy in the American imagination. In *They Called Them Greasers: Anglo Attitudes toward Mexicans in Texas, 1821-1900*, Arnaldo De Leon pays particular

⁸ “AP Explains: Treaty of Guadalupe Hidalgo Remains Hot Topic,” *New York Times*, July 20, 2018.

⁹ John C. Pinheiro, *Missionaries of Republicanism: A Religious History of the Mexican American War*. Oxford: Oxford University Press, 2014.

¹⁰ De Leon notes that Mexicans were considered disloyal to American authorities, and after the Civil War, they were often subject to lynching when caught moving through some Texas territories without proper documentation. See also Ted C. Hinckley’s “American Anti-Catholicism during the Mexican War,” *Pacific Historical Review* 31 (1962)

attention to how moral and cultural differences played into the creation of racial ideas about Mexican inferiority. De Leon notes that during the American colonial period, attitudes towards ideas of savagery were evident in a wide array of disseminated written materials. These conceptions about Mexicans continued to resonate in the imagination of white American settlers, as they moved west in search of territory and natural resources. When white settlers encountered Mexicans in the American West they already had preconceived notions about the moral constitution of their new neighbors and “believed that the inhabitants of the province descended from a tradition of paganism, depravity, and primitivism.”¹¹

This association can be traced at least to William H. Prescott’s *History of the Conquest of Mexico*, published in 1843, that linked Aztec religion to corruption and despotism. For Prescott, even the inferior Roman Catholicism was a preferable option to the Aztec religion of “brutish superstitions.”¹² Further he argued that the indigenous population of Mexico responded to the visual culture and ceremony of Roman Catholicism; however, they were mistaken in their theological belief that the images themselves were deities. Drawing on the Black Legends about Spanish blood thirst and cruelty, Prescott positioned Protestantism as superior to the Spanish Catholicism of conquistadores who he believed had more in common with the

¹¹ De Leon, Arnaldo. “Initial Contacts: Redeeming Texas from Mexicans, 1821, 1836,” in *Race and U.S. Foreign Policy in the Ages of Territorial and Market Expansion, 1840 to 1900*, ed. Michael L. Krenn. Taylor & Francis (1998), 43-60.

¹² Pinheiro, *Missionaries of Republicanism*, 56.

Aztecs than with Christian doctrine. Most importantly, the Catholicism of Mexicans was seen as uniquely and particularly suspect.¹³

Following Mexican independence from Spain in 1810, the 1824 Federal Constitution of Mexico declared Roman Catholicism as the official state religion, thus the Mexican-American War of 1846-1848 was an encounter between Mexican citizens who understood themselves as defenders of both their nation and their religion against the invasion of the United States. Mexican clerics warned their congregations that a successful American invasion of Mexico would result in the looting of Catholic churches and the confiscation of church properties.¹⁴

After the Mexican-American War, just as American Protestant preachers took to their pulpits, in places such as Texas, to attribute their successes to the favor of "Providence," Mexican Catholic leaders also argued that they were protected by the divine.¹⁵ Influential member of Mexican Catholic argued that the Virgin of

¹³ William D. Carrigan and Clive Webb, *Forgotten Dead: Mob Violence Against Mexicans in the United States, 1848-1928*. Oxford: Oxford University Press (2013), 14.

¹⁴ C. Jose Gomez de la Cortina, "Por el Ministerio de Hacienda..." broadside decree, Mexico. October 5, 1846. Mexican Broadside Sutro Collection.

¹⁵ Timothy Matovina, *Guadalupe and Her Faithful: Latino Catholics in San Antonio, from Colonial Origins to the Present*, (Baltimore: John Hopkins University Press 2005), 71.

Guadalupe had protected Mexico from more devastating land loss during the signing of the Treaty of Guadalupe Hidalgo.¹⁶

Mexican Religion and the Law Post Mexican-American War

The process of Americanization and incorporation after the Treaty of Guadalupe Hidalgo marked an attempt at including Mexican Catholicism into a Protestant rubric of belonging, one that would later be subsumed under liberal notions of secularism.¹⁷

Scholars of the history of religion in the United States mark the nineteenth century as a formative period when American imperial ambitions and expansion resulted in encounters with “foreign” religious expressions, the proliferation of new modes of religiosity (including different iterations of American Protestant Christianity and new religious movements like the Church of Latter Day Saints) as well as the beginning of secular frameworks (legal, cultural, and otherwise).¹⁸

¹⁶David A. Brading, *Mexican Phoenix: Our Lady of Guadalupe: Image and Tradition Across Five Centuries*, Cambridge: University of Cambridge Press (2003), 290-291.

¹⁷ Historian of American religion, Molly McGarry ties secularism to a teleology of modernity, arguing that “if secularization is a progress narrative that culminates in the freedom from religion, religion can function only as an anachronistic invasion into public life that logically aligns with conservative and reactionary returns to moral values,” arguing for a more nuanced historical narrative that does not assume this diametric positioning of modernity and religiosity. See *Ghosts of Futures Past: Spiritualism and the Cultural Politics of Nineteenth Century America*. (Berkeley: University of California Press, 2008), 5.

¹⁸ McGarry is clear to complicate scholarship that positions modernity and secularism against religion and anti-modernism. Her history of 19th century

Because United States courts appealed to a rubric of keeping religion interest separate from official state governments, former Mexican citizens, (who had a tradition of appealing to Spanish colonial and Mexican state courts for help with religious matters) could no longer count on state officials to resolve conflicts based on religion or the supernatural. Mexican and indigenous religions were often illegible to the newly implemented political regime and U.S territorial courts were unable to accommodate them, as they lacked the theological language and frameworks that characterized Spanish colonial laws. Mexican and Native American beliefs in the supernatural, to white Anglo settlers and law makers, reified racial concepts of outsider status and resulted in the passage of religious laws targeting Native American religion, including traditions performed in conjunction with Mexican Catholicism.¹⁹

Historian David Sikkink argues that there are two key moments in reframing and redefining religion in the American legal system of the nineteenth century- the emergence of a “legal elite” that sought to create a “science of law” that defended “general religion as a legal concept compatible with establishing general and

American spiritualism demonstrates that often religious belief corresponds to “progressive” politics. Indeed, to position religiosity, especially that of a racialized, disenfranchised community only serves to perpetuate a teleological history of progress as defined by Western liberal constructs of progress. See also: Dipesh Chakrabarty, *Provincializing Europe: Postcolonial Thought and Colonial Difference*, (Princeton: Princeton University Press, 2009).

¹⁹ Marc Simmons, *Witchcraft in the Southwest: Spanish and Indian Supernaturalism on the Rio Grande*, 52.

universal principles of law, and limited the role of religion in legal decision making through this systemization of the common law” and the emergence of a “dominant legal framework for religion in public life [that] shifted from a general religion that enhanced the social order to one in which religion figures as one expression of the legal doctrine of individual civil liberties.”The movement to create a science of law emerged from the academic environment of the antebellum university . Prior to this moment, American judges used theology and their knowledge of Biblical scholarship to provide court rulings – referred to by Sikkink as “a jurisprudence of the heart.”²⁰

My archival research in the New Mexico State archives reveals court trials exemplifying the transition from Mexican legal processes (rooted in Spanish colonial laws) and the United States territorial courts in the Southwest. An 1851 court case in Dona Ana County New Mexico District Court records reveal that Joaquin Torres is found guilty by a jury of violently attacking his neighbor while “having the fear of God before his eyes but being moved and seduced by the instigation of the Devil.”²¹ While historian Anthony Mora correctly argues that the language of the courts is significant in recognizing how religion shapes concepts of nationalism and race, I would suggest that this religious language is shaped by both Mexican culture and

²⁰ David Sikkink, “From Christian Civilization to Individual Civil Liberties: Framing Religion in the Legal Field, 1880-1949). In *The Secular Revolution: Power, Interest, and Conflict in the secularization of American Life*.

²¹ “Dona Ana District Court Records,” Boz 7. Records of the United states Territorial and New Mexico District Court for Doña Ana County, New Mexico State Records Center and Archives, November 1851.

English Common law.²² An 1855 volume on criminal law in the United States, in which Joel Prentiss Bishop argued for the re-evaluation of religious language that punctuated the American criminal system, especially in guilty verdicts where defendants were criminal charges against defendants found guilty of (mostly) violent crimes were described as having succumbed to their crime “having the fear of God before his eyes but being moved and seduced by the instigation of the Devil.”²³ Though the jurors were more than likely Hispanos, the Kearny Codes of 1846, established with the American occupation of New Mexico, brought the territory into the fold of American jurisprudence. This reveals that the American legal landscape continued to rely on the language of religion despite anti-establishment clauses of the prior century.²⁴

As historian of religion Tisa Joy Wenger notes, secularism in the United States is not a neutral exercise; indeed, it “carries with it strikingly Protestant assumptions and norms” that, in their origins, are often unable to address non-

²² Anthony Mora, *Border Dilemmas: Racial and National Uncertainties in New Mexico, 1848-1912*, Durham: Duke University Press (2011), 103.

²³ Joel Prentiss Bishop, LL.D., “Practical Directions and Forms for the Jury Room, Trial Court and Court of Appeal in Criminal Cases,” qtd in *The American Law Register*, Volume 50, University of Pennsylvania: Department of Law, January 1902. (pp. 61)

²⁴ There are too many cases to name all throughout course of American history. Some of note include: *State v. Owen*, 5 Nor Car 452 (1810); *State of New York v. John Smith* (1853);

Protestant religiosity.²⁵ Scholar of religion in the United States, Tracy Fessenden, argues that construction of secularism in the United States is, and was, shaped by defining American values (democracy, civic engagement, economic participation) through white Protestant frameworks at the exclusion of minority racial and religious groups.²⁶ The construction of secularism in the United States is, and was shaped by defining American values (democracy, civic engagement, economic participation) through white Protestant frameworks at the exclusion of minority racial and religious groups.²⁷

One example of this is found in the historical documents of U.S. Attorney William Watts Hart Davis. Davis, served as U.S. District Attorney, Attorney General and Acting Governor after his service in the Mexican-American War. Between 1853 and 1856, Davis rode “the circuit” on horseback across the newly acquired New Mexico territory (at the time it included parts of present day Arizona) recording his encounters with the native and Mexican population. Every encounter and observation was recorded in his diary (most of which he would publish in the 1857 “El Gringo” before returning to South Carolina to serve as brigadier general in the Confederate Army).

²⁵ Wenger, *We Have a Religion*, 15.

²⁶ Tracy Fessenden, *Culture and Redemption: Religion, the Secular and American Literature*, Princeton University Press, 2006.

²⁷ Ibid.

One dark night, Davis found himself in the home of a Mexican family keeping vigil over a sick relative. Davis observed the creation of an altar dedicated to a small Catholic saint. As the family lit incense and candles and began to recite prayers, Davis decided to leave “in the midst of their semi-heathen incantations, to “the dingy little image.”²⁸ He explained that he was not “able to appreciate the service” and was no longer “willing... to witness what [he] looked upon as a senseless and meaningless performance... [to a] number of saints in the religious calendar.”²⁹

Davis described the Mexican inhabitants of the territory as

extremely superstitious, and which prevails to a greater or less degree among all classes, the intelligent as well as the most ignorant. They have abiding faith in saints and images, and with the mass of inhabitants their worship appears no more than a blind adoration of these insensible objects.” Among these so-called superstitious acts, Davis includes the use of crosses in fields for the protection of crops against hail, the blessing of crops by priests, and the use of saint images as a protection against fire.³⁰

More importantly, his opinions of Mexican religion extended to his service as U.S. District attorney, where described the “fearful amount of superstition” of the Mexican community.³¹ After the prosecutor introduced evidence of witchcraft in the 1853 murder trial of a Mexican man, a frustrated Davis wrote that he was repeatedly forced to dismiss these types of accusations as evidence and “ma[ke]

²⁸ William Watts Hart Davis, *El Gringo, or New Mexico and her People*, (New York: Harper and Brothers Publishers, 1857), 226.

²⁹Ibid.

³⁰ Ibid.

³¹ Ibid.

prosecutor[s] ... understand that there were no such offenses under our laws.”³² He lamented the failure of Mexicans to participate in the “very department of learning [that was] making such rapid strides toward universal intelligence.”³³ Superstition and witchcraft here became holders for anything considered “non-normative.”

Historically, Roman Catholic devotion in the American Southwest manifested as a regionally and culturally distinctive practice distinct from other forms of Catholic practice. After the American annexation of Northern Mexico, however, the arrival of European priests signaled new attempts to regulate, what was considered, unorthodox Mexican Catholicism. As historians of Mexican religion, argue, the regulation of Mexican Catholic practices by newly appointed bishops in the late nineteenth century and the early twentieth century, were informed by the racism of white Catholic leadership.³⁴ Mexican Catholic practices under scrutiny included devotion to saints, religious processions, and reverence to material objects.³⁵

In New Mexico, another encounter between Protestant Anglos and Roman Catholic Mexicans is usually contextualized in the history of the Penitente brotherhood. A religious lay confraternity, Los Hermanos de la Fraternidad Piadosos de Nuestro Padre Jesus Nazareno, characterized by devotional practices that include

³² Ibid.

³³ Ibid.

³⁴ Matovina, *Latino Catholicism*, 17.

³⁵ Leon, *La Llorona's Children*, 44.

mortification of the body and ritual processions.³⁶ For Anglos, Penitentes embodied popular stereotypes of Mexican Catholics. To Protestants, ritual penance, in the form of whippings and bleeding, tied Penitentes to the “barbarities of Indian dance worship.”³⁷ Further for newly arrived settlers in the late nineteenth century, the exclusivity of the confraternity and political participation of Penitentes in local courts elicited theories of legal misconduct. In 1893, Alexander M. Darley, Presbyterian missionary in New Mexico, described through a popular poem:

They tell a thousand barefaced lies,
 To all the saints of heaven appealing,
Confess their sins with tearful eyes,
 Devoutly pray, but keep on stealing.
They go to church, believe in hell,
 Where their torments must be hot,
They play on fiddles, ring a bell,
 And worship God with drums and shot.³⁸

Popular nineteenth century, anti-Catholicism quickly manifested as anti-Mexican sentiment in the Southwest, as the religiosity of the Penitentes became a reason to distrust of the legal system of Mexico. Historians of the Penitente movement often position Anglo American distrust and animosity towards the brotherhood as a result of perceived favoritism in court verdicts towards members accused of crimes, as

³⁶ J. Manuel Espinosa, “The Origin of the Penitentes of New Mexico: Separating Fact from Fiction,” in *The Catholic Historical Review* 79, no. 3 (July 1993), 454.

³⁷ Alexander M. Darley, *The Passionists of the Southwest, or the Holy Brotherhood*. (Pueblo, Colorado 1893), 34.

³⁸ *Ibid.*, 57.

well as political victories due to rigged elections as a demonstration of the fraternal order's anti-American position.³⁹ However, as discussed in Chapter One, some historians have positioned Penitente political influence as corruption of local governmental systems, arguing that the creation of white vigilante groups is a response to the corruption of local Mexican communities."⁴⁰

Mexican Religion and the Law from the Twentieth Century to the Present

Recent scholarship on migrant religion reflects ongoing religious changes in the region and the introduction of different figures such as La Santa Muerte, Jesus, Malverde, Juan Soldado, San Toribio Romo. The religious history of the borderlands is marked by (what I refer to as) the "Borderland Trinity" of the folk saints and curandera/os Teresa Urrea, El Niño Fidencio and Don Pedrito Jaramillo, though new waves of Catholic immigrants continue to introduce regional and village Catholic saints and images, such as El Santo Niño Jesús Doctor de los Enfermos and El Señor de los Rayos, Curanderismo, a Mexican spiritual healing tradition characterized by herbal medicine and religious ritual is central to the historical investigation of these personalities, especially as examples of spiritual resistance in the socially and politically shifting regions of the Southwest and Northern New Mexico in the late

³⁹ Dorothy Woodward

⁴⁰ Carrigan and Webb, 38.

nineteenth and early twentieth centuries.⁴¹ Urrea, Jaramillo and Fidencio, were all, in numerous instances, targets of the state. In the case of Urrea, her strong following among the indigenous Mayo and Yaqui peoples of Northern Mexico made her a target of the Mexican government, forcing her into exilic status in the United States.⁴²

The rise of the medical establishment in the United States, as well as the implementation of public health laws throughout the country, relegated spiritual health practices like curanderismo as suspect and criminal. The creation of public health laws led to racialized segregation in urban centers as medical experts and government officials tied disease to race.⁴³ Epidemics were often based on perceived resistance to the technologies of modern medicine. For the medical establishment, homeopathic and traditional medicine was seen as an obstacle to the health of the nation. Fear of the spread of contagious diseases in Monterrey Mexico from the large number of devotees seeking cures from El Niño Fidencio led to government investigations into his healing practices, resulting in at least two

⁴¹ See Brett Hendrickson's *Borderland Medicine*, Luis D. Leon's *The Political Spirituality of Cesar Chavez*, and Frank Graziano's *Cultures of Devotion: Folk Saints of Spanish America*.

⁴² Paul Vanderwood, *The Power of God against the Guns of Government*

⁴³ See Natalia Molina, *Fit to be Citizens?* and John McKiernan-Gonzalez, *Fevered Measures*

arrests.⁴⁴ Similarly, the late nineteenth century campaigns to create medical and professional standards to combat medical fraud and “quackery” in the United States resulted in a federal investigation into the religious healing practices of Don Pedrito Jaramillo in Texas’ Rio Grande Valley. Jaramillo was never convicted, but he serves as another example of how federal agents attempted to regulate this particular type of Mexican religion.

At the turn of the twentieth century, as immigrant populations in the United States increased in number, so too did restrictive immigration laws against immigrants from South and East Asia that excluded Chinese, Japanese, and Indian immigrants from entry and from citizenship on the basis of race and religion.⁴⁵ As historian Mae M. Ngai argues in *Impossible Subjects: Illegal Aliens and the Making of Modern America*, “modern race ideology demanded increasingly on the idea of complex cultural, national, and physical difference more than on simple biological hierarchy.”⁴⁶ The “Gentleman’s Agreement” Act of 1907 and World War I, guaranteed a need for a large Mexican labor force to work in occupations formerly

⁴⁴ W.W. Zellner, Marc Petrowsky, “Sects Cults, and Spiritual Communities: A Sociological Analysis, 104-105.

⁴⁵ See *United States v. Bhagat Singh Thind*, 261 U.S. 204 (1923). Thind, a Sikh man, argues for recognition as a citizenship based on the argument that high caste Hindus are closer in proximity to whiteness than they are to Indians. See also Nayan Shah’s *Stranger Intimacy: Contesting Race, Sexuality and the Law in the North American West* (2012) for discussion of how early 20th century South Asian immigrants are excluded from citizenship and constructed as illicit and criminal through ideas about race, morality, and ethics.

⁴⁶ Ngai,, 2.

held by Japanese immigrants, and Americans fighting in the war. The creation of the United States Border Patrol in 1924, was a reaction to the increase in migrant workers from Mexico; in an effort to tide the wave of incoming Mexicans, the U.S.-Mexico border was solidified. No longer just a line in the sand, the, the geo-political border was also a conceptual one distinguishing between legal and illegal immigrants.⁴⁷ Post 1965's Immigration Act, established the first quota system for Mexico and Latin American countries, shifting the language of undocumented Mexican migration to "illegal", and a threat to the security of the nation.

More recently, conservative politicians and commentators, from Samuel Huntington to Donald Trump have argued that Mexican culture is incompatible with mainstream America. Many of these arguments are rooted in the vocabulary of Christian morality and anchored in the history of American Protestant exceptionalism.⁴⁸ While Proposition 187 in California created a platform for this type of nativist rhetoric, the events of September 11, 2001 lent new energy to the racialized language of religion in the American political sphere. The work of Samuel Huntington, especially his 2006 *Clash of Civilizations* reemerged as a polemic against the threat of Islamic civilizations on Western countries; while Huntington continued to argue the religio-political threat of Islamic terrorism, his subsequent book *Who*

⁴⁷ See Kelly Lytle Hernandez, *Migra! A History of the U.S. Border Patrol*. Berkeley: University of California Press, 2010.

⁴⁸ See Patrick J. Buchanan. *The Death of the West: How Dying Populations and Immigrant Invasions Imperil Our Country and Civilization*. New York: St. Martin's Press, 2002.; Samuel P. Huntington. *Who Are We? The Challenges to America's National Identity*. New York: Simon and Schuster, 2004.

are We? The Challenges to America's National Identity made the case that the Anglo Protestant heritage of the United States was under attack by the influx and presence of Mexicans and Mexican Americans. Recalling the Anglo-Protestant history of the United States, Huntington differentiates between two types of Catholicism—"old world" Roman Catholicism and American Catholicism (what can also be understood as Catholicism informed by American Protestantism) and argues that the German and Irish Catholic immigrants of the nineteenth century successfully culturally assimilated, because they were willing to adopt "public attitudes toward private and public morality, economic activity, government and public policy."⁴⁹ Unlike Mexican Catholics, according to Huntington, these European immigrants adopted the Protestant work ethic, demonstrating a commitment to Anglo-Protestant values and an Americanization of their traditional form of Catholicism. No longer committed to the universal church these new American Catholics adopted the rhetoric of American nationalism and patriotism.⁵⁰ To Huntington, the ethno-Catholicism of Mexicans and Mexican Americans represents a refusal of assimilation, and a rejection of American liberal values and the vision of the United States as the "city upon the hill."

Though current anti-Mexican rhetoric adapts the language and context of the times, the parallels between racialized critiques of the late nineteenth century and

⁴⁹ Samuel P. Huntington, *Who are We? The Challenges to American's National Identity*, 62.

⁵⁰ *Ibid.*, 59.

the late twentieth century are apparent. Like their counterparts in the nineteenth century, figures such as Huntington identify Mexicans through moralistic terms and ideas, coupled with hereditary markers resistant to democracy and individualism. During the most recent American election cycle, representations of Mexicans and Mexican Americans as criminals and morally inferior were verbalized by President-elect Donald Trump. Echoes of nineteenth century racial stereotypes were heard along the Trump campaign trail, as Mexicans were accused of being rapists, criminals, and immoral. Further, profiling of Mexicans based on their religious practices continues into the present.

After 2001, new tactics of surveillance, including the PATRIOT Act and the Department of Homeland Security were created to increase the policing and surveillance of alleged and suspected terrorist organizations; this resulted in heavier militarized presence at all entry points into the United States as well as the increased surveillance and policing of the United States interior geography, and the extension of the responsibilities of federal border patrol agents to local police officers.⁵¹ These changes in policy have impacted heavily upon Mexican Americans. The passing of Arizona's 2010 Senate Bill 1070 is representative of such moves to increase the arrests and detention of undocumented aliens based on physical suspicions and cultural markers of their racial identity. As part of this profiling practice, culturally Mexican Catholic images such as the rosary, and religious images

⁵¹ Matthew Coleman, "Immigration Geopolitics Beyond the Mexico City Border," *Antipode*, no 1. (2007): 54-76.

of figures such as The Virgin of Guadalupe, become visual signals for law enforcement of potential criminality and undocumented status during traffic stops and search and seizure of vehicles. These tactics also extend to other popular Mexican religious expressions and devotional displays of popular religious figures (pejoratively referred to as “narco-saints), Jesus Malverde and La Santa Muerte, which are then conflated with normative Catholic practice.⁵²

Theoretical Frame

The failure of the courts and officials to recognize these religious practices as either religion or secular practices leads, and led, to their misrecognition, miscategorization and re-definition at a variety of points in American history. The central theme tying the sections of my project together, is that a certain “illegibility,” or failure to recognize these practices as religion, instead categorizing them as superstitious, leads to the racialization and criminalization of many of them. As they fail to meet the legal criteria for “religion,” they are also denied First Amendment protections.⁵³

This project moves between three major themes: race, religion, law, to emphasize how representations work in conjunction with legal practices to

⁵² See *Oregon v. Meza-Garcia* (2003); *U.S. v. Flores* (2004); *Giron v. City of Alexandria, Arkansas* (2009); *United States of America v. Maria Vianey-Copete and Rafael Goxcon-Chagal* (2014).

⁵³ Charles Mccrary, “Superstitious Subjects: U.S. Religion, Race, and Freedom,” *Method and Theory in the Study of Religion* (2017).

determine how the “political [and legal] status of the region and its people.”⁵⁴

Further, the transcultural and hybrid nature of religious practices along the United States-Mexico border defy traditional categorization. Appeals to authenticity would only serve to privilege official definitions of religious practices; much like Paton’s approach to Obeah, my approach to Mexican religion seeks to “unpick... the multiple meanings... and consider... the cultural, political, and social effects of the consolidation of that term as a means of describing and defining a very wide range of practices.”⁵⁵

I assert that many of the legal and extralegal conflicts involving Mexican religious practices are linked to racial scripts and prejudices related to Native American/American Indian legal status and religious activity. That is, that the logics of white supremacy that regard(ed) American Indians as inferior and barbaric are the same logics that inform the way the American legal system and its structures approach Mexican religion. As processes that require continued maintenance, characteristics of racialization and criminalization shift and maneuver around the logics of white supremacy. This is evident in the constant renegotiation of Mexican and racial identity from 1848 through the contemporary period, as Mexican descended populations are subjected to different iterations of whiteness,

⁵⁴ Diane Paton does this beautifully in her monumental history of Obeah in Jamaica. Diane Paton, *The Cultural Politics of Obeah: Religion, Colonialism and Modernity in the Caribbean World*. Cambridge: Cambridge University Press (2015), 3.

⁵⁵ Ibid., 2.

citizenship, and ethnicity through a variety of legal means, including court cases, census identifications, and ethnic designations.

While histories of Mexican-American's and Native Americans in the Southwest are often written without reference to the other, the historical evidence demonstrates that the racialization and criminalization of Mexican religion is linked to racism against Native American communities. As anthropologist Martha Menchaca's study of citizenship in California, Arizona, New Mexico, and Texas reveals, the extension of citizenship to Mexican residents of territories acquired by the United States after the Mexican-American War often excluded Mexicans of indigenous descent much more severely than it did Mexicans without tribal affiliation.⁵⁶ To be clear, this is not an attempt to collapse the racial histories of Mexican and Native Americans into each other. Rather, it demonstrates the constructed nature of race in the United States and how racialization is maintained through appealing to the logics created by the racialization of other minority ethnic groups. The process of racialization depends on the historical construction of categories that are superimposed on different groups at later points in history, and Mexican communities are not exempt from this⁵⁷

⁵⁶ Martha Menchaca, "Chicano Indianism: A historical account of racial repression in the United States," *Journal of the American Ethnological Society* 20, vol. 3 (August 1993), 3.

⁵⁷ Natalia Molina, *How Race is Made in America: Immigration, Citizenship, and the Historical Power of Racial Scripts*. Berkeley: University of California Press, 2014.

These racialized scripts are not exclusive to the United States, and the criminalization and persecution of religious communities is not exclusive to the American Southwest. In fact, the history of Mexico is marked by numerous conflicts over secularization and a persistent current of anti-clericalism, especially during nineteenth century appeals to modernization. While the Mexican Constitution of 1824 declared Roman Catholicism to be the state religion in perpetuity, subsequent constitutional reforms forced local communities to negotiate divisions between religious and secular, including public displays of religiosity. This is evident in numerous constitutional reforms, regime changes, and violent conflicts in Mexico during the nineteenth and twentieth centuries.⁵⁸

This dissertation does not position Mexico as opposition to the United States, or as a disinterested party to the politics of the U.S-Mexico border. Rather, as anthropologist Gilberto Rosas writes, in

Mexico, in this respect, is instrumental in the coproduction of the new frontier. Although asymmetrically positioned vis-à-vis other dominant powers, the Mexican state, as part of a higher-order network of sovereign states and global governmentalities, exercises historically produced technologies of violence and warfare in its regulation of the neoliberal border... or the new frontier, epitomized in its surging militarized policing practicing and its own racial politics of migration. It likewise relies on

⁵⁸ See Pamela Voekel's *Alone Before God: The Religious Origins of Modernity in Mexico*. Durham: Duke University Press (2012); Jeffrey Klaiber, "Anticlericalism in the Nineteenth and Early Twentieth Centuries," in Lee Penyak and Walter Perry (eds.) in *Religion and Society in Latin America: Interpretive Essays from Conquest to Present*. Maryknoll (2009); Matthew Butler, *Popular Piety and Political Identity in Mexico's Cristero Rebellion* (British Academy, 2004).

certain ideologies and certain mentalities that eras the processes that prepare a population for political and economic exile to the United States.⁵⁹

In a similar move, I do not intend to position American law in diametric opposition to Mexican law, or to exalt or redeem Mexican involvement in related processes. Rather, it is an examination of one regime or power that uses territoriality as a way to discipline the “unruly” bodies of Mexican peoples.

Though tied through exploration of the legal record, the following three chapters do not necessarily follow a linear chronology despite beginning at different moments in U.S. history. Rather, each presents contemporary religious practices identified with Mexican, and Mexican-American culture in the United States within a larger historical framework. Each of these popular religious expressions have been subjected to racialization, sensationalism, and legal proceedings. They are not exceptional in this regard—as other scholars demonstrate, the racialization and marginalization of religious practices have a longer history in the United States. The goal is to present these stories as a formative picture of American religion. I pay close attention to shifting policies and laws, as they reveal the constant and evolving reinscription of the boundaries of racial constructions- it is in the banal and the everyday manifestations of racial discrimination and religious identities in and around Latina/o religious practice.

Further, I argue that the absence in the historical archive of such cases (though mentions of arrests and legal actions exist in alternative archives) point to

⁵⁹ Gilbert Rosas. *Barrio Libre: Criminalizing States and Delinquent Refusals of the New Frontier*. Durham: Duke University Press (2012), 15.

the changing channels of racial domination and legal enforcement. That is, racist hierarchies and domination survive because they adapt and change to new forms of discourse and social change—in the absence of obvious forms of state violence, racial scripts emerge in everyday regulations of the body, the restriction of mobility, the construction of criminality, and the denial of community histories.

Chapter Overview

In Chapter One, “Esta es del Pueblo: The Atrisco Morada legal dispute,” I present the civil lawsuit between the Sociedad de Nuestro Padre Jesus, Inc. against the Atrisco Heritage Foundation, as part of the larger history of legal issues concerning Roman Catholic lay confraternities in New Mexico, land grant rights, and conservation of sacred space. This chapter reveals a history of displacement and distrust in legal avenues for the preservation of ancestral land rights concerning Penitente moradas, historical religious places.

In the second chapter, “Policing Curanderismo in the Twentieth Century,” I follow the stories of five curanderos/as between 1909 and 1955, paying particular attention to the way Mexican folk healing practices shift throughout the twentieth century in response to emerging medical laws. I argue that Latino population growth in urban centers propels the growth of botanicas as places of folk healing; these spiritual stores become the focus of law enforcement officers through the rest of the century to the current moment.

In Chapter Three, “A Potentially Lethal Catholicism,” I argue that Roman Catholic material objects are identified as symbols of potential criminality and illegality during traffic stops and in public schools. I present a number of court cases in the post 9/11 era, and present evidence that law enforcement officers are trained to conflate these symbols and objects with so-called “narco-religion” and a larger culture of narcotics trafficking.

Throughout the dissertation, I identify the communities I describe using a variety of different terms that mark racial and ethnic difference. The term “Mexican” and “Mexican-American” is used (mostly) interchangeably to refer to individuals and communities that can trace their heritage and ancestry to the geographic lands regarded as Mexico and colonized by Spain. Latina/o refers to the larger community of Latin American descendants in the United States. My use of Hispano reflects the unique racial identities of New Mexicans who trace their histories to Spanish colonialism, and is not related to the popular contemporary term “Hispanic.” My use of Anglo also reflects how Mexican and Mexican American communities understand whiteness, as inseparable from a longer history of Anglo Protestant expansion and occupation. As these categories demonstrate, the racial and ethnic markers are under constant negotiation and re-definition. The following chapters attest the power of language and signification in the history of Mexican religion in the United States.

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Chapter One: “Esta es del Pueblo: The Atrisco Morada Legal Dispute”

Abstract

This chapter presents the contemporary legal court case involving morada (chapel) of the lay Catholic organization, the Sociedad the Jesus Nazareno Inc. (commonly known as the Atrisco Penitentes) and the Atrisco Heritage Foundation as part of a longer history of resistance against the loss of Hispano ancestral lands in New Mexico. It argues that Penitentes understand preservation of culture and religion is tied to communal ownership and communal land use, despite modern historic preservation efforts.

Introduction

La cruz esta en la custodia
la hostia en la cruz está
en el juicio universal
la cruz con Cristo vendrá.

The cross is on the monstrance
the Host is within the cross;
in the final judgment
the cross will appear with Christ.

Adoremos a Jesús
Todos postrados al suelo
y la santísima cruz
abra las puertas del cielo.

Let us adore Jesus
all of us lying on the ground,
and let the most holy cross
open the gates of heaven.

Si todo esto me concedes
yo te doy el parabién
con la santísima cruz
en fin diremos, amen.

If you grant me all this
I will give you my best wishes
with the most holy cross;
we will say at the end, “Amen

-“Bendito el santo madero, Traditional Penitente Alabado (hymn)⁶⁰

⁶⁰ Thomas J. Steele. *The Alabados of New Mexico* (Albuquerque: University of New Mexico Press, 2005), 270-272.

The entrance to the property housing La Morada de San Jose de La Merced de Los Ranchos de Atrisco is gated. A coyote fence of spruce-fir *latillas* covers the steel gate along La Vega Road in Southwest Albuquerque, and the sign attached warns against trespassing. The property feels desolate, like so many Penitente moradas (chapels) in New Mexico. The silence of the road, and the whispers of rustling leaves and the nearby river do nothing to settle my sense of intrusion. As I drive down the winding roads of the Atrisco barrio the eyes of elderly Atrisqueños sitting on their porches follow my vehicle, curious to determine whether or not I belonged in the neighborhood. Standing at the front gate, I imagine generations of Atrisqueños gathering to worship, the solemnity of their hymns now absent from the wind.

To the left of the entrance, is a large ten-foot image of Jesus Nazareno, Jesus the Nazarene, bowed, laboring under the heavy wooden cross of his crucifixion. Protected by a six-foot tall steel gate, the image is surrounded by debris—fast food wrappers, an Auto Trader magazine, and the small *basurita* (trash) easily carried by breeze. At the feet of the image a small plaque reads, “Padre Mio Perdonales”, and next door, a sign painted near the entrance door of the “Tabernaculo Apostolico” declares “Everybody Welcome.” The salmon pink *morada* of the Roman Catholic cofradía (confraternity) seems almost hostile in comparison—the gate restricts access to tourists, worshippers, and those looking to access the sacred.



Figure 1.1 Jesus Nazareno image in front of San Jose de Armijo chapel and morada. Photo by author, 2018.

The Sociedad de Nuestro Padre Jesus, Inc., the religious society that claims historic ownership of the morada is also known by their longer, more formal historic name: Los Hermanos de la Morada de San Jose de la Merced de los Ranchos de Atrisco de la Fraternidad Piadosa de Nuestro Padre Jesus Nazareno, although hereafter I refer to the group as the Atrisco Penitentes, the title by which they are locally known and recognized. The Hermanos Penitentes, or La Fraternidad Piadosa de Nuestro Padre Jesus Nazareno (as they are officially known) are a religious cofradía from Northern

New Mexico and Southern Colorado. The religious lay organization is typically characterized by ritual practices related to, and associated with, Lenten processions and Holy Week processions involving bodily penance. The first wave of twentieth-century historians of New Mexico trace the origins of Los Hermanos to Spanish and Italian medieval practices of public self-flagellation, religious processions, and Lenten reenactments of the crucifixion, though more recent scholarship questions the validity of this argument citing the lack of historical evidence and the origins of this theory.⁶¹

On October 21, 2014, the Atrisco Penitentes approached the wooden fence singing in somber tones. “*Abra las puertas del cielo,*” Open the gates of heaven,” their hymn insisted, as the small group paused in front of a bold sign that challenged, “Private Property, No Trespassing.” Led by the Hermano Mayor, Jose Maria Perea, the small gathering was a sort of ritual commemoration of their ongoing civil suit against the Atrisco Heritage Foundation. Over the last decade, Atrisco Penitentes have ritually and legally asserted their claims to their ancestral *morada*; they appeal

⁶¹ The theory that Penitente practice in New Mexico is “a corruption of Third Order Franciscanism, first performed by Don Juan de Oñate when he entered New Mexico in 1598,” is found in the sensationalist article “The Penitentes,” written by Charles F. Lummis in 1889. See Ramón Gutierrez’s “Charles Fletcher Lummis and the Orientalization of New Mexico,” in *Nuevomexicano Cultural Legacy: Forms, Agencies, and Discourse*, ed. Francisco Lomeli, Victor Sorell, and Genaro Padilla. (Albuquerque: University of New Mexico Press, 2002), 23. Noting the lack of documentary historical evidence, historians such as Timothy Matovina note that surrounding Southwestern territories (including Texas) “evidenced comparable patterns of religious practice.” See Matovina, review of *The Penitente Brotherhood: Patriarchy and Hispano-Catholicism in New Mexico*, by Michael P. Carroll, (Baltimore: John Hopkins University Press, 2002), in *The American Historical Review* 110, no. 2 (2005), 484.

to their Spanish heritage, to the American legal system, to their religious traditions, and to their cultural history.



Figure 1.2 “Atrisco Hermano Jose Maria Perea sings an alabado, or hymn, at the locked gate of the old San Jose Church, the Penitente brotherhood’s ancestral place of worship. He is joined by fellow hermanos Manuel Saiz, middle, and Rudy Jaramillo, holding cross. (Aurelio Sanchez/Journal) April 20, 2013.

The historic struggle over land rights in New Mexico by the Hermanos Penitentes, as they labored to preserve ancestral rights to land and culture in the midst of changing legal and social rubrics is definitive also of the present moment. Though often relegated to folkloric histories and romantic notions of a “Hispanic past,” the Atrisco Penitentes are active members of their local communities, as land grant heirs, political actors, and religious devotees. Focused on the civil case of the Atrisco morada, this chapter argues that Penitentes continue a long history of disputing land grant claims in an effort to preserve their religious practices.

First, I will introduce a brief history of the Penitente moradas in New Mexico, using secondary sources to emphasize their centrality as community spaces of worship and (later) resistance during American occupation after the Mexican American War. Then, I will explore mid-twentieth century attempts at historic preservation as a reaction against the theft and destruction of moradas across northern New Mexico, highlighting how and why Penitentes resisted this impulse. These two sections will set the historical context for the Atrisco legal dispute, as I position the court battle within this larger struggle for Hispano autonomy. The encroachment on land by speculators in the nineteenth century, historic preservation efforts, and contemporary economic redevelopment continue to restrict access to ancestral land, forcing Penitentes to trespass in order to access their sacred spaces. That is, policies of historic preservation and re-interpretation of land grant ownership necessarily position the Atrisco Penitentes as criminal trespassers and vandals. This chapter demonstrates that Penitente religiosity is a

dynamic contemporary practice that actively preserves history and heritage in the midst of corporate interests and urban redevelopment.⁶²

In New Mexico, the complexities of the fraught encounter between Anglo-American Protestants and Roman Catholic Mexicans are particularly manifest in the history of the Atrisco Penitente brotherhood. In their story, we see refracted the larger history of the Penitentes of New Mexico in which the annexation of Northern Mexico to the United States and the subsequent shifts in national government worked a new fissure between religion and state secularism in the mid-nineteenth century. For the better part of two centuries, in the popular American religious imagination, heavily accented with Anglo-Protestant bias, Penitentes embodied popular stereotypes of Mexican Catholics. Ritual penance in particular, in the form of whipping and bleeding, tied Penitentes to the “barbarities of Indian dance worship” as well as their Spanish colonial past.⁶³ Further, for newly arrived Anglo settlers in the late nineteenth century, the exclusivity of the confraternity and political participation of Penitentes in local courts stimulated apprehensions about legal misconduct. Popular nineteenth century anti-Catholicism quickly manifested

⁶² Scholars of the Penitentes cite the decline of membership and practice among younger generations, as well as the death of elderly members for the decline in membership and participation (personal communication with Timothy Matovina). However, Penitente member, and author of *I Came from El Valle: Land of the Penitentes, Land of Traditions*, (Pueblo: Schuster’s Printing, Inc, 1999), Ruben E. Archuleta cites renewed interest by the descendants of Penitente members. See Archuleta, “Understanding the Penitente Church in Southern Colorado and Northern New Mexico,” in *Colorado Central Magazine*, 2010.

⁶³ Alexander M. Darley, *The Passionists of the Southwest, or the Holy Brotherhood* (Pueblo, Colorado, 1893), 34.

as anti-Mexican sentiment in the Southwest, as the religiosity of the Penitentes became a reason to distrust the legal system of New Mexico. Fellow co-religionists also viewed Nuevomexicanos with suspicion, especially as the newly installed French Catholic archbishop of Santa Fe, Jean Baptiste-Lamy sought to reform local Catholic customs. New Mexican Catholics suffered under the onslaught of both anti-Mexican Catholic sentiments and anti-Catholic sentiments from Anglo settlers.

Despite the lack of consensus regarding their origin, most historians agree that the Hermanos Penitentes reached their largest membership and notoriety in the nineteenth century. In this period, New Mexico became a place occupied by three distinct governments—Spain, Mexico and the United States. In each iteration of national identity, New Mexico was subjected to legal, racial, cultural, and religious transformations. Because of their ubiquity in New Mexican and Chicana/o history, the Hermanos Penitentes provide a lens through which to understand how Hispano Catholic religiosity responded to these changes—how the Penitentes resisted impositions of the state, adapted to changing governmental and legal structures, and responding to invading cultural forces.⁶⁴

Over a century of historical work on the topic has been informed by sensationalist accounts of the Penitentes. Two recent historical works inform our

⁶⁴ The Hermanos Penitentes are mentioned in various works of Chicana/o scholarship, including Rodolfo Acuña's *Occupied America: A History of Chicanos* (London: Pearson Education, 1982)(now in its 8th edition); Arturo F. Rosales, *Chicano!: The History of the Mexican American Civil Rights Movement* (Houston: Arte Publico Press, 1997); Mario T. Garcia, *Católicos: Resistance and Affirmation in Chicano Catholic History* (Austin: University of Texas Press, 2010).

understanding. Albert Lopez Pulido's *The Sacred World of the Penitentes*.

interrogates the twentieth-century history of sensationalism around the group, first by exploring and deconstructing the stereotypes surrounding the brotherhood, and then by allowing active Penitente members to share their own experiences and beliefs, moving the discourse away from the ritualized worship practices of the lay organization and focusing on the Hermandad's core values and spirituality. Michael P. Carroll's 2002 history of the Penitente brotherhood critiques Lopez Pulido's study arguing that the research methodology of citing interviews with contemporary members does not reveal historical attitudes of previous generations as much as it does contemporary notions of participation.⁶⁵ Indeed, Carroll's contends that scholars of the Hermandad valorize and celebrate the organization as a source of pride against Anglo invasion in the Southwest, many of whom also romanticize an allegedly unchanging Hispano religious traditionalism.

Though this chapter does highlight the oppositional nature of the Penitentes and legal and social structures that threaten territorial access and land rights, my own scholarship focuses on the contemporary moment to shift the focus away from the historical fascination with the organization's past to locate the community *firmly* in the present moment. Twentieth-century sensationalist accounts of Penitente practice resulted in an intentional decision by Hermandades to remove themselves from public scrutiny. This inward turn resulted in large gap in historical documents

⁶⁵ Michael P. Carroll, *The Penitente Brotherhood: Patriarchy and Hispano-Catholicism in New Mexico*. (Baltimore: John Hopkins University Press 2002), 215.

relating to the group in the twentieth century until the 1980s and 1990s. The oral histories collected by family members of Penitente members and local communities attest to their ubiquity including beyond rural locales, and even in metropolitan centers such as Albuquerque (Atrisco and Armijo neighborhoods). Official archives of the government and the church fail to produce evidence of the Atrisco morada as an operating chapel. Yet the oral historical record belies this archival silence: oral histories conducted among Atrisqueños in the 1980s verify the use of the morada by Penitentes, the age of the morada, and the centrality of the morada in the community memory. This chapter weaves together contemporary court documents, oral histories, newspaper accounts, and archival sources to recount the story of the San Jose de Armijo (Atrisco) morada, in order to reveal the legal obstacles faced by the Penitentes as well as the legal strategies they employed in response.

The History of the Penitente Moradas

The Penitente morada is a central feature of Penitente practice and identity. The small adobe structures, consisting of no more than a large gathering room for worship and prayer, and a smaller kitchen and storage room, are ubiquitous in New Mexico's landscape.⁶⁶ Subject of countless paintings and photographic projects,

⁶⁶ Marie Romero Cash and photographer Jack Parsons photographed at least nineteen moradas in the region at the end of the twentieth century, as did Michael Wallis and Craig Varjabedian . See Marie Romero Cash. *Santos: Enduring Images of Northern New Mexican Village Churches* (Boulder: University of Colorado Press, 2003) and Michael Wallis. *En Divina Luz: The Penitente Moradas of New Mexico* (Albuquerque: University of New Mexico Press, 1994).

Penitente moradas are repositories of cultural memory and religious identities and survivors of changing territorial politics and occupation.⁶⁷ As this section demonstrates, moradas served an additional function: as sites of political organization and resistance in the face of Anglo settler encroachment.

Penitente moradas were part of essential cultural and economic structures transplanted into New Mexico from Spain. Settlements in New Spain were marked by the construction of acequias (communal irrigation ditches) and a church. In New Mexico, moradas were part of the second phase of cultural transplantation, but proved distinctive from formal churches because local Penitente chapters operated independently from the institutional Church.⁶⁸ Moradas also took on features of the native inhabitants of the region—many resembled “Indian council houses” and were

⁶⁷ These artists include Ansel Adams, Georgia O’Keefe, and Cady Wells.

⁶⁸ Jeffrey Smith, “Penitente Moradas: A Vestige of the Nuevomexicano Cultural Landscape” in *Material Culture* 47, vol 2 (2015), 25. Historical accounts and contemporary studies of the Hermanos Penitentes emphasize the patriarchal character of the organizations, though recent scholarship has begun to investigate the role of women. Anna Maria Padilla has produced photographic evidence of women participating in rituals and in moradas, as well as interviews with local community members confirming women’s participation. See “Rezadoras y animadoras: Women Faith and Community in Northern New Mexico and Southern Colorado”. Similarly David M. Mellott and TJ Steel describe three different modes of women’s participation, including their role as Veronicas (young girls who participate in the Passion play), auxiladoras (prayers, procession, and meal preparation), as well as leaders in the community. See Mellott, David, *I was and I am Dust: Penitente Practices as Ways of Knowing*, (Collegeville, Liturgical Press, 2009), and TJ Steele’s “The Spanish Passion Play in New Mexico and Colorado” in *New Mexico Historical Review*, (1978). My own research in the Oral History Archives also confirms that women in the Atrisco community identified as Penitentes—one interview with Flora Galbadon in 1984 confirms the participation of at least two women. (Atrisco Oral History Project, Center for Southwest Research).

central to their communities as meeting places, and houses of worship.⁶⁹

Throughout American occupation, moradas would also prove to be useful meeting places for Penitentes strategizing ways to preserve their land rights.

Historically, most Hermanos claim ancestral ties to New Mexico during the Spanish colonial period, identifying themselves as a religious group that has outlasted three periods of national occupation.⁷⁰ The confraternity, whose public Lenten performances have been both demonized and romanticized, formed the foundation of community self-governance.⁷¹ As settlements on the northernmost

⁶⁹ Mary Watters, "The Penitentes: A Folk Observance" in *Social Forces*, Volume 6, no 2 (Dec 1927), p. 253-256.

⁷⁰ Some historians argue that during the Spanish colonial period, colonists and Franciscans transmitted this particular form of religious devotion to the northernmost part of Mexico. See Dorothy Woodward's *The Penitentes of New Mexico* (1967) and Marta Weigle's *Brothers of Light, Brothers of Blood* (1976) for a discussion of the origins of Penitentes. Because the desert and its surrounding mountains proved to be a treacherous and dangerous journey for most settlers, and because of a lack of clergy available to serve this part of the Spanish empire, scholars agree that the lay Catholic community, headed by the Penitentes took leadership positions over the religious education of their communities. Still other scholars, such as Angelico Chavez, argue that the Penitente traditions were actually transmitted centuries later, in the 18th century, and they more closely resemble those found in Central Mexican popular devotion. See Angelico Chavez, *My Penitente Land: Reflections on Spanish New Mexico*, (Albuquerque: University of New Mexico Press, 1974).

⁷¹ Jennifer S. Hughes provides a historic account of Franciscan penitential practices in central Mexico in her *Biography of a Mexican Crucifix: Lived Religion and Local Faith from the Conquest to the Present* (New York: Oxford University Press, 2010). Indeed, though many Penitente communities were formed in geographically remote areas of New Mexico and Colorado Spanish clergy and Franciscan friars resided in New Mexico until the 1827 expulsion of Spanish born clergy from newly independent Mexican territories. See Philip B. Gonzales, *Política: Nuevomexicanos*

frontier of the Spanish Empire were separated by a harsh geographic landscape, with towns often hundred miles apart, many operated through the development of localized forms of community government and religious tradition.

Based on Spanish land grant distribution, communities in Northern New Mexico were also based on Spanish colonial hierarchies of class and race. As Ramon Gutierrez argues, *genizaros*, or semi-Christianized enslaved indigenous and African descended people, developed what is identified as Penitente practice. The landowning wealthy and upper-class Spanish had more resources for attending official church services and were also able to form bonds with church hierarchy. *Genizaros* and mixed-race New Mexicans depended much more on local lay expressions of religiosity.⁷² Wealthier classes also concentrated their residences in more urban and centralized towns, and usually worshipped in buildings with ornate altars decorated to display their wealth. Founded in 1760, the Confraternity of Our Lady of Light, with members from high-ranking Spanish officials and wealthy nobility, centered their ritual devotion around themes of “conception, purification, nativity and assumption” and punctuated their religious processions “with dances,

and American Political Incorporation, 1821-1920, (Lincoln: University of Nebraska Press, 2016).

⁷² Ramon Gutierrez, “Crucifixion, Slavery and Death: The Hermanos Penitentes of the Southwest,” in *Over the Edge: Remapping the American West*, eds. Valerie J. Matsumoto and Blake Allmendinger. (Berkeley: University of California Press, 1999).

dramas and bullfights.”⁷³ The *genizaro* Penitentes, pejoratively referred to as the Brothers of Darkness, performed “piety through acts of mortification, flagellation, cross bearing, and the Good Friday crucifixion of one of its members.”⁷⁴ Poor, often illiterate, and relegated to rural areas, the “Brothers of Darkness” worshipped congregated in isolated *moradas*, simple adobe structures, for devotional practices.⁷⁵ There among wooden carved *bultos* and *santos*, Los Hermanos Penitentes sang *alabados* and practiced ritual penance away from the eyes of the upper classes.

Though centers of community worship, *moradas* took on a political role in the late nineteenth century during the period of American occupation; Hispano men, calling themselves “Las Gorras Blancas (The White Caps) met in these chapels to devise strategies against the loss of territory and ancestral lands.⁷⁶ The forty years after the Mexican-American War were a difficult transition for New Mexican Penitentes. American occupation, coupled with the change in Roman Catholic leadership positioned many communities as incompatible with these new regimes. The newly installed Archbishop Juan B. Salpointe in Santa Fe, successor of

⁷³ Ibid. 256.

⁷⁴ Ibid.

⁷⁵ The most recent scholarship related to Penitente history examines the racial politics of claiming Spanish *pureza de sangre* in these communities. See Gregory Paul Estaban’s dissertation, *Si eres Genízaro: race, indigeneity, and belonging in northern Mexico*. (University of Texas Austin, 2017).

⁷⁶ Suzanne Forrest, *The Preservation of the Village: New Mexico Hispanics and the New Deal* (Albuquerque: University of New Mexico Press, 1998), 27-28.

Archbishop Jean-Baptiste Lamy, prohibited the popular religious acts attributed to the Hermanos Penitentes in the same period that Anglo squatters began to encroach on communal lands belonging to Hispanos. Many communities attempted to appeal to the American court system to protect their property, and ultimately lost. Failed by both the Treaty of Guadalupe Hidalgo and the territorial courts, some Hispano Penitentes resorted to new forms of resistance against American occupation.

In 1890, under the cover of night, a group of armed men on horseback, their heads covered in white hoods, nailed a proclamation and a list of demands to a number of buildings in Las Vegas, New Mexico. The eleven points of their “Plataforma” identified recent Anglo-settlers as illegal and unethical encroachers on traditional Hispano lands, and called for their removal. Additionally, they asked for full incorporation, emphasizing that they were “law abiding citizens... suffering... [as] the result of the deceitful and corrupt ‘bossism’ of Anglo settlers and their allies (wealthy New Mexicans in league with settlers).”⁷⁷ This proclamation came after almost two decades of legal disputes over land grant rights between New Mexican residents and Anglos. Having exhausted legal means, Las Gorras Blancas resorted to extra-legal measures to claim and protect ancestral lands.

Comprised of lower class, poor ranchers and shepherds, Las Gorras Blancas launched a campaign of “symbolic property destruction” in response to the collusion of the rich landowning New Mexican Hispano gentry with Anglo and law makers and

⁷⁷ “Nuestra Plataforma “ New Mexico State Records Center and Archives, Interior Department Territorial Papers (Box 8; Folder 625), August 8. 1890.

settlers.⁷⁸ The American legal system did not automatically disenfranchise and disempower all Hispano New Mexicans. Historian Laura E. Gomez argues for a more nuanced understanding of the American legal system in New Mexico in the late nineteenth century, noting that residents of Mexican descent represented the majority of petit jurors in New Mexican courts, and used the courts as public forums to express their political and economic power as well as voice their discontent with American occupation. However, while racially and numerically the majority, Hispanos as a discrete category were largely represented in the courts; if we look at class within the Hispano community it appears that there is a large class division among Mexican jurors.⁷⁹

Historians of the Penitente movement often position Anglo distrust and animosity towards the brotherhood as a result of perceived favoritism in court verdicts towards members accused of crimes. Penitentes were also accused of rigging elections to ensure political victories. This was interpreted as a sign of corruption and the order's anti-American sentiment.⁸⁰ However, though some local juries were comprised by majority Penitente members (especially those in remote areas of New Mexico,) Gomez reveals that wealthy, land-owning Hispanos

⁷⁸ Mary Romero, "Class Struggle and Resistance Against the Transformation of Land Ownership and Usage in Northern New Mexico: The Case of Las Gorras Blancas," in *Chicano-Latino Law Review* (87:2006), 89.

⁷⁹ Ibid.

⁸⁰ Dorothy Woodward, "The Penitentes of New Mexico," Dissertation. Yale University Press, 1935.

represented the majority on grand juries, as well as local law enforcement agents.⁸¹ While Gomez argues that race is the primary marker of representation in territorial New Mexican courts, she also argues that the legal power given to elite Hispanos served their economic interests after American occupation.⁸² And, as historians William Carrigan and Daniel Webb note, these histories also position the creation of Anglo vigilante justice committees, such as the “Stockmen’s Protective Association in New Mexico” as reactions and defenses against Penitente legal corruption.⁸³ According to Carrigan and Webb, Mexicans were more likely to be convicted by the American court system, and the traditional narratives of a “weak” criminal justice system in the Southwest “was often a mere pretext to justify extralegal violence that served other purposes.”⁸⁴ In contrast to the myth of the lawless West, historians such as Carrigan, Webb, and Ken Gonzalez-Day argue that white vigilante groups committed racialized violence despite the existence of legal proceedings; in fact, lynchings often occurred after legal trials were held, regardless of not-guilty

⁸¹ Laura E. Gomez, “Race, Colonialism, and Criminal Law: Mexicans and the American Criminal Justice System in Territorial New Mexico,” in *Law and Society Review* (34:4), 1129-1202.

⁸² Ibid.

⁸³ Carrigan and Webb, 38.

⁸⁴ Ibid.

verdicts.⁸⁵ Taking this into consideration, the creation and organization of Las Gorras Blancas was part of a larger set of measures Hispanos enacted to defend their communities against Anglo dismissal of local court verdicts and Hispano judicial power. Indeed, in their appeal to the land rights accorded by the Treaty of Guadalupe Hidalgo, the Gorras Blancas positioned Anglo settlers as criminals.

As they cut the barbed wire erected across communal lands, and burned hay stacks and railroad ties, the Gorras Blancas became a source of anxiety and frustration for Anglo leadership and their allies. Further, the nighttime operations of the group, as well as the concealment of identity with hoods, frustrated and intimidated their targets. The Gorras Blancas operated within the same cultural and geographic areas as the Penitentes. Historian Juan Gomez Quinones argues that:

the secret Penitente brotherhood was key to the success of Las Gorras Blancas. Both groups were strongest in the mountain villages, where they moved effortlessly between communities, relaying information and keeping watch over each other's property... they met after nightfall, usually within the moradas, and discussed the changing events on the [land]grant.⁸⁶

On August 19, 1890, local rancher Severino Trujillo wrote to Governor L. Bradford Prince, claiming to know the identities of Gorras Blancas members who had had killed his horse and burned his hay, characterizing them as the "sort of fellows who

⁸⁵ See also Ken Gonzales-Day's *Lynching in the Est, 1850-1935* (Durham: Duke University Press, 2006), and Nicholas Villanueva, Jr.'s *The Lynching of Mexicans in the Texas Borderlands* (Albuquerque: University of New Mexico Press, 2017).

⁸⁶ James Bailey Blackshear, *Honor and Defiance: A History of the Las Vegas Land Grant in New Mexico*. Santa Fe: Sunstone Press, 2013.

pass their life in idleness most of the time, bent always on mischief and they belong to the society of Penitentes.”⁸⁷ Trujillo, in his appeal to Prince, characterizes the alleged Gorras Blancas members as lazy individuals prone to criminal activity—their membership to the Penitente organization creates a link between their perceived indolence and destructive tendencies and their religious practices.

A few months prior, hoping to harness the power of the Roman Catholic church in an effort to stop the Gorras Blancas from continuing to destroy property and intimidate settlers, John W. Noble, the Secretary of the Interior, appealed to Archbishop Salpointe “to ask that his clergy in the vicinity might exert an active influence against the formation of such secret societies for illegal purposes and against the resulting lawlessness.”⁸⁸ The Gorras Blancas continued their nightly raids, until 1891, when the arrest and criminal trials of a number of members resulted in dismissals due to witnesses refusing to testify against them. However, this victory proved to be largely symbolic, as communal lands continued to be taken over by Anglo commercial interests.⁸⁹

⁸⁷ “Severino Trujillo to L. Bradford Prince”, *L. Bradford Prince Papers*, New Mexico State Records and Archives, August 19, 1890.

⁸⁸ John W. Noble, August 12, 1890, *L. Bradford Prince Papers*, New Mexico State Records and Archives. The destruction of property can be thought of here as a form of competition between materialities in the study of material religion.

⁸⁹ Correia, “Retribution Will be Their Reward”: New Mexico’s Las Gorras Blancas and the Fight for the Las Vegas Land Grant Commons,” in *Radical History Review* 108 (Fall 2010), 67.

The Gorras Blancas stopped operating following this period, as the organization was largely absorbed by the Partido del Pueblo Unido, a labor organization that failed to survive amidst Anglo reactionary groups and commercial interests.⁹⁰ However, the struggle for ancestral land rights did not cease. Indeed, twentieth-century New Mexican history is marked by disputes over ancestral land grants, community ownership, and private property⁹¹. The most famous case of Hispano land grant disputes culminated in the 1967 Tierra Amarilla courthouse raid, led by Reies Lopez Tijerina and Penitente-linked Hispanos, who sought to have the provisions of The Treaty of Guadalupe Hidalgo enforced.⁹²

In 1966, the dissolution of the Tomé community land grant resulted in payment to land grant heirs and the sale of the land to the Horizon corporation. In a case analogous to the Atrisco case (explored later in this chapter), the corporation restricted access to the sacred mountain and to the morada located on the

⁹⁰ Ibid., 65-66.

⁹¹ In 1980, a group of Hispanos calling themselves Las Gorras Blancas made headlines across the United States for violently attacking African American students at New Mexico Highlands University. See Calvin Trillin, "The Return (Perhaps) of Las Gorras Blancas," *New Yorker Magazine*, March 3, 1980, p. 3.

⁹² Though acquainted and allied with Penitente communities in New Mexico, Tijerina was a Pentecostal convert. See Rudy V. Busto's *King Tiger: The Religious Vision of Reies Lopez Tijerina* (University of New Mexico Press, 2005). In 1988, the New Mexico District Court refused to recognize the claims of Tierra Amarilla's Amado Flores, resulting in another related occupation of land by a group of Hispanos, including Pedro Archuleta (who was part of the 1967 occupation)..

mountain. After years of trespassing to perform their Penitente rituals, the site was finally returned to the Tomé land grant heirs in 1993.⁹³

Scholars identify the rise of urbanization, changing ethnic population, Protestant missionary work, economic shifts, and the difficulty of transmitting religious traditions to younger generations as reasons for the decline in Penitente membership.⁹⁴ The pressures of Penitente men to conform to American standards became evident to many young New Mexican men when they presented themselves for military service during World War II, when they were questioned about scars during medical intakes.⁹⁵ Scars through acts of physical penance marked the bodies of Penitente men as superstitious and primitive in the eyes of Anglos; eager to refute the perception that Hispanos were resistant to assimilation and modernity, a new generation of Hispano men eliminated practices of ritual violence. By 1947, the Roman Catholic Church brought the Hermanos back into the fold of the church, giving them official status and recognition, likely based on their acceptance of official Catholic regulations regarding ritual penance.

⁹³ Miguel Gandert, "Retratos de Mestizaje: A Photographic Survey of Indo-Hispanic Traditions of the Rio Grande Corridor," in *Nuevomexicano Cultural Legacy: Forms, Agencies, and Discourse*, ed. Francisco Lomeli, Victor a. Sorell, and Genaro M. Padilla (Albuquerque: University of New Mexico Press, 2002), 76.

⁹⁴ Arthur B. Campa, *Hispanic Culture in the Southwest. Norman: University of Oklahoma Press, 1979*. I also include personal communication with Timothy Matovina as part of this insight.

⁹⁵ Ruben E. Archuleta. "Understanding the Penitente Church in Southern Colorado and Northern New Mexico," *Colorado Central Magazine*, March 2010.

While the Hermanos Penitentes appeared to be entering an era of accommodation and acculturation, Hispanos continued to navigate the inheritance and stewardship of ancestral land grants. Despite newfound support of the Roman Catholic Church and political incorporation, Hermanos through the twentieth century and into the present face legal challenges to claims on New Mexican territory. Appealing to a longer history of occupation, the heirs to many of these land grants found themselves in legal battles to defend their cultural inheritance. The Hermanos Penitentes continue their ancestral practices in close proximity to urban centers—the Atrisco and Tome cofradías and moradas are located in Albuquerque, New Mexico, hardly the isolated mountain regions described in twentieth century sources on the religious community.

As centers of religious, cultural, and political action, moradas in the late nineteenth and twentieth century were central to Penitente identity. When local territorial courts proved unable (and often unwilling) to uphold the land rights outlined in the Treaty of Guadalupe Hidalgo, Las Gorras Blancas sought extra legal means to preserve traditional communal land use in the face of Anglo settlements. The legacy of this resistance continued into the twentieth century, as the spirit of Las Gorras Blancas inspired new movements of Nuevomexicanos to protect ancestral lands. However, like the threat of land loss in the mid-nineteenth century, the twentieth century introduced a new threat to the region: the theft and destruction of the moradas. Relegated in the American imagination to the past, Penitentes faced a growing demand for popular New Mexican cultural art and

religious artifacts resulting in the loss of hundreds of vital artifacts from moradas in Northern New Mexico.

Twentieth Century Preservation Efforts

I turn my attentions now to consider one of the central legal battles the Penitentes faced in the second half of the twentieth century. The Penitentes struggled by various legal means to protect the material contents of their moradas from theft, including by designating them as historic sites. In many ways this history is consistent with the political and territorial dynamics suggested in the section above, but here we see even more sharply the urgency to protect Hispano Penitente cultural property and religious practice. Moradas occupy a precarious place in the modern New Mexico landscape—their changing distribution and disappearance reflect “how ... Anglo culture has reshaped the region.”⁹⁶ Part of New Mexico’s appeal to the American imagination is in its Spanish Pueblo “fantasy past,” and the early twentieth century is marked by attempts to perpetuate this image to garner the tourist economy.⁹⁷

⁹⁶ Smith, Jeffrey S. “Cultural Landscape Change in a Hispanic Region,” in *Geographical Identities of Ethnic America: Race, Space, and Place*, 174-200. Ed. Kate A. Berry, Martha L. Henderson, (Reno: University of Nevada Press, 2002), 179.

⁹⁷ Carey McWilliams’ *Southern California County: An Island in the Land* (1946) introduces the term “Spanish Fantasy Past” as a critical intervention in the history of the Southwest, particularly Southern California. McWilliams contends that this myth appealed to Anglo residents and settlers, who are able to relegate indigenous folks and Mexican residents to an idyllic past. In the last twenty years, historians have also contributed to the demythologizing of California’s Spanish heritage myth, including Matt Garcia, *A World of Its Own: Race, Labor, and Citrus in the Making of*

There is clear evidence of local efforts toward historic preservation in a series of ordinances introduced in the 1970s. Initiated by the brotherhoods themselves as an act of self-preservation and self-defense, the New Mexico State Register for Historical Places lists the East Morada at Abiquiú, New Mexico, as first registered in July 31, 1970, followed by the San Antonio de Padua Morada in Rio Arriba County on November 1, 1974 and the Morada de Nuestra Senora de Guadalupe in Taos on February 28, 1975.⁹⁸ Prior to this, moradas were easy targets of theft, fraud, and burglary, as newspaper accounts attest. In 1962, the Ojo Caliente morada was burglarized for its wooden santos. We can read in this initiative an effort to protect the remaining contents.

But even their registry as historic sites could not prevent the theft of ancient religious objects within the morada walls. In 1972, it was reported that fifteen moradas “had been robbed of Spanish colonial ecclesiastical art in ... two years,” prompting then New Mexico governor Bruce King to declare a state of emergency

Los Angeles (Chapel Hill: University of North Carolina Press, 2001) and William Deverell, *Whitewashed Adobe: The Rise of Los Angeles and the Remaking of Its Mexican Past* (Berkeley: University of California Press, 2004). More recently, Phoebe Krobb’s *California Vieja: Culture and Memory in a Modern American Place* (Berkeley: University of California Press, 2006) and Robert Lint Sagarena’s *Aztlán and Arcadia: Religion, Ethnicity, and the Creation of Place* (New York: New York University Press, 2014) continue this critical historiography, as they explore how the “Spanish Fantasy Past,” creates new directions for ethnic identity even in midst of white hegemony.

⁹⁸ To date only five total moradas are listed in the New Mexico Register of Historic Places. See the *2012 Report*: section 1, of the New Mexico Historic Preservation Division.

and request the help of the Federal Bureau of Investigation.⁹⁹ One month later, the FBI and state police's crackdown on an interstate organized criminal enterprise looking to traffic the objects among antique dealers and museums,

recovered santos [that] had been stolen from moradas... in Abiquiu, Sandia Pueblo, Ocate, Bernal, Placitas, Colonias, Tecolote, Vadito, La Puebla, San Geronimo, Canoncito, Buena Vista, Mora, Sapello, Las Vegas, Sands, Hernandez, Chapelle, San Isidro Del Norte, and Curteles.¹⁰⁰

Arrests continued well into the 1980s, including a 1987 robbery of moradas located outside of Canjilon, New Mexico.¹⁰¹

Another tactic for the preservation of Penitente material culture included proposals to open moradas as public museums. In 1979, the Kit Carson Foundation began attempting to transform the Taos morada into a tourist destination and "sample of the Spanish Colonial Heritage," prompting strong protests from the Penitente community and local Catholic parishioners. On September 22, 1979, three hundred members of Our Lady of Guadalupe Church in Taos joined one hundred Taos Penitentes in a march to protest the proposal.¹⁰² Ignacio Peralta, secretary for the Taos Penitentes, told local reporters that it was "a moral issue, and a highly

⁹⁹ "Church Art Objects Protected," *Clovis News Journal*, October 1, 1972, p. 40. Among the moradas robbed were the San Miguel Mission (July 5, 1972).

¹⁰⁰ B. Ronald Gallegos, "76 Stolen Santos Recovered by NM police." *The Santa Fe New Mexican*, November 28, 1927, 1.

¹⁰¹ Cheryl Wittenauer, "Suspect admits to morada thefts," *The Santa Fe New Mexican*, April 21, 1987, p. 5.

¹⁰² "Hermanos protest morada opening," *The Taos News*, September 28, 1979, p 1.

sensitive situation.”¹⁰³ Local community members expressed their support of the Taos Penitentes including Taos doctor, Robert L. Hawley, who wrote

The current movement by the Hermanos to prevent the Taos Morada from being used for other than sacred purposes blows like a fresh, clean wind through this valley. ... One should not need to be reminded that people who have no sacredness are people who have lost their depth and given up their identity and their meaning. The Hermanos, by their actions, are telling us that there are sacred things that remain inviolate. The Taos morada is meaningful as a symbol that many other things are still alive and deeply meaningful in Northern New Mexico. ¹⁰⁴

The Taos morada, to both Penitentes and their surrounding community, represented more than just a historic site—the morada itself is a sacred part and parcel of living and embodied religion. As Hawley explained, there is an obligation and expectation that the morada remains unharmed and untouched if New Mexican identity is to be preserved. To make the religious place a public museum would relegate the space to the past, no longer a vital and vibrant location for the Taos Penitentes.

One month earlier, on January 1980, Robert M. Lavadie of Taos, New Mexico wrote a letter to the editor of the Taos News, criticizing local residents who supported the Kit Carson Foundation, preservation of the Taos morada, asserting the centrality of the Hermanos Penitentes to the region:

The Hermanos have been here longer than you, and God willing, they'll be here after you. It also seems that you're trying to use the other moradas that have been abused to better your defense. No sir. The time has come for us to

¹⁰³ Ibid., 2.

¹⁰⁴ “Renaissance of the sacred..” Forum section, *The Taos News*, February 7, 1980, 4.

take a stand morally and as is the case legally. Leave our people alone. Let us pray and let us live our own lives the way our ancestors did. “ (“Why the Morada,” FORUM, The Taos News, January 24, 1980 page 4)

In 1988, the title was sold to The Taos Historic Museums Incorporated, and was eventually transferred back to the Our Lady of Guadalupe Parish.¹⁰⁵ Despite plans for restoration and resacrilization, the morada remains barred from use.¹⁰⁶

Now, in the current moment, Penitentes contend with other forms of morada destruction. In June 2000, Adolfo Bachicha, a solid waste foreman, and land owner in Mora County, found himself at the center of a dispute with the local Penitents over the Buena Vista morada. Bachicha, owner of 30 acres of land surrounding the morada, was accused of attempting to create a mobile home park on the property after installing a double wide trailer next to the chapel and creating an additional ten spaces for more mobile. homes. A frustrated Bachicha explained,

Why do I have to speak to (the) Herman’s when I’m the landowner? (Expletive) them. I both the (expletive) property and I’m going to put in what I (expletive) want. [The trailer is for my mom] and they can’t take that away from me.”¹⁰⁷

Members of the Hermandad were concerned that Bachicha’s installation of an unpermitted septic tank and more mobile homes would obstruct the usage of

¹⁰⁵ Jerry Padilla, “La Morada reverts to Historical Caretaker,” *The Taos News*, October 26, 2008.

¹⁰⁶ “My Turn: Taos Penitente Morada de Nuestra Señora de Guadalupe , a holy site.” *The Taos News*, April 20, 2014.

¹⁰⁷ Brendan Smith, “Landowner Defends His Rights: Penitentes Decry mobile Home in Area,” *The Albuquerque Journal* June 17, 2000), 97.

landscape for Penitente ritual and impose on the privacy of the morada, as Bachicha's property surrounded the 110 square feet belonging to the hermandad. According to the Hermanos, Bachicha had already bulldozed and obstructed the use of a road used in religious ceremonies during Good Friday reenactments of the Stations of the Cross. In June 2012, the Morada del Carmen was actually destroyed, when it was bulldozed by landowner Leroy Aragon despite evidence that the land deed included a provision allowing the Hermandad use of and access to the morada.¹⁰⁸

Throughout the twentieth century, the popular fascination with Penitente practices and material culture resulted in the theft of artifacts, attempts to open moradas to tourists as part of larger preservation efforts, and the shift from communal property of Hispanos to the private property of individuals considered outsiders. In all of these instances, Penitentes leveraged historic ties to landscape and materials, arguing for the right to live as their ancestors once did—a moral stance in the face of impending modernity.

The Atrisco Case: Cultural memory, identity, and modern redevelopment

The Atrisco Penitentes understand that their claims to the San Jose morada are also tied to original Spanish land grants, inheritance, and communal use. As this chapter explores, Atrisqueños understand the San Jose morada as a historic and vital cultural place for community identity. The Taos Penitentes, and other groups,

¹⁰⁸ Todd Unger "Historic morada bulldozed," *KOAT News*, June 20, 2012.

faced the theft of sacred objects and the threat of repurposing their sacred moradas as public museums; so too the Atrisco Penitentes face a similar legal battle in the last decade. This section attends to historic roots of the Atrisco community and the century long struggle to define legal heirs to the landscape, the shift to corporate ownership, and how redevelopment threatens the morada community. Though restricted from access to the chapel, today the Atrisco Penitentes risk criminal charges to continue the physical maintenance of the site, and their community affirms the long history of worship in this location.

The Atrisco land grant was granted by the Spanish crown to settlers in the seventeenth century, after the return of Spanish conquistadors in 1692 following the Pueblo Revolt of 1680. The communal ownership and use of the lands were recognized by the Treaty of Guadalupe Hidalgo and by the 1894 the United States Court of Private Land Claims confirmed the legal status of the land to heirs of the grant.¹⁰⁹ However, the decline of traditional agricultural methods of sustenance by the late nineteenth century and the trend towards urbanization in the early twentieth century led the opening of Atrisco lands for leasing by outsiders. This decision, made by the board of trustees of the Atrisco land grant heirs, opened up communal land to companies seeking to capitalize on natural resources of gas oil, and volcanic ash within the land grant boundaries as well as to expanding highway

¹⁰⁹ In interviews with Atrisqueños, the Treaty of Guadalupe Hidalgo is still cited when discussing land grant claims and the change to American concepts of land ownership. See interview with Eunice Myrick, *Atrisco Oral History Project*, April 15, 1984.

roads and development of telephone lines.¹¹⁰

A series of lawsuits continued for the next fifty years over the ownership of the Atrisco land grant, and resentment brewed among Atrisqueños who were left out of the trust because they could not provide documents to claim lineage to the original settlers of the land.¹¹¹ In 1940, discontent with the decision to lease out communal lands, heirs of the Atrisco land grant sued the board of Trustees, charging “mismanagement and violation of state laws regarding the sale of land grants...” demanding “the removal of trustees involved in illegal practices.” The court ruled in favor of electing a new Board of Trustees, and soon barred the sale and leasing of any communal lands without approval of the newly elected board. By 1967, the majority of land grant heirs voted to incorporate themselves as “Westland Development,” receiving “stock proportional to [their] ancestor’s land holdings” in the amount of 800,000 shares.¹¹²

Following the creation of the Westland Development Company, during the 1968 “Heirships case,” Atrisco land grant heirs were required to provide proof of their inheritance in the New Mexico State District Court.¹¹³ According to the heirs

¹¹⁰Joseph P. Sanchez *Between Two Rivers: The Atrisco Land Grant in Albuquerque History, 1692-1968*. Norman: University of New Mexico Press (2008), 164.

¹¹¹ Among the most famous lawsuits related to the inheritance of land is Jake Armijo et al. v. Town of Atrisco (1950)

¹¹² Peter C. Beller, “Inside Deal on the Mesa,” *Forbes Magazine*, August 8, 2007.

¹¹³ Federico Abeyta, Box 1, Folder 9, *Atrisco Oral History Project*, May 20, 1984.

who comprised the Board of Trustees of the corporation, this was necessary in order to distribute an equitable amount of shares. In his recollection of this event Federico Abeyta alleges that most of the Atrisco community was unaware they were required to show up in court with inheritance documents. Abeyta states:

No, the people wanted their plots of land to be open, like they were in the past when animals could graze freely. If you had a horse, you could release it to graze anywhere.¹¹⁴

By 1973, the State District Court identified 225 original land grant incorporators and limits the distribution of shares to those who could prove direct lineage.¹¹⁵

Atrisco land grant heirs continued to fight over management of funds and in 1991, accused Gil Cordova, president of the Westland Development Company of securities fraud.¹¹⁶ In 2006, SunCal, a development company out of California successfully won a bid to purchase the trust for 250 million dollars—“5991 heirs got an average of 37k apiece, and Westland’s nine board members took home 15 million dollars.”¹¹⁷ According to documents filed with the New Mexico State Board, the same year, in 2006, the Sociedad de Nuestro Padre Jesus Inc. registered as a

¹¹⁴ Ramón Herrera, Box 1 Folder 5 *Atrisco Oral History Project*, March 20, 1984. In other interviews, informants reflect that it also excluded women from claiming ancestral land rights, as Atrisqueño men were usually granted access to documents and to inheritance.

¹¹⁵ Richard Griego, “Timeline for Atrisco/Westland,” *New Mexico Legislation*, January 2013.

¹¹⁶ *Garcia v. Cordova*, 930 F. 2d 826. Tenth Circuit (1991).

¹¹⁷ *Ibid.*

corporation as a non-profit religious organization, with the mission to

Lead, organize and maintain Native New Mexican Cultural and traditional values within the community. To sustain cultural values through spiritual guidance by preserving language and communal characters through guidance of traditional religious activities as inherent by our communal values. Our mission is to preserve the essence of Los Hermano Penitentes and to secure a culture in our youth that values the community above the individual.¹¹⁸

The organization subsequently leased and registered the San Jose de Armijo morada, located at 2100 La Vega SW in Albuquerque, NM from the Westland Development company, as their principle place of business. One year later, SunCal transferred the title of the property to the Atrisco Heritage Foundation, part of the larger Atrisco Companies.¹¹⁹ Part of the larger purchase deal in 2006 was an agreement to pay \$100 million dollars to the Atrisco Heritage Foundation “over a period of 100 years ...[or] the promotion and preservation of Atrisco’s ancestral heritage and the history of the Atrisco Land Grant.”¹²⁰ According to President and Chief Executive Officer, Peter A. Sanchez, of the Atrisco Companies, the sale of the land grant “mean[t] that [they] parte with [their] land, but not with [their] ties to its rich history.”¹²¹ This sentiment would soon be contested after SunCal transferred

¹¹⁸ Certificate of Incorporation of Sociedad de Nuestro Padre Jesus Inc., July 19, 2006.

¹¹⁹ The Atrisco Companies are comprised of The Atrisco Heritage Foundation, Atrisco Oil and Gas LLC, and El Campo Santo Inc.

¹²⁰ Peter A. Sanchez, “Atrisco Heirs Sold the Land, Preserved the Culture,” *The Albuquerque Journal*, December 6, 2007.

¹²¹ *Ibid.*

the title of the chapel to the Atrisco Heritage Foundation, as part of the preservation efforts, in 2007.¹²²

On August 26, 2013, the Atrisco Penitentes filed a civil suit against the Atrisco Heritage Foundation. The organization alleged that their fifty year lease had been wrongfully terminated, and they sought to renew the lease to their ancestral religious site. The Atrisco Heritage Foundation disputed the accusation, presenting evidence of a lawful termination of the lease by former Hermano Mayor and president of the Hermandad Juan Sandoval, dated February 13, 2013. The new Hermano Mayor, Jose Maria Perea, claimed that the Atrisco Heritage Foundation was made aware that Sandoval was no longer president, but could not provide evidence of a legal change in organizational structure. Stuck in a bureaucratic nightmare and getting nowhere in the New Mexico court system the Atrisco Penitentes sought extralegal methods of reclaiming the San Jose de Armijo *morada*. According to the 2016 countersuit by the Atrisco Heritage Foundation, the Hermandad engaged in a series of tactics that included “malicious abuse of process, prima facie tort; breach of covenant of good faith and fair dealing; trespass; nuisance’ and civil conspiracy.”¹²³

The accusation of prima facie tort, known as an intent to inflict damage on

¹²² “Affidavit of Peter Sanchez, J”. in case documents for *Sociedad de Nuestro Padre Jesus, Inc. v. Atrisco Heritage Foundation*, D-202- CV 201306918, January 15, 2016.

¹²³ Defendant’s motion to amend and supplement pleadings to assert counterclaim against new defendants,” *Sociedad de Nuestro Padre Jesus, Inc. v. Atrisco Heritage Foundation*, January 27, 2016, p 6.

another party even through legally protected acts, was the result of a series of articles published by the *Albuquerque Journal* in 2013 and 2014, one of which documented the Hermandad singing their *alabado*. Claiming that they were illegally restricted from their morada, the Hermanos Penitentes filed a lawsuit against the Atrisco Heritage. According to Jose Maria Perea, the Hermano Mayor of the Atrisco Penitentes, the foundation had removed devotional objects and historic artifacts from the church and barred the brothers from legally accessing the property.¹²⁴ While the Atrisco Heritage Foundation claims they have moved the objects for safekeeping and historic preservation, the Hermanos, with ties to the morada since the eighteenth century, allege illegal restriction of communal property. Further, the Hermanos produced evidence that the Atrisco Heritage Foundation was not adequately caring for the site, pointing to evidence of drug paraphernalia on the property. Rather than have the morada serve as a multi-purpose public place, the Hermandad argued that the morada should continue to serve as a place of worship for the brotherhood and the community.¹²⁵ Court documents reveal that Perea and his son were escorted from the property by a Sheriff's deputy.

¹²⁴ Olivier Uyttebrouck, "Penitente brothers file suit," *The Albuquerque Journal*, January 25, 2014.

¹²⁵ Olivier Uyttebrouck, "From church to battleground," *Albuquerque Journal*, November 17, 2014.



Figure 1.3 “Two syringes and latex gloves litter the base of a wall of San Jose Church. South Valley residents say intruders scale the fences, sometimes leaving graffiti and evidence of drug use” (Roberto E. Rosales/Albuquerque Journal October 4 2014).

In November 2015, the Atrisco Penitentes posted a large sign at the *morada* gate:

La Morada de San Jose de La Merced de Los Ranchos de Atrisco
The original Mission Church and Cemetery of the Town of Atrisco Land Grant-
Merced.
La Morada de San Jose is a sacred place of worship—consecrated by our ancestors
that are buried in this holy ground and Granted us the Sacred Ceremonies,
Traditions and Cultural Heritage we cherish.
PLEASE RESPECT AND PROTECT THIS SACRED SITE THAT WE LOVE.
POR EL AMOR DE DIOS RESPETE ESTE SANTO LUGAR QUE NUESTROS
ANTEPASADOS NOS DEJARON.
QUE LA BENDICION DE NUESTRO PADRE JESUS NAZARENO Y DE NUESTRA
COMUN MADRE MARIA SANTISIMA SEA SIEMPRE CON USETED Y SUS FAMLIAS.
Land Patent- BLM Doc. #505-1905. Serial #NMNMAA 00536, NMSA 1878 (Ch 49 1-
3).
Entrusted by law “to control, care for, and manage the said land Grant-Merced” and
operating in the best interest of the Heir of
TOWN OF ATRISCO GRANT HEIRS MERCED
For more information- 505-220-8591.¹²⁶

Though the Atrisco Heritage Foundation acknowledged the historical significance of the *morada*, as “perhaps the first documentation of consecration or historical religious status in any historical archives in New Mexico,” court records reveal that the foundation attempted to discredit the status of the *morada* based on lack of archival records.¹²⁷ The inability to produce legal documents (from either the courts or from the Roman Catholic church), countered the claims by the Atrisco Penitentes of the religious and sacred significance of the *morada*, as they claim the chapel is a mere addition to Saint Anne’s church.

¹²⁶ *Ibid.* 17.

¹²⁷ *Sociedad de Nuestro Padre Jesus, Inc. v. Atrisco Heritage Foundation* (2013).



Center for Southwest Research, University Libraries, University of New Mexico

Figure 1.4 “Chapel at Atrisco-Three Miles South of Albuquerque” – UNM CSWR Nancy Tucker Pictorial Collections of Southwest Materials (ca. 1880).

However, my own research reveals a long history of cultural memory of the San Jose de Armijo morada. According to the 1891 Sadlier’s Catholic Directory, Almanac and Ordo the San Jose chapel is listed as its own separate church under the parish in Albuquerque, where San Felipe de Neri is listed as the parish church, no

mention of St. Anne's appears on the roster, though San Jose Chapel is listed as a place without a diocesan priest, but one that is attended to by Jesuit fathers. In the oral histories of Atrisco, conducted in 1984 by Dr. Raymond Burrola, members claim that the San Jose de Armijo chapel is older than Saint Anne's Roman Catholic Parish, founded in 1929.¹²⁸

There are distinctions made between the different parishes, and Benino Saavedra de Lopez when asked the approximate age of the morada, states that she is over 74 years old, and in her memory, the morada had been there long before she was born.¹²⁹ Ambrosio Carrasco revealed that the Atrisco Penitentes had an earlier struggle with the ownership and use of the San Jose de Armijo church. According to Carrasco, the Westland Development Corporation had attempted to sell the chapel to a private citizen sometime during their tenure (between 1964 and 1984, the date of the interview. Carrasco does not give a precise date). He tells interviewers

First the conservatorship wanted to get rid of the church, but they were not allowed. And then, in some form or another, they sold it... then Salamon Jaramillo came and fixed it because it was practically destroyed.... The people came together and renovated it. They made it very beautiful before the Bishop sold it. When a man bought it, the lawyer for the Atrisco land grant, said no, it did not belong to the bishop, and it needed to be returned to the people. And they returned it to the people.¹³⁰

Though Carrasco denies being a Penitente, he makes it clear that they were

¹²⁸ Susie Armijo, Folder 1, Box 1. *Atrisco Oral History Project*, June 25, 1984.

¹²⁹ Benino Saavedra de Lopez, Folder 12, Box 1 and Rachel Madrigal, Folder 23, Box 1, *Atrisco Oral History Project*, July 16, 1984.

¹³⁰ Ambrosio Carrasco, Folder 22, Box 1. *Atrisco Oral History Project*, July 14, 1984.

considered an important part of the community, despite it not being like the other churches, that were officially part of the archdiocese— “Y esta, esta es del pueblo. (And this one, this one belongs to the people.)”¹³¹

Taking this into account, it appears that prior to the conflict with the Atrisco Heritage Foundation, the San Jose de Armijo morada had already been threatened with removal from communal use. As Carrasco explains in the interview, the importance of the morada to the Atrisco community is reflected in the repair of the chapel and its restoration, and the legal battle waged against the possible sale of the property by the archdiocese and the Westland Development Company. That this is part of recent historical memory also means the contemporary struggle for the battle over use of the morada positions the location as an assertion of Atrisco belonging and identity. The memories of the Atrisco community members in oral interviews demonstrate a strong form of “place memory,” and as philosopher Edward S. Casey explains,

is the key to the power of historic places to help citizens define their public pasts: places trigger memories for insiders, who have a shared common past, and at the same time places often can represent shared pasts to outsiders who might be interested in knowing them in the present.¹³²

Indeed, other interviewees expressed the importance of place and cultural memory for heirs of the Atrisco land grant, emphasizing the generational concern with loss of

¹³¹ *Ibid.*

¹³² Edward S. Casey, *Remembering: A Phenomenological Study* Bloomington: Indiana University Press, (1987), 186-187.

ancestral lands. Francisca Herrera Tenorio recounted that, before he died, her father would warn his children against selling their land,” reminding them that land

is the most important thing in life. It is one thing to use your land to give, continue to maintain your life, and that is what land is for—not for accumulating large plots of land to sell and make more money... In other words, our land is not a commodity, or something to be sold. No—it was something that had personal value when used properly.¹³³

While some folks lamented the loss of land to greed and the accumulation of capital, others understood the precarity of their inheritance as a failure of the state to recognize the terms of the Treaty of Guadalupe Hidalgo. Eunice Myrick expressed her frustration with the lifelong battle against depletion of Atrisco lands and the division of the land grant into corporate shares—despite knowledge of the law, and an attempt to abide by the laws of the state of New Mexico, Atrisqueño’s faced the constant threat of dispossession:

It’s been through the courts telling them, no, you have no rights; no, that’s not the way it is; no, but still we know deep down inside that it is so, but we’re helpless. We are helpless because we didn’t have the money or the interested people to handle this. We still have to go by the law, the law, the courts are still there. And the state is the one that is supposed to be protecting us. The treaty [of Guadalupe Hidalgo] says, the Constitution says, and the [New Mexico] state constitution says, you protect these people and their property. All their rights and all they had before they became U.S. citizens. And they passed laws and messed us up.¹³⁴

In December 2015, the Atrisco Penitentes changed the locks to the chapel property twice—this included gate locks as well as deadbolts to the morada. In

¹³³ Francisca Tenorio, Folder 13, Box 1, *Atrisco Oral History Project*, June 20, 1984.

¹³⁴ Mrs. Eunice Myrick Folder 9a, Box 1, *Atrisco Oral History Project*, April 15, 1984.

January 2016, the brotherhood trespassed on property and performed landscaping services. The Atrisco Heritage Foundation complained that they had cut trees and left “drag” (landscaping debris) on the wrong side of the property.¹³⁵ Though the Atrisco Heritage Foundation filed a countersuit and threatened to file restraining orders against the Atrisco Penitentes, the original complaint and the counter suit stalled in the courts. Unable to reach any type of agreement, the case has been dismissed and no agreement has been reached.

The foundation wants to register San Jose Church on the National Register of Historic Places, he said. The designation makes owners eligible for investment tax credits to pay for rehabilitation of historical structures. Sanchez, when interviewed by *The Albuquerque Journal* stated that “religious artifacts removed from the church ‘are stored safely under our control,” in court documents the Atrisco Heritage Foundation alleges that there were no artifacts found on the property.

The threat to the Atrisco morada follows a pattern that threatened other moradas in the twentieth century, including the removal of ancestral religious materials for the sake of ‘preservation,’ desacralization of the chapel, and restricted access to the site. The Atrisco Penitentes and their community hold a long memory of the San Jose Morada in their community—through oral histories, continued maintenance of the religious site, and an appeal to the broader public, the brotherhood’s claim to this particular place creates friction against the Atrisco Heritage Foundation’s definition of preservation. For the Atrisco hermanos,

¹³⁵ Ibid.

modern notions of preservation that include public access to sacred sites for revenue and the removal of religious objects for “safe-keeping,” are physical threats that prevent cultural preservation. Witness to a longer history of displacement and theft of cultural objects, the Atrisco community refuses to break ties with the material culture that roots them in this particular location. The *morada* and the objects housed within retain the traces of their ancestors and of their religion; the histories of their community are activated when they inhabit their sacred space.

Conclusion : Religious identity and the power of devotional practices

The legal battle between the Atrisco Heritage Foundation and the Atrisco Hermanos Penitentes are part of a longer history of Mexican religion and the law in the United States. Despite changing legal, governmental, and economic systems, the Hermanos Penitentes continue to struggle against legal restrictions to geography and religious practices. This legal case reasserts Penitente religion as a contemporary practice in New Mexico, and the Hermanos as contemporary religious actors grappling with preserving their histories and religious heritage despite growing urbanism and economic development. The public performance of Los Hermanos Penitentes, through processions in alfalfa fields and devotional singing in the face of physical barriers around their *morada* is an assertion of New Mexican identity and belonging in defiance of historical and contemporary constrictions. As scholar of Chicano studies, Patricia Zavella argues,

A sense of belonging is forged through cultural expressions, which become the basis for coalition building and agitation for social justice. Performances become reflexive spaces, which foster agency by allowing critiques of politics outside, and from within, Mexican communities.¹³⁶

The dispute over the Atrisco land grant also demonstrates the complexities of Mexican identities and communities. The case reveals a layered history of Hispano community divided by class differences and reflected in control over capital and willingness to cooperate with Anglos for economic interests. As with the Las Vegas land grant in the nineteenth century, the historic battle over the Atrisco land grant reveals the limits of the legal system in protecting the rights of Mexicans as outlined in the Treaty of Guadalupe Hidalgo.

Though dismissed because they do not hold any archival evidence of the historical significance of the San Jose de Armijo chapel, the Atrisco Hermandad's continued trespassing on *morada* property to landscape and clean the chapel demonstrates the importance of cultural practice and memory in landscapes of sacred space. As Diana Taylor argues in the *Archive and the Repertoire*, histories and cultural knowledge in the Americas are often transmitted through embodied cultural and religious practices. The labor performed by the Penitente brothers produces what Elaine Peña calls "devotional capital" , as

¹³⁶ Patricia Zavella, *I'm Neither Here nor There: Mexican's Quotidian Struggles with Migration and Poverty*. (Durham: Duke University Press, 2011), 192.

Within and between... sacred spaces, adherents determine, create, and circulate devotional capital according to site specific faith based value systems. Moreover, devotional capital may also be thought of as a vehicle; adherents communicate ways of remembering, knowing, interpreting, and coping.. that affect not only the quality of life for these religious communities but also the legacies they leave behind.¹³⁷

Moreover, the performance of devotional labor at the San Jose de Armijo Chapel also serves to activate the landscape as sacred, as embodied acts ensure that past performances remain relevant to the particular place.¹³⁸ Whether in pilgrimage, penance, or in the maintenance of structures, the Atrisco Penitentes maintain the relevance of their cultural and religious histories in this particular place- the historical links to the morada are reinforced through embodied practice and ritual, rather than through written mediums.

The identification of the Hermanos as descendants of the first Spanish settlers is reminiscent of Rafael Romero's 1878 public speech in which he claimed that New Mexican descended from "ancestors [who] penetrated into these deserted and dangerous regions many years before the Mayflower floated over the dancing waves that washed Plymouth Rock."¹³⁹ As Romero asked in the nineteenth century, is New Mexico not a Catholic Land?¹⁴⁰

¹³⁷ Elaine Peña, *Performing Piety*, p 18.

¹³⁸ Ibid, p 41. Here Peña refers to Michel de Certeau's ideas of space and place.

¹³⁹ Qtd in Timothy M. Matovina, *Latino Catholicism: Transformation in America's Largest Church*. (Princeton: Princeton University Press, 2012).

¹⁴⁰ Ibid. 22.

For the Hermanos Penitentes, Catholic history and identity echoes in the contemporary moment. Recognizing themselves as both fully Catholic and fully American, strategies for reclamation of ancestral geographies range from the legal to the extra-legal. While the attention of the media in the late nineteenth century and the early twentieth century brought unwanted attention to the Hermandad, the appeal to journalism in the present reflects willingness to appeal to the court of public opinion in a way that would have been unthinkable a century ago. In the light of the present day, the Hermandad displays religiosity that defies historical depictions of violent and bloody practices. Like their nineteenth-century counterparts, the Atrisco Penitentes incorporated their organization in order to assert their claims to territory and identity demonstrating how Penitente agency moves through legal channels. That is how power flows and is restricted at different historical moments. However, while the Atrisco Penitentes have not resorted to the threats of violence exhibited by the Gorras Blancas and the Tierra Amarilla occupiers, the restriction of sacred land use by forcing them to trespass in order to access their religious spaces positions them as criminal.

Finally, the current legal battle over the Atrisco *morada* reveals a newer form of legal and governmental constraint for Mexican religious practices under the guise of historic preservation. While historic preservation projects often serve as mechanisms to represent minority groups as integral aspects of a larger multicultural community, critiques of multiculturalism claim that this type of liberal framework, “assumes the existence of the state as a neutral arbiter... that upon

request, dispenses rights and privileges in the form of a gift.”¹⁴¹ Scholars of post-colonialism and race in the United States also trace logics of multiculturalism to capitalist state projects; given the illusion of freedom of identity expression and formation, multicultural projects of historic preservation reinforce narratives of American nation-building projects as finished processes of acculturation and assimilation.¹⁴² Framed in this way, the Atrisco Heritage Foundations claim to preserve the morada as a historic site for public consumption also serves to position Hispano Penitentes in the historical past. Rather than accept this temporal bind, current members of the Atrisco Penitentes continue to conjure their historical narrative as a reminder that Hispano Penitente practice is still a dynamic religious identity.

Despite the Atrisco Heritage Foundation’s insistence that the sale of the land to Sunland would preserve the region’s culture and history, Atrisqueños identify redevelopment and loss of land as a central parts of the failure of the legal system to uphold their land rights. Additionally, the oral interviews conducted among community members and the Atrisco Penitente’s claim to the San Jose de Armijo morada make the ownership and communal use of land CENTRAL to their identity as Atrisqueños and Hispanos.

¹⁴¹ Richard Day, *Gramsci is Dead: Anarchist Currents in the Newest Social Movements* (London: Pluto Press, 2005), 78.

¹⁴² Walter Mignolo, *The Idea of Latin America* (Malden: Blackwell Publishing, 2005), 114 and bell Hooks and Amalia Mesa Bains, *Homegrown: Engaged Cultural Criticism*. (Cambridge; South End Press, 2006).

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Chapter Two: Policing Curanderismo in the Twentieth Century

Abstract

This chapter traces a history of *curanderismo*, a form of Mexican spiritual healing practice, and the law in twentieth-century United States. It presents four legal cases concerning Latina/o folk healing to argue that *curandero* practice continually shifts in response to different modes of surveillance and prosecution; by the mid-twentieth century, *botanicas* become places where *curanderismo* is practiced and where it continues to be policed.

Introduction

In the Rio Grande Valley of South Texas, folks still sing the corrido (ballad) of a curandero of the nineteenth and early twentieth century. They sing,

He didn't care for money
Doctors came to disprove his
power
They drank a glass of water
And left urgently.
They did not want to return
To register his license.

No le importaba el dinero
Unos doctors vinieron a desafiar sus
Postencias
Tomaron un vaso de agua
Y salieron con urgencia.
No quisieron regresar
A registrar su licencia.

-El Corrido de Don Pedrito Jaramillo.¹⁴³

¹⁴³ This song is made popular by Rene Joslin y Los Favoritos, a conjunto band from Alice, Texas. Though other oral histories attest to this investigation, this song is the only mention of the doctors partaking in the water cure. Another corrido based on the death of Don Pedrito Jaramillo also exists, as documented by Mark Allan Goldberg, in *Conquering Sickness: Race, Health and Colonization in the Texas Borderlands* (Lincoln: University of Nebraska Press, 2017).

Part of a larger folk tradition in the U.S.-Mexico borderlands, the ballad describes how Don Pedrito Jaramillo, of Falfurrias, Texas, was visited by medical professionals scrutinizing his healing practice in the early twentieth century.¹⁴⁴ They arrived doubting his authority, but after drinking a glass of water (his preferred method of treatment) the skeptical physicians departed and decided not to enforce the law requiring medical licensing. Don Pedrito's *corrido* reveals the history of the U.S. medical establishment's suspicion of curanderismo in the early twentieth century.

The regulation of Mexican-American medical practices and their enforcement in the United States coincided with restrictive immigration laws more generally. The 1907 Gentleman's Agreement, restricting immigration from Japan followed the 1882 Chinese Exclusion Act, limiting East Asian populations from entering the United States. This, coupled with Mexican migrants seeking refuge from the 1910 Mexican revolution, changed the demographics of labor in the United States, especially in Los Angeles, California. The Johnson-Reed Act of 1924 created more restrictions for immigration from Asian countries. 1924 also marks the creation of the U.S. Border Patrol.¹⁴⁵ By the 1930s with the decline of the American economy and the onset of the Great Depression, Mexican laborers who had been welcomed to fill the labor shortages created by Asian exclusion and World War I enlistments, found

¹⁴⁴ Américo Paredes makes an argument for corridos, and folk songs, in the U.S.-Mexico border as important oral historical sources. See the foundational *With a Pistol in His Hand: A Border Ballad and its Hero* (1958).

¹⁴⁵ For a comprehensive history of the U.S. Border Patrol see Kelly Lytle Hernandez, *Migra! A History of the U.S. Border Patrol* (2010)

themselves subject to restriction and removal. These restrictive immigration laws remapped the United States by creating new hierarchies of difference based on race and ethnicity, creating a “new sense of territoriality,” and breeding a culture of surveillance, hyper-awareness, and enforcement of political borders.¹⁴⁶ Mexicans, and Mexican Americans, charged with taking American jobs, depleting public services, and deemed sources of contagion faced new waves of policing and surveillance.¹⁴⁷

In this chapter, I argue that curanderismo as both a healing modality and a religious practice was targeted by legal authorities in the United States through various mechanisms and agencies, including the United States Postal Service, the American Medical Association, and the California Medical Board. It is a legal history of curanderismo in the twentieth century and the various manifestations of enforcement regulations during this period. Prosecuted as “quacks” and “frauds” these curanderos sought different avenues of practice to navigate the changing legal landscape throughout the first half of the twentieth century.

My research illustrates how curanderismo, especially in the context of twentieth-century California, has been regulated through a variety of legal avenues, and how the enforcement of public health laws shifts throughout the century in a

¹⁴⁶ Mae Ngai, *Impossible Subjects: Illegal Aliens and the Making of Modern America* (Princeton: Princeton University Press, 2004), 3.

¹⁴⁷ For more on this decade see, Balderama, Francisco E. and Raymond Rodriguez, *Decade of Betrayal: Mexican Repatriation in the 1930s* (2006); J. Gonzalez, *Harvest of Empire: A history of Latinos in America* (2000); Joseph Nevins, *Operation Gatekeeper: The Rise of the “Illegal Alien” and the Remaking of the U.S.-Mexico Boundary*, (2001)

way that targets Latina/o spiritually-oriented healing modalities. It traces the shifting legal discourses surrounding curanderismo in the early twentieth century, noting the way religious practices changed to accommodate legal definitions of medicine and the way legal enforcement of curanderismo altered as a result.

In the first half of the twentieth century the American Medical Association was the primary mode of enforcement and prosecution focused on the use of the postal service in cases of medical fraud and the regulation of patent medicines.¹⁴⁸ Later enforcement sought to criminalize practitioners as occult “witch doctors” through sensationalized accounts appearing in newspaper accounts. In the second half of the twentieth century, botanicas, retail shops where contemporary curanderismo is often practiced, are targeted as locations of criminal and extra-legal activity by government officials. As practitioners and manufacturers of said patent medicines demonstrated knowledge of the nuance of these regulations, botanicas in Southern California increased in popularity, creating new places of religious innovation, as well as providing law enforcement officials with new targets of surveillance. Both curanderismo and the regulation of healing change throughout the century, shifting and adapting according to the actions/threats of the other.

¹⁴⁸ The passing of the 1876 Comstock Law, regulating “obscene materials,” including literature and printed materials related to contraception and abortion created a national enforcement agency through the federal post office and the American Medical Association. For more on the history of the Comstock Law, see Molly McGarry’s “Spectral Sexualities: Nineteenth Century Spiritualism, Moral Panics, and the Making of U.S. Obscenity Law,” 8-29, in *Journal of Women’s History* 12, no. 2 (2002).

Historical Background

Curanderismo as a religious healing modality is rooted in its history of cultural and legal encounters; the rich complexity of practices and beliefs are products of tension and accommodation. From the early period of Spanish colonial rule in the Americas, the term *curanderismo* appears in the historical record as a legal term weighted with implications of criminality and impropriety.¹⁴⁹ From the moment of colonial encounter, curanderismo referred to “a range of activities contrary to Spanish medical norms. Indeed, the sense of what was ‘proper’ from the Spanish perspective delineated the initial boundaries of curanderismo,” in places like Mexico.¹⁵⁰

Emerging from the colonial period, curanderismo as it is now recognized is the result of an encounter between indigenous Mexican religion, medieval European humoral medicine, Afro-diasporic traditions, and folk Catholic practice. Rooted in the Spanish word “curar” or “to cure”, *curanderismo* describes what Luis D. León has called “a synthesis of pre-Tridentine Catholicism, Spanish-Moorish medicine, and ancient Mesoamerican medicine and religion. It is a religious and medical nexus

¹⁴⁹ Often considered a lesser and less egregious offense than *brujeria* in New Spain. Many historians have considered the practice of curanderismo before and after independence.

¹⁵⁰ Sowell, “Quacks and Doctors: The Construction of Biomedical Authority in Mexico,” *Juniata Voices* (2005), 5.

articulated in colonialism.”¹⁵¹ It has also been shaped by the introduction of other forms of religiosity into the region, including *espiritismo* and Protestantism. During the colonial period, Roman Catholic friars burned the Mexica codices and books that contained indigenous knowledge. As a result many of these traditions were passed down orally and as syncretized Catholic traditions. Colonial structures of governance sought to regulate all forms of indigenous religion, careful legislating the supposed religious risks of *curanderismo*. At the same time, Spanish colonial authorities also sought out and incorporated New World forms of herbal medicine, humoral medicine, and other physical cures, incorporating these into colonial medical procedures including into the training of a range of medical practitioners. These indigenous medical knowledges were incorporated into the training of “*medicos*”, or men given more formal training in medicinal practices: herein appears one of the early distinctions made between *curanderos* and “real physicians.”¹⁵² In the nineteenth century onward, the rise of public health agencies and the professionalization of medicine signal an effort toward modernization within which *curanderismo* is increasingly suspect and marked as anti-modern (i.e. “backward”) by newly formed medical boards and regulatory agencies.

Nevertheless, *curanderismo* remains a vital system of healing rooted in indigenous cultures across Latin America and in Latin American diasporic

¹⁵¹Luis D. León, “Borderland Bodies and Souls: Mexican Religious Healing Practices in East Los Angeles,” in *Mexican American Religions: Spirituality, Activism, and Culture* (Durham and London: Duke University Press, 2008), 300.

¹⁵² Sowell, “Quacks and Doctors,” 18.

communities. In the Mexican context, the tradition incorporates Mesoamerican practices in particular. In Mesoamerican indigenous epistemologies, the body and spirit are not distinct from each other. If the body is injured or sick, the spirit is also sick. To heal the body one must heal the spirit. Curandero health practices continue to include religious elements—offerings to deities and ancestors, religious rituals, animal sacrifices, as well as herbal remedies and tinctures.

Studies of curanderismo and folk healing in Mexican communities in the United States in the mid twentieth century relied heavily on anthropological and sociological field work in Mexican and Mexican American communities as a form of diagnostic public health intervention in the barrios, accounting for and explaining so-called “cultures of poverty.”¹⁵³ Too frequently these studies relegated curanderismo to a marginal status as an anachronistic rite in an increasingly modern world, as a key healing modality among marginalized communities without access to modern medical treatment or who simply refused modern medicine. Mid-twentieth-century studies of curandero practice in the United States, emerging from problematic schools of anthropology, sociology, and urban studies, explained that curanderismo persisted because of a failure to assimilate, arguing that “as an

¹⁵³ See, Margaret Clark, *Health in the Mexican American Culture: A Community Study* (Berkeley: University of California, 1959); George M. Foster, “Relationships between Spanish and Spanish-American folk medicine,” *Journal of American Folklore* 66, 201-17; William R. Holland, *Mexican American medical beliefs: Science of Magic*, *Arizona Medicine* 20, no.5 (1963), 89-101; William Madsen, *The Mexican-American of South Texas* (Austin: University of Texas, 1964); Arthur J. Rubel, “Concepts of Disease in Mexican-American culture,” *American Anthropologist* 62 (1960), 795-814.

impoverished, illiterate, immigrant, and minority group with a rural, agrarian background, [Mexicans and Mexican Americans] have isolated from the mainstream of modern life and have developed their own subcultural world with many features of the culture of poverty.”¹⁵⁴

Like other nativist thinkers informed by the culture of poverty sociological proscription for communities of color, this generation of scholars writing about Mexican American curanderismo likened it to a folk psychiatry. For them, curanderismo emerged from transgenerational status of impoverishment and illiteracy and they regarded it as a remedy for so-called cultural illnesses.¹⁵⁵ While these scholars traced the tradition to Aztec culture, so often the default indigenous category when describing Mexican folk practice, there was no widespread effort to measure the validity or efficacy of treatments (herbal, midwifery, or otherwise).

More recently, religious studies scholars have taken up the subject. Luis D. Leon, Robert T. Trotter II, Juan Antonio Chavira, and Brett Hendrickson have taken an ethnographic approach and immersed themselves in curanderismo in an effort to

¹⁵⁴ Ari Kiev, *Curanderismo: Mexican-American Folk Psychiatry* (New York: The Free Press, 1968), 16.

¹⁵⁵ See Frank C. All II and Joseph Spielberg, “Social and cultural factors in the responses of Mexican Americans to medical treatment,” *Journal of Health and Social Behavior* 8, no 4, (1967) 299-308.; 1967.; Currier 1966, William Madsen. *Society and Health in the Lower Rio Grande Valley* (Austin: University of Texas, 1961); Octavio Ignacio Romano V., “Charismatic medicine, folk-healing, and folk sainthood” in *American Anthropologist* 67 ,(1965), 115-1173.

situate the traditional practice in the contemporary Latina/o world.¹⁵⁶ New histories of curanderismo in the United States are focused on late nineteenth-century and early twentieth-century biographies of folk healers. The historiography of curanderismo from this period until the late twentieth century typically positions the practice as one that is tied to private home life and as a cultural remnant measured by questions of authenticity related to indigenous practices, or its efficacy among modern alternative medicine. It is the most current generation of scholars, largely from the public health sector, and bringing an epidemiological perspective, that are beginning to advocate for the use of this type of traditional medicine in medical settings.¹⁵⁷

Paralleling larger social trends toward increasing openness to alternative

¹⁵⁶ Luis D. Leon, *La Llorona's Children: Religion, Life, and Death in the U.S.-Mexican Borderlands*. (Berkeley: University of California Press, 2004).; "Soy Curandera y Soy Católica: The Poetics of a Mexican Healing Tradition," in *Horizons of the Sacred: Mexican Traditions in U.S. Catholicism*, Cornell University Press, Ithaca, NY, (2002), 115-118; Robert T. Trotter II, and JA Chavira, *Curanderismo: Mexican American Folk Healing*, University of Georgia Press, 1997; Brett Hendrickson, *Border Medicine: A Transcultural History of Mexican American Curanderismo*, New York University Press, 2014.

¹⁵⁷ David E. Hayes-Bautista and Robert Chiprut, eds. *The Art of Healing Latinos: Firsthand Accounts from Physicians and Other Health Advocates*, UCLA, 2008.; Rachel Hoogasian and Ruth Lijtmaer, "Integrating Curanderismo into Counselling and Psychotherapy," *Counseling Psychology Quarterly* Vol. 23, 2010 Issue 3; Zacharias, Steffl. Mexican Curanderismo as Ethnopschotherapy: A qualitative study on treatment practices, effectiveness, and mechanisms of change," *International Journal of Disability, Development, and Education*. Vol 53, 2006, Issue 4, p 381-400.; Tafur, Maritza Montiel, Terry K. Crowe, Eliseo Torres, "A Review of curanderismo and healing practices among Mexicans and Mexican Americans," *Occupational Therapy International*, vol 16:1, 2009, p 82-88.

medicines, some sectors of the medical community have, to a limited extent, worked to reduce the stigma of such practices by tying them to Native American spirituality. At the same time, other Latina/o spiritual traditions, such as spiritual cleansings and psychic healings, occurring in parallel to and conjunction with herbalism, massage, and midwifery— have been met with skepticism from the medical establishment.¹⁵⁸ This is particularly the case for practices more transparently tied to popular Catholicism and more religious forms of faith healing generally. My own approach to this the study of curanderismo follows the approach of Leon, who understands curanderismo as a type of “religious poetics,” and a “creative and often effective means to manage the crisis of everyday life.”¹⁵⁹ As the following cases demonstrate, curanderismo, like other borderland religious practices, respond to legal impositions, but also “restructure... the order of the world through gifting, reciprocity, and exchange.”¹⁶⁰

Method and Sources

This chapter examines the public court trials of four different folk healers during the early twentieth century to show the way curanderismo was placed on trial, “policed” (to use contemporary terminology), playing on racialized anxieties

¹⁵⁸ Patrick A. Polk, “Botánica Los Angeles: An Introduction,” in *Botánica Los Angeles: Latino Popular Religious Art in the City of Angels*, Los Angeles: UCLA Fowler Museum of Cultural History, 2004.

¹⁵⁹ Leon, *La Llorona’s Children*, 5.

¹⁶⁰ *Ibid.*, 130.

and contributing to the marginalization and stigmatization of Latina/o cultures, religions, and communities. My purpose is not to prove or disprove the efficacy of these types of healing practices; rather, I use these cases to demonstrate how the US legal apparatus is wielded against Latino religious cultural practice and how, at the same time, curanderos/as adopt different forms of religious healing in an effort to destabilize contemporary and essentialist perceptions of curanderismo as an untouched indigenous cultural practice. Much like its formation in the colonial period, curanderismo through the twentieth century is sustained through cross-cultural encounters and adaptations.¹⁶¹ Recognizing that curanderismo as a concept does not begin without the colonial encounter, I find it useful to think about curanderismo in the context of American occupation of Mexican territories. On the one hand we can understand curanderismo as a key “transcultural modality,” as historian of religion Brett Hendrickson argues, but it is also critical to explore the way that it has been an object of contest-- susceptible to the defrauding of communities, criminal activity, and prosecution.

Despite the abundance of literature concerning the growth of Mexican communities in the early twentieth century, the construction of racial categories in California (Southern California in particular) and works on race and public health in

¹⁶¹ Brett Hendrickson, “New contexts for Curanderismo: Recasting Mexican American folk healing within American metaphysical religion,” *Journal of the American Academy of Religion* 81, no 3, 620-643 and “Neo-shamans, curanderismo and scholars: Metaphysical blending in contemporary Mexican American folk healing,” *Nova Religio: The Journal of Alternative and Emergent Religions* 19, no. 1, 25-44.

California, the historical narrative largely ignores curanderismo and folk healing in California in the early twentieth century outside of works concerning Mexican spiritualist Teresa Urrea and her political involvement in local labor strikes.¹⁶² Indeed, though works on Mexican communities in Los Angeles and surrounding areas in the first half of the twentieth centuries focus on Roman Catholicism, like the literature on American spiritualism and alternative medicine, they do not position curanderismo within these religious frameworks. Indeed, historians point to the abundance of Asian and Asian American doctors and healers in urban areas when referring to herbal medicine practices in Southern California.¹⁶³ In contrast, I focus on the relationship between curanderismo, religion, and American law paying particular attention to the construction of racial categories in the first half of the 20th century (though this religious tradition continues to the present).

I identify the way that curanderismo and the related range of folk healing practices are a counter to modern and professionalized/regulated medicine in the United States in the twentieth century. Its ontological and epistemological origins necessarily locate it outside of American hegemonic practices, and though it may

¹⁶² For the history of race and public health in California in the early twentieth century see Natalia Molina, *Fit to Be Citizens: Public Health and Race in Los Angeles, 1879-1939* (Berkeley: University of California Press, 2006); Nayan Shah, *Contagious Divides: Epidemics and Race in San Francisco's Chinatown* (Berkeley: University of California Press, 2001). For the history of race and public health in Texas, see John McKiernan-Gonzalez, *Fevered Measures: Public Health and Race at the Texas-Mexico Border*. (Durham: Duke University Press, 2012).

¹⁶³ Sanchez, George J. *Becoming Mexican American: Ethnicity, Culture and Identity in Chicano Los Angeles, 1900-1945*, (New York: Oxford University Press, 1995), 176.

appear to take on the appearance of dominant cultural and economic models, it remains in the margins.

The practice of purging all but the most severe and notorious of legal documents and court decisions obscures the minutiae of policing and regulation—pointing our attention to the most sensational of events. Following Jacques Derrida that the archive preserves as well as produces knowledge, as “archivization produces as much as it records the event,” then the preservation of only certain documents by the nation-state necessarily creates official narratives of power and identity.¹⁶⁴ This results in a lack of representation of minority religious communities, such as curanderismo, as it represents not only a failure to preserve and maintain primary sources, but also attempt to exclude Mexican and Latina/o folk healers from a larger project of national identity.

One of the most challenging obstacles to research regarding Latina/o religions and the law is the purging of legal archives. In the state of California, in most cases, legal records can be purged after 10 years, according to CA government codes related of the Management of Trial Records. In Section 68153 of the Management of Trial Court Records only family law and felony cases are retained for longer, but recent reports attest to the failure of local courts to maintain their

¹⁶⁴ Jacques Derrida, *Archive Fever: A Freudian Impression* (Chicago: University of Chicago Press, 1995), 17.

archives.¹⁶⁵ Transfer of documents to other local archives (historical societies, etc.) is up to the discretion and judgment of the court archivist, and there are no regulations or guidelines suggesting uniformity in this practice. While the intention of purging and destruction was to save physical space in court archives, it presents a profound challenge to historians.¹⁶⁶ The failure of local California courts to preserve documents related to the prosecution of curandero, makes it necessary to turn to other historical sources for information. The investigations presented in the next section begin with lists found in annual reports of prosecutions and arrests of the American Medical Association in Chicago. While local courts (including Los Angeles, Madera County, and San Francisco) failed to produce court documents related to the trials, local city newspapers produced a wealth of information about jury members, key witnesses and testimony on both sides of the cases. However, even my investigation of newspaper sources revealed only cases resulting in death, fraud, large scale deception, or some form of sensationalized coverage. The rest are otherwise lost to history, or relegated to family oral histories. While the lists and correspondence found in the American Medical Association records indicate that at least 50 more individuals were arrested in California, between 1927 and 1959, on

¹⁶⁵ Emily Alpert Reyes, "L.A. Reaches settlement with First Amendment Coalition over retaining public records," *Los Angeles Times*, September 20, 2017.

¹⁶⁶ While many historians write about the challenges of institutional archives, it is unclear whether other legal historians or theorists have addressed the problem of systematic purging of legal documents and the implication for studies of underrepresented communities.

charges of practicing some form of curandero practice (including midwifery), the cases themselves are actually lost to history.¹⁶⁷ Thus this chapter attempts to fill the gaps of the history of curanderismo in the absences that “haunt the archive”; it constructs a history and a retelling with that which is only partially revealed by the legal archive, looking elsewhere for the presence of Latina/o folks in United States history.¹⁶⁸

As such, the following cases illuminate much needed avenues of interpretation and research when considering this type of Mexican American healing practice, including interpretation of religion and the law related to curanderismo, the rise of botanicas as sites of religious practice and commerce, and curanderismo through the lens of material culture in relation to the regulation of homeopathic medicine in the 20th century. I theorize that the post-1950s decline of reporting on so-called “Mexican witch doctors” in the American media is related to the rise of botanicas in Californian urban locations—there curanderos and their counterparts are able to sell merchandise conforming to FDA regulations and laws

¹⁶⁷ This number is based on my own list of Hispanic surnames found in the annual reports of arrests in California during this period (these records are held at the American Medical Association in Chicago, Illinois).

¹⁶⁸ This chapter is informed by critiques of the “archival turn” of the humanities—the archive as a repository of information has proved limited. Contrary to my initial belief of legal archives as structures of preservation of legal cases and decisions, court archives (local, state, and nation) are continually purged—these archives dispose in order to regenerate. See Renisa Mawani, “Law’s Archive,” *Annual Review of Law and Social Science* 8, (2012), 337-365 and Carolyn Steedman, “After the Archive,” *Comparative Critical Studies* 8: 2-3 (2011), 321-340.

as well as spiritual services without attracting the AMA, etc. in addition to accessibility of medical services among Latina/o communities. However, the racialized targeting of these locations emerges later under the guise of public health and political change—the 1980s and early 1990s in CA with its focus on illegal immigration also paints a portrait of Latinos as a public health menace—raids on botanicas and pharmaceutical stashes, as well as contemporary raids on botanicas looking for evidence of human remains tied to Afro-diasporic tradition, occult religion, and Santa Muerte and so-called “narco-religion.”

Medicine in California

In this section, I present four curanderos in the first half of the twentieth century who were publicly charged with practicing medicine without a license in the state of California. The first two men, who begin their practices in the first 18 years of the twentieth century, are targeted by the AMA for receiving monetary compensation for their services and for prescribing medicine without a license. The second pair of curanderos, representing the late 1940s and early 1950s are targeted for providing spiritual services meant to alleviate health (problems?), and how the press coverage surrounding these cases presents these practitioners as deviant and occult.

The California State Board of Health was founded in 1870, following the model of a larger nationwide effort towards professionalizing medicine and the creation of the American Medical Association in 1847. Under the model of scientific

advancement, standardization and professionalization the California Board of Medical Examiners and the American Medical Association categorized both fraudulent medical practice (“quacks” and “charlatans”) and homeopathic and herbal practitioners as outside of mainstream medicine, limiting such practices under emergent laws.¹⁶⁹ The exclusion and banning of alternative medical modalities falling outside of allopathic models of medicine from professionalization was borne out of economic and scientific interests and criminalized those practices that could not conform to AMA criteria.¹⁷⁰

In an era of increased immigration, this also included the registration of foreign doctors with the California Medical Board. Foreign physicians were required to register through the state board, provide photographs, diplomas, and fill out various forms. In addition to requiring foreign doctors to provide certificates of medical education and their foreign credentials before being approved by the California State Board of Medical Examiners, they were required to provide a signed

¹⁶⁹ This included the purging of midwives, and the regulation of midwifery in the same historical period. See Barbara Ehrenreich and Deirdre English, *Witches, Midwives and Nurses: A History of Women Healers*, (New York: The Feminist Press, 2010); Susan L. Smith, *Japanese American Midwives: Culture, Community, and Health Politics, 1880-1950* (Urbana: University of Illinois Press, 2005); Richard W. Wertz and Dorothy C. Wertz, *Lying-In: A History of Childbirth in America*. (Hartford: Yale University Press, 1989).

¹⁷⁰ Catherine Cookson, *Regulating Religion: The Courts and the Free Exercise Clause*, Oxford University Press, 2001.

“Certificate of Moral Character” signed by two professional references.¹⁷¹ Questions asked on the 1933 National Board Application for Practicing Medicine in the United States reflected the anxieties/concerns of the professionalized Medical community:

- 1) Have you ever practiced as an itinerant physician?
- 2) Have you ever been connected, directly or indirectly, with any medical concern, company institution advertising specialty or advertising specialist?
- 3) Do you hereby agree should a certificate be granted entitling you to practice as a physician and surgeon in the State of California, not to become connected, directly or indirectly, with any medical concern, company, institute, advertising specialty, or advertising specialist?¹⁷²

However, as scholars of race and public health in California have noted, Mexican curanderos and physicians were rarely reported at the local level to law enforcement officials for medical fraud or quackery at the turn of the century.¹⁷³ Following a tide of anti-Chinese sentiment, enforcement practices focused on Chinese naturopaths and herbal doctors, as reported among various law enforcement agencies and seen in the files of the California Medical Board. It is not until an increase of Mexican migration following the Mexican Revolution of 1910, that we see reports of Mexican doctors being targeted by medical regulatory


¹⁷¹ As seen in “Deceased Physician Files,” F3503: 668, State Board of Medical Examiners Collection, California State Archives, Sacramento California

¹⁷² “Form 161- Class G”(1933) Records of the California Medical Board of Examiners, California State Archives, Sacramento California.

¹⁷³ See Natalia Molina, *Fit to be Citizens?* and Nayan Shah’s *Contagious Divides*.

boards.¹⁷⁴ The first of these cases is that of Juan de Dios Garay, a convicted charlatan and magician.

Prof. Juan de Dios Garay



**Consulten al
Poderoso Dios Sanador.
123 N. Main St.—Los Angeles. Cal.**

Figure 2.1 *Heraldo de Mexico*, July 28, 1918

¹⁷⁴ Natalia Molina, *Fit to be Citizens?*, 45.

In 1919, a half page announcement in the Spanish language *Imparcial de Texas* titled “Poderoso Dios Sanador,” touted the miracles performed by the, then 26 year old, Mexican man Juan de Dios Garay, head of the Instituto de Ciencias Ocultas (Institute of Occult Sciences). In addition to a brief biographical sketch of the “professor,” the advertisement included testimonials from 12 individuals who claimed Garay helped cure them of maladies ranging from paralysis, tumors, and general ill health. Garay advertised that he was especially skilled in curing general physical pain, sorrow, and helping with romantic situations. He advertised discretion and access to even those as far as Morelia, Mexico and Denver, Colorado, declaring:

“La distancia no significa nada para el hecho de que el poderoso dios sanador llegue con su poder y conocimientos hasta la puerta de vuestras casas.”
 (“Distance means nothing for the will of the most Powerful Healing God will reach even to the door of your home with his power and knowledge.”)¹⁷⁵

¹⁷⁵ *El Imparcial de Texas*, “El Poderoso Dios Sanador,” July 3, 1919, 5.

violating the California State Medical Practice Act and sentenced to 180 days in jail and fined \$600 after being found guilty of charging a Mexican couple \$112 “for treating illness and driving away evil spirits.”¹⁷⁶ Municipal Judge Newcombe Condee’s sentencing included the suggestion that Garay be deported for “extort[ing] money from superstitious and ignorant persons by frightening them into paying for help you could not give them.”¹⁷⁷

Garay’s conviction did nothing to stop him from continuing his lucrative business, and on September 5, 1924, the case that would end his career began. Garay was charged with the federal crime of committing fraud through the use of the mails, by selling his trademarked powders to clients through the postal service.¹⁷⁸ Jesus Gonzales, one witness to the case, testified that he had paid Garay \$30 for the specially formulated Aztec Love Powder. Gonzales’ burning of the powder failed to return his lost love, and *The Santa Ana Register* described an emotional Gonzales holding back tears as he recounted to the courtroom that he could now count himself one of the many to have lost his money to Garay.¹⁷⁹ Garay,

¹⁷⁶ “Jail and Fine Meted ‘Healer’” *Los Angeles Daily Times*, April 10, 1924, 28. ; “Annual Report Addressed to Medical Examiners of the State of California” 1934 American Medical Association- Department of Investigation Records, Folder 8 “Quackery-California (August 1926-1930)”, Box 698.

¹⁷⁷ *Ibid.*

¹⁷⁸ “Aztec Cure Fraud Case Trial Opens: Prof. Garay Accused of Swindling Mexicans with Supposed Occult Powers.” *Los Angeles Times*, September 5, 1924.

¹⁷⁹ “Prosecute Agent of ‘Love Powder;” *Santa Ana Register*, September 5, 1924.

when called to testify, claimed that he had the ability to read minds, including that of presiding Judge Benjamin Franklin Bledsoe, and turn himself invisible. When Garay failed to read Bledsoe's mind, and Bledsoe asked him to make himself vanish, Garay admitted that he needed the "aid of curtains and lighting effects."¹⁸⁰ Garay was convicted on September 10, 1924, having been accused of earning approximately \$100,000 by defrauding African American and Mexican clients through the mail.¹⁸¹ Juan de Dios Garay was transported to Leavenworth, Kansas Federal Prison and incarcerated on October 17, 1924.¹⁸² Prison records show that he was later transferred to the U.S. Penitentiary at McNeil Island in Washington state, and discharged October 22, 1928.¹⁸³ There is no evidence that Garay continued his practice after serving his prison sentence, nor convicted of more crimes.

¹⁸⁰ In 1917, Garay lists himself with the occupation of "magician" on his World War I Draft Registration Card. *Los Angeles Daily Times*. "Garay is Given Five Years: "Witch Doctor" also gets fine of \$6000, found guilty by Jury of Misuse of Mails." September 12, 1924.

¹⁸¹ "Jury Gets 'Dr' Garay Case Soon: Suspect is Asserted to Have Made Fortune off Mail Fraud Scheme" *Los Angeles Daily Times*, p 25.

¹⁸² "Inmate Number 21870," Inmate Case files, compiled ARC ID 571125 Records of the Bureau of Prisons, 1870-2009, Record Group 129, National Archives at Kansas City, Missouri, USA.

¹⁸³ McNeil Island Penitentiary Prisoner Identification Photographs 1875-ca 1923. ARC: 608846: Bureau of Prisons, Record Group Number 129; The National Archives at Seattle. Seattle, Washington. USA.



Figure 2.3 (N.D.) Armando Dominguez Behind the Counter of General Store¹⁸⁴

By the age of 25, the Puerto Rican emigrant Armando Dominguez was already well regarded as a healer among the Mexican community in Chino, California. Married to the granddaughter of the famous Jose Antonio Yorba, descendant of the first land-owning Spanish settlers in Southern California, Constance Peralta, Dominguez found a prominent place in the Inland Empire.¹⁸⁵, Born in 1886, in San Juan, Puerto Rico, the former merchant marine and medical assistant in Manila immigrated to Southern California at the age of 15, finding work as a day laborer among the Spanish speaking residents of the largely agricultural

¹⁸⁴ "Dominguez Family Tree has Deep Roots," *Chino Champion*, November 6, 1987, 94.

¹⁸⁵ "Marriage License to Constance Peralta," December 14, 1922. Recorder-Accession 506 Recorder Records. Marriage Licenses, 29, p 232. San Bernardino County Historical Archives.

town. At night, and after his shift, however, Dominguez offered his spiritual and health services to the community and asked for nothing in return. Dominguez learned his craft from his father, who taught him the secret to curing blindness. This was Dominguez's specialty as numerous witnesses at trial testified that he cured young children and adults of blindness by prescribing remedies and medicines. Indeed, by 1915 he was widely known throughout California as news of his battles with the California Board of Medicine was circulated among Southern California newspapers and New Thought Groups.¹⁸⁶

In August 31, 1915, Armando Dominguez was acquitted in San Bernardino County of the charge of practicing medicine without a license and of prescribing medicine without a certificate from the state board of pharmacy.¹⁸⁷ Witnesses called by the prosecution included the mothers of two young girls, 3.5 and 5 years of age, claiming Dominguez had cured their daughters of blindness.¹⁸⁸ H.B. Moreno a witness for the prosecution also spoke to the efficacy of Dominguez's practice,

¹⁸⁶ "The Miracle Man of Chino," *The Channel: An International Quarterly of Occultism, Spiritual Philosophy of Life, and the Science of Superphysical Facts*, 1:1, Winter 1915., 65-69. The New Thought movement was a spiritual movement that emerged in the nineteenth century United States and held that the power of thought could influence the material world, including the treatment of medical illness. For a history of the New Thought movement in the United States, see Baryl Satter's, *Each Mind a Kingdom: American Women, Sexual Purity, and the New Thought Movement, 1875-1920*, (Berkeley: University of California Press, 1999).

¹⁸⁷ "Free Man Charged with Doctoring Without Licence[sp]" *Chino Champion*, September 3, 1915.

¹⁸⁸ "Miracle Man freed result giving sight: Makes blind see and Jury Refuses to Hold Him in Answer to Charges," *San Bernardino News*, September 1, 1915, p 3.

declaring that he had cured her five year old son of blindness without charging her for the service.¹⁸⁹ The prosecution team, led by California State Attorney for the medical board, R.E. Nimmo, was only able to produce one statement that Dominguez had received compensation for his services-- \$1 reluctantly “pressed” in his hand and taken under protest by Mrs. B.S. Valencia after he refused to accept it.¹⁹⁰ After his acquittal, Dominguez declared,

They call me the ‘Miracle Man’ because I have cured blindness, I suppose. But it’s not a miracle, it is a science and art. That is funny, Isn’t it—to blend science and art? But in my remedy for blindness I have cold, hard, studious science found in the discovery of medicines and I have art in their proper blending.¹⁹¹

Dominguez continued healing among the Mexican community and in October 1916, was again arrested and charged with practicing medicine without a license. Despite a guilty plea, the jury found Dominguez not guilty of the crime, stating that he acted and healed “with divine license which was manifest and inalienable.”¹⁹² Dominguez was tried and acquitted again in 1919¹⁹³, and in December 1920, the *California State*

¹⁸⁹ “Jury Frees Man who Put Light in Eyes of Babes: Medical Board fails to jail ‘Miracle Man’ a Chino Day Laborer,” *San Bernardino County Sun*, September 1, 1915.

¹⁹⁰ “Free Man Charged With Doctoring Without Licence [sp]”

¹⁹¹ “‘Cure’ formula secret claims Miracle Man Armando Dominguez, Acquitted by Jury Returns to Chino Home,” *Los Angeles Herald*, Number 265, September 3, 1915, p 8.

¹⁹² “Miracle” Man Pleads Guilty,” *Los Angeles Times*, October 7, 1916, p. 1.

¹⁹³ “‘Miracle Man’ of Chino Acquitted in Fourth Trial,” *Los Angeles Herald*, Number 300, October 17, 1919.

Journal of Medicine gleefully reported that Armando Dominguez had been committed to Patton State Hospital for insanity.¹⁹⁴ Indeed, probate court records for San Bernardino indicate Dominguez was declared insane in October 1920 and appointed to the guardianship of J.C. Reher. According to local newspaper coverage of his trial, Dominguez suffered from “violent delusions of persecution,” and needed to be restrained during the trial.¹⁹⁵ Probate court documents indicate Dominguez was released from Southern California State Hospital on December 29, 1920 and declared mentally competent on February 21, 1921.¹⁹⁶ The healer resumed his practice despite being ordered to cease practicing his healing, and was arrested, prosecuted and acquitted again. Defense attorney A.D. Mitchell opined, “that if Christ should come to Southern California he would be barred from healing the afflicted under the present laws,” drawing comparisons between the belief in divine healing of Jesus Christ and Dominguez.¹⁹⁷ Newspaper articles indicate that between 1921

¹⁹⁴ “Miracle Man Reaches Goal,” *California State Journal of Medicine*, Vol XVIII:2, December 1920, p. 426.

¹⁹⁵ “Miracle Man of Chino Now Insane,” *The San Bernardino County Sun*, October 6, 1920.

¹⁹⁶ Probate Book, OCTOBER 1921- APRIL 4, 1921: 69, P. 310. San Bernardino County Historical Records.

¹⁹⁷ “Jury Acquits Miracle Man, Ontario Healer Freed After Fifth Trial,” *San Bernardino County Sun*, November 6, 1921.

and 1929, Dominguez was tried and acquitted another four times¹⁹⁸, with

Dominguez claiming at his 1929 trial that

his cures were caused by the great faith his followers had in him. They did exactly what he told them to. They followed his rules of sanitation, thus giving nature a chance to build up their systems, and this alone in a great way was responsible for the miraculous cures.¹⁹⁹

Letters of correspondence in 1929, between George H. Johnson, California District Attorney and Dr. E.J. Eytinge and Albert Carter and Dr. Eytinge, reveal that Armando Dominguez continued to be under surveillance by state agents and the American Medical Association during this period.²⁰⁰ State prosecutors were finally able to secure a conviction in September 5, 1929, after two pharmacists from Ontario, California testified that Dominguez had prescribed medicine to patients without a

¹⁹⁸ "Chino 'Healer' Loses Patient: Doctors Refuse to Sign Certificate for Man Attended by Dominguez," *The San Bernardino County Sun*, January 13, 1922, p 14. "Chino Healer is to Face Trial: Armando Dominguez Held for Practicing Medicine Without a License," *San Bernardino County Sun*, September 21, 1923, p. 9; 'Miracle Man' Freed Again," *The San Bernardino County Sun*, March 29, 1924; "Herb Doctor' in Court Again on State Charges," *Chino Champion*, April 5, 1929. ; "Miracle Man' Arrested: Chino 'Wizard' to Face Court for the Fifth Time Because of 'Faith Cures,'" *The Los Angeles Times*, April 25, 1929, p 10.

¹⁹⁹ "Miracle Man of Chino Again Arrested for Medical Practice: Claimant of Supernatural Powers will make Fifth Trip to Court on Same Charge," *The San Bernardino County Sun*, April 26, 1929, p 6.

²⁰⁰ Letter from George H. Johnson, District Attorney to Dr. E.J. Eytinge, February 21, 1928 and letter from Albert Carter to Dr. Eytinge, March 5, 1929. "Quackery-California Investigation Reports," Folder 9 "California (1929-1933), Box 701 American Medical Association Historical Records.

medical license.²⁰¹ However, at his sentencing hearing, Dominguez's sentence was suspended in lieu of paying a \$200 fine.²⁰² He faced trial and was acquitted once again in 1930.²⁰³

By 1946, Dominguez no longer appeared to be newsworthy, though he continued his charitable work. The 1941 report of Gene G. Garcia's suicide, on the Dominguez's ranch, notes that Dominguez continued to take in the sick and infirm, The young man, diagnosed with tuberculosis, sought refuge in the home of the old healer.²⁰⁴ Dominguez led the rest of his life without any more investigations by the medical establishment, and ran a general store in Chino with his wife and family until his death of heart complications in 1954.²⁰⁵ An active member of Our Lady of Guadalupe Church, he was survived by his wife , 6 daughters, and two sons.²⁰⁶

²⁰¹ "Miraculous Chino Man Faces Jail: Wonder Healer Guilty of Practice of Medicine without a license," *Los Angeles Times*, September 5, 1929, p 10.

²⁰² "No Term in Jail for Dominguez," *Chino Champion*, September 17, 1929.

²⁰³ "Dominguez Freed by Jury of his Peers," *Chino Champion*, April 25, 1930

²⁰⁴ "Youth, 24, in Chino Suicide," *The San Bernardino County Sun*, June 17, 1931, p 14.

²⁰⁵ "Coroner Report for Armando Dominguez," October 18, 1954, Coroner Inquests 13848-14165, Accession: 598 – Sheriff Coroner Records, San Bernardino County Historical Archives.

²⁰⁶ "Armando Dominguez," Obituary, *Chino Champion*, October 21, 1954.



Figure 2.4 Rosita Medina, San Francisco Chronic, August 15, 1949

In 1949, Rosita Medina was arrested in Madera, California on two counts of practicing medicine without a license. The South Texas curandera, who was given the gift of healing at a young age, practiced curanderismo for fourteen years before moving to California. There she treated local residents in the farm town of Pinedale with Don Pedrito herbs. “She import[ed] in case lots from the Tex-Mex Newstand of Corpus Christi Texas,” and she regularly accepted donations from her patients for these products, though like most traditional folk healers, she did not charge a fee for her medical services. Among the herbal products she provided her clients, she also practiced healing rituals involving candles, herbs, and black roosters, sweeping the bird over the body of her clients in an effort to rid them of bad energy and evil spirits. Unlike the cases of Garay and Dominguez, the focus of the American Medical Association’s investigation of Rosita Medina was based on her so-called “voodoo”

medicine. Medina pleaded guilty to the charges of practicing medicine without a license, was fined \$1000 and is otherwise lost to the historical record, as attempts to locate her trial records reveal that they were destroyed by Madera County.

Likewise, the seemingly “voodoo” like practices of a Los Angeles based curandero were also sensationalized and reported eight years later by the *Los Angeles Times*. On June 1, 1955, fifty-four year old Florentino Morales was arrested in East Los Angeles, California on charges of practicing medicine without a license, after his client, Geronima Bañuelos died of tuberculosis in the Los Angeles General Hospital. According to Bañuelos, Morales charged her \$300 to cure her of her ailments, and treated her by asking her to lie

on the floor surrounded by seven black candles. Around her and through the candles, Morales did a ritual dance, shouting the incantations for the devil to leave the body. Following the dance and incantations, Mrs. Bañuelos said Morales wrapped her neck in a black silk scarf then whipped it off, shouting “Out Red King!”²⁰⁷

Detectives described Morales’ dances as “weird” and “wild.” He pled guilty to two counts of violating the Business and Professional Code. Following his conviction he was sentenced to ten months in jail.²⁰⁸

²⁰⁷ “Witch Doctor Arrested by Bunko Squad,” *Los Angeles California Times*, June 2, 1955; “Woman’s Death Cited in Witch Doctor Case,” *Los Angeles Times*, June 3, 1955, p. 16.

²⁰⁸ ‘Medicine Man’ Gets Jail Term,” *Wilmington Daily Press Journal*, July 19, 1933, p 7.



WITCH DOCTOR TOOLS—Florentino Morales, self-styled witch doctor arrested by bunko squad, is seen with paraphernalia of his trade, including black candles, effigy dolls, black silk scarfs and other equipment allegedly used in his "treatments."

Times photo

Figure 2.5 Florentino Morales, *Los Angeles Times*, July 19, 1933.

In both of these cases, the American Medical Association focused on the ritual practices described as

An eerie kind of medicine seemingly compounded of voodoo, unction, ancient Indian witchcraft, spiritualism, herbalism, prayer, and a dash of materia medica.²⁰⁹

Newspaper journalists also interviewed the practitioners and asked them to pose in their homes and demonstrate this type of ritual practice, creating a visual spectacle for the English language reader rather than attempting to connect them to a longer lineage of folk healers in the West. This visual exoticization of Medina and Morales positions this type of spiritual and religious healing outside the narrative of alternative medicine, instead revealing a racialized trope of occult behavior that appealed to an audience also familiar with representations of vodou from popular culture (especially in the historical period rife with popular films related to zombies).²¹⁰ Later representations of folk healing practices in botanicas in the late twentieth century and the early twenty-first century also rely on these visual registers to construct racialized identities of Latina/o communities.

²⁰⁹ "Panacea at a Price," *San Francisco Chronicle*, 1949.

²¹⁰ See Christopher M. Moreman and Cory James Rushton's edited volume, *Race, Oppression and the Zombie: Essays on Cross-Cultural Appropriations of the Caribbean Tradition*. Jefferson: McFarland, 2011.

Don Pedrito Herbs

This section explores the use of Don Pedrito's image on herbal products produced in South Texas in the twentieth century, demonstrating how by the mid-century, Mexican folk healers understood the importance of legal regulations related to manufacturing, packaging, and distribution of herbal products. Most histories of curanderismo in the United States begin with the story of Don Pedrito Jaramillo, a South Texas curandero turned folk saint from the late 19th century.

The definitive (and most often cited) biography of Pedro Jaramillo is Ruth Dodson's account of the life of the folk healer, the first edition published in 1972. In "Don Pedrito Jaramillo: 'Curandero,'" Dodson recounts the journey of Jaramillo from Guadalajara, Jalisco, Mexico to the South Texas Rio Grande Valley of Olmos Ranch. Now revered as a folk saint, the Mexican born Jaramillo migrated to South Texas after receiving the gift of healing, or the don, after falling off of his horse. He set up shop in Falfurrias, Texas, where he gained the reputation of being a great healer. His popularity increased as word spread that he could heal individuals through the mail—letters begin to arrive in Falfurrias, Texas with stamped return envelopes for his replies to the petitioners. Because more postage was being sent to the Falfurrias post office than was being purchased there, the federal government flagged Jaramillo, and he was accused by the American Medical Association and the U.S.

Postal Service as a fraud and a “quack.”²¹¹ He was successfully defended by a local attorney, and continued his practice until his death in 1907.

Dodson’s record of Jaramillo’s miracles and cures are taken from firsthand accounts of folks living in Bush County and the surrounding areas of Alice and Falfurrias Texas. Miracles included healing through prayer, but Jaramillo was also known as a charitable man— during a severe 1890 drought Jaramillo fed the local community and he purchased the church bell for the Sacred Heart Parish in Falfurrias in 1903, as well as adopted several children to raise as his own.²¹²

However, while Dodson’s biography points to the importance and the centrality of oral history and personal testimony for the historical record, outside of oral histories it does not provide any historical documentation for the life of Pedrito Jaramillo.²¹³ More recent works on the folk healer, including Jennifer Koshatka

²¹¹ Ruth Dodson, “The Life of Don Pedro Jaramillo: Benefactor of Humanity.” in *Perspectives in Mexican American Studies* 1 (1988), 74.

²¹² Biographies of Don Pedrito rely on Ruth Dodson’s account of his life and practice, *Don Pedrito Jaramillo, “Curandero”* (1934). More recent accounts of his life include Brett Hendrickson’s *Borderland Medicine: A Transcultural History of Mexican American Curanderismo* (2014); Luis D. Leon’s *La Llorona’s Children: Religion, Life, and Death in the U.S.-Mexico Borderlands* (2004); Jennifer Koshatka Seman’s dissertation, *The Politics of Curanderismo: Santa Teresa Urrea, Don Pedrito Jaramillo, and Faith Healing in the U.S.-Mexico borderlands at the Turn of the Twentieth Century* (2015).

²¹³ Familiar with the popularity of Don Pedrito Jaramillo in the Rio Grande Valley, and the oral histories of his struggles with the American Medical Association and the U.S. Postal Service, I spent the winter of 2016 in Austin, Texas at the Benson Archives at the University of Texas Austin attempting to recover historical documents attesting this story. After archival research in Austin, Texas, I drove the four hours between Austin and Falfurrias hoping to find some record of this event at his shrine or at the Falfurrias Heritage Museum. A short conversation with the great

Seman and Brett Hendrickson's chapter on Jaramillo focus on the political implications of folk healing in the US Mexico borderlands, including the creation of alternative forms of nation and transnational networks between Mexico and the United States through folk healing practices, but also rely heavily on Dodson's biography. Building on these historical approaches, I focus on the material objects associated with labeled with Don Pedrito's image and associated with curandero healing practices.

Decades after the 1907 death of Don Pedrito Jaramillo, Fernando M. Tijerina of Laredo, Texas, purchased the Don Pedrito trademark for five hundred dollars from Jaramillo's adopted son, Severiano G. Barrera.²¹⁴ Tijerina packed and distributed a brand of Don Pedrito products, available in Texas herbal shops and through the mails. A popular and recognizable image, the portrait of a bearded Don Pedrito on the boxes and bottles of herbs, roots and oils indicated Tijerina's own advertising savvy, as the image, coupled with the bilingual names of herbs and oils

granddaughter of Jaramillo, Dolores Villarreal, revealed that the story was not one passed down through family lore. Instead Villarreal's concern was the lack of highway marker for the historical landmark, remarking that "the [state] needs to be careful with him—he's part of South Texas history." Likewise, my conversation with Ramiro Rodriguez, the volunteer docent at the Falfurrias Heritage Museum failed to produce any information related to Jaramillo's legal struggles, though my three hour visit with Rodriguez provided me with a context through which to understand Mexican religion in the Rio Grande Valley.

²¹⁴ Thomas Meade Harwell, *Studies in Texan Folklore—Rio Grande Valley: Twelve Folklore Studies with Introductions, Commentaries, and a Bounty of Notes*, (Lewiston: Edwin Mellen Press, 1997), 73.

on the product packaging indicated that the consumer would be familiar and conversant in curandero healing practices.



Figure 2.6 Don Pedrito herbs, Artifact Collection, Blocker History of Medicine Collection, University of Texas Medical Branch, Galveston, TX. Photo provided by archive on request, March 2018.

By the 1940s, the FDA Pure Food and Drug Law of 1906 was well understood by manufacturers. Born out of the Progressive movement and the temperance campaign, this law was concerned with ingredients in patent medicines, particularly the use of alcohol in the products.²¹⁵ Manufacturers of such patent medicines and cures were required by this law to provide a list of ingredients and were restricted in making any claims related to the use of these products as medicine, unless they held a medical license from the board of medicine in their states. Juan de Dios Garay was certainly aware of this, as in his testimony he made it very clear that the “Aztec Brand Treatment” he sold out of his Los Angeles, California address was “compounded of sarsaparilla, walnut bark, and some other magical ingredients, but contained no alcohol.”²¹⁶

Likewise, the Don Pedrito packaging found in the possession of Rosita Medina included a disclaimer reading:

IMPORTANT NOTICE: The contents of this package are genuine but the packer in no case guarantees remedial value for the reason that he treats no people, he only acts as a supplier of Herbs. Roots, Barks, etc., regardless of remedial value or use.”²¹⁷

²¹⁵ Steward Holbrook, *The Golden Age of Quackery*, New York, MacMillan Company 1959. See also, James Harvey Young, *The Medical Messiahs: A Social History of Health Quackery in Twentieth Century America*. Princeton: Princeton University Press, 1967.

²¹⁶ “Garay is Given Five Years,” *Santa Ana Register*, September 12, 1924.

²¹⁷ See Figure 2.7

A *San Francisco Chronicle* journalist also noted :

The Don Pedrito herbs are compounded by Fernando M. Tijerina, a man of some repute along the border, and also of enough legal acumen to label all his roots barks, seeds and flowers.²¹⁸

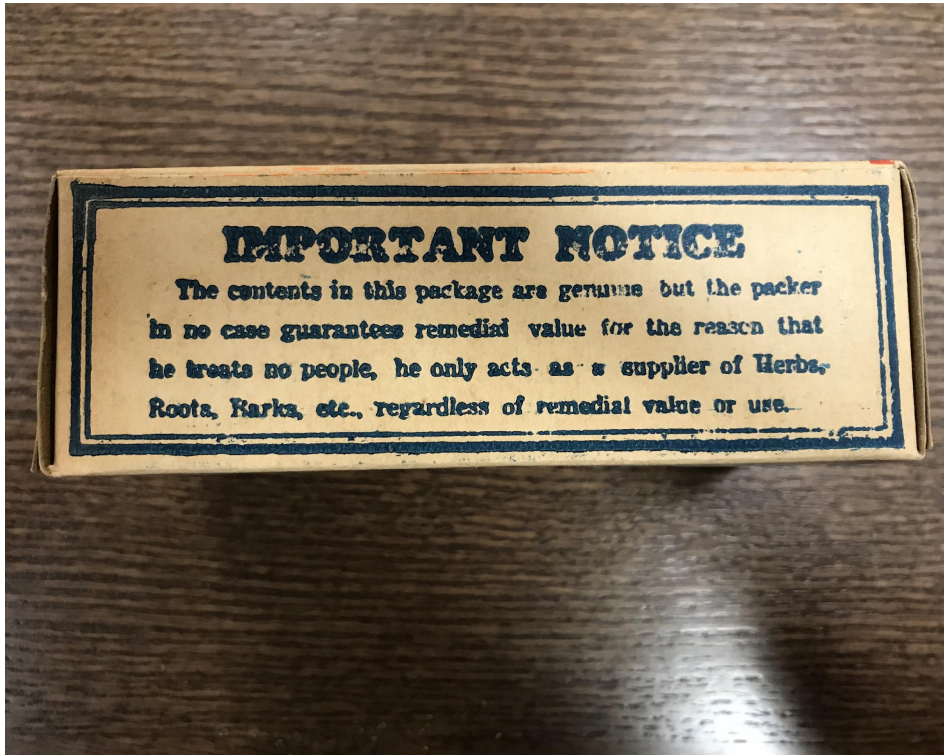


Figure #2. 7 Don Pedrito herbs, Side view

The labeling and packaging of such ingredients reflects a knowledge of legalistic language among Mexican manufacturers of these products as well as the knowledge of curanderos utilizing them, as both are careful not to prescribe them as the sole remedy for health problems. Materially, as objects that circulate through networks of curanderos/as, the location of these products within the archive of the Texas Medical Archives, but otherwise absent from twentieth-century advertisements or

²¹⁸ Alvin D. Hyman, "Panaceas at a Price: Healing—In the Manner of the Middle Ages," *San Francisco Chronicle*, August 15, 1949.

historical narratives of herbal practices, serve to establish curanderismo within the historical narrative of American alternative medicine. Their location within the institutional archive challenge the absence of documentation of mid-twentieth-century curandero practice in the United States.

Botanicas in Los Angeles

While there is evidence that the focus of the American Medical Association and the California Medical Board were toward prosecutions of unlicensed physicians and fraudulent use of the mails, including curanderos and other Mexican folk healers, after the 1950s, there is little to no mention of legal issues among curanderos in the American Medical Association Records or in newspaper archives.²¹⁹ In this section, I note the growth of botanicas in Los Angeles, and other urban spaces, in relation to the absence of these healers in the archives, suggesting that botanicas, as retail spaces, provide a new avenues for the survival and transformation of curanderismo amidst shifting demographic shifts.

Botanicas, retail shops located in urban centers, offering a variety of spiritual and religious products and services emerged as important sites of curandero practice in the mid-twentieth century. Patrick A. Polk writes that though botanicas function as businesses where a variety of religious items can be purchased, and as “markers of identity signifying cultural presence and continuity,” individuals

²¹⁹ Only two mentions of mid-century arrests are found in newspaper archives—related to women found smuggling marijuana over the U.S. Mexico border.

unfamiliar with Latino popular religious traditions and informed by “popular American racial fantasies” imagine botanicas as sites of dark occult behavior not limited to drug trafficking and Satanic practices.²²⁰

Further, the medical establishment and state law enforcement’s focus on Chinese herbal medicine in the early twentieth century, while ignoring Mexican practitioners is reflected in the cases documented at the California Medical Board minutes, as well as in press clippings of this era. Despite this focus, newspaper advertisements of the same period reveal that Mexican herbal remedies are sold out of so-called “boticas” and farmacias in the Los Angeles area.

²²⁰ Patrick Arthur Polk, “Botanica Los Angeles: An Introduction,” in *Botanica Los Angeles: Latino Popular Religious Art in the City of Angeles* (Los Angeles, CA: UCLA Fowler Museum of Cultural History, 2004.), 20. In my own ethnographic field work in an Orange County based botanica, where undercover law enforcement tried to procure antibiotics (and other pharmaceutical drugs) without a prescription.

BOTICA DE Guadalupe
 PHONE 66409 140 N. MAIN ST. LOS ANGELES, CAL.
 FARMACIA ANTES MEXICO

YA ESTA A LA VENTA
 El Famoso Depurativo Vegetal Indígena de la Sangre,

NUVOL

NO MAS DOLENCIAS NO MAS ENFERMEDADES

El reumatismo, producido por una sangre enferma, con todos sus achaques: TUMORES, SUPURACIONES, FISTULAS, LLAGAS, ULCERAS, BARROS, DIVIESOS, etc., etc., dejarán de atormentarlo para siempre y usted volverá a ser tan fuerte y sano como antes.

PIDALO HOY MISMO A LA
BOTICA DE GUADALUPE, S. A.
 140 NORTH MAIN ST. LOS ANGELES, CALIF.

Surtidos pedidos por Express o correo.
 ESCRIBA HOY MISMO PIDIENDO FOLLETO ILUSTRADO.

Figure 2.8 Advertisement for Botica de Guadalupe, *Heraldo de Mexico*, May 7, 1921.

While popular histories of botanicas place the earliest versions of these shops in Manhattan in the 1920s, there has yet to be a definitive history of the emergence of these shops. However, according to scholar of Latina/o religion, Patrick A. Polk, evidence of older “botanical depots” are documented as early as the mid 19th century (1840s), associated with Black Diasporic traditions and possibly where the origin of the term “botanica” is derived.²²¹ Boticas, and yerberias, exist in the American Southwest in the 19th century and early twentieth centuries, advertising herbs alongside images of Our Lady of Guadalupe, but only seem to

²²¹ Interview with Patrick Arthur Polk, June 2018. See also *New York Age Newspaper*, Advertisement, Saturday November 28, 1890, p. 4.

provide herbs and roots, rather than spiritual services as seen in later botanicas of the 1940s and 1950s.

Botanicas do not become popular in California until the 1950s with the influx of Caribbean refugees, though yerberias or herb stores providing similar services are popular throughout the U.S.-Mexico border region in the twentieth century. While there is a tradition of yerberias in the borderlands, this period especially in California and major cities sees the rise of botanicas as spaces of alternative healing.²²² As new waves of immigrants make urban centers their home, these storefronts become new sites of healing and religious practices. Curanderismo found a new home in botanicas, and reflected the community it was situated in, incorporating numerous popular religious traditions, including Regla de Ocha, Hoodoo, and Vodou. While investigations of medical fraud continued into this period, they were largely focused on the new wave of medicine. Indeed, it seems that legal authorities shift their focus to the use and distribution of herbal products and tonics, turning their attention to the prescription and distribution of pharmaceutical drugs.²²³ In 1951 the Durham- Humphrey Act was passed creating a clear definition of prescription drugs as substances that could prove dangerous

²²² In Arizona and Sonora, Mexico, these places are known as “expendidos de hierbas.” Margarita Artschwager Kay, *Health and Illness in the Barrio: Women’s Point of View*, Dissertation (University of Arizona 1972), 115.

²²³ James Harvey Young, *Medical Messiahs: A Social History of Quackery in Twentieth Century America*, (Princeton: Princeton University Press, 1967), 408.

without the supervision of a licensed physician and requiring FDA labeling.²²⁴ In 1962, Congress passed a law concerning prescription medicines and manufacturing, further tightening FDA approval and oversight for prescription medicines. As botanicas increased in numbers in California, so too did investigations concerning the possible dispensing of these types of regulated substances.²²⁵ At the same time, manufacturers begin to create larger brands to meet the demands of increasing numbers of Latina/o and Caribbean immigrants in urban places, and botanicas become the ideal location for procurement of these products.²²⁶ Anthropologist Michael Taussig notes the shift of the marketing of such products in the Venezuelan context, noting that the tolerance of the state in the sale of such spiritual wares speaks to the transference of magic from the community practitioners to the state.²²⁷ While Taussig argues that the sale of spiritual products sold in perfumerias represents a shift in spiritual economy, where the magic of religious practice and

²²⁴ This regulation coincided with the Post World War II Period, and the focus on regulating both amphetamine use and a fear that drug using Americans would be persuaded to join Communist organizations. See Andrew Galub, Alex S. Bennett, and Luther Elliott, "Beyond America's War on Drugs: Developing Public Policy to Navigate the Prevailing Pharmacological Revolution," in *AIMS Public Health* 2, no. 1 (2015), 142-160.

²²⁵ Though botanicas are not mentioned in histories of "Quack" investigative committees from mid-century United States, analogous cases are reported with concern to African American candle and Hoodoo shops in the American South. See Carolyn Morrow Long and James Harvey Young.

²²⁶ Carolyn Morrow Long, *Spiritual Merchants: Religion, Magic, and Commerce*, Abe Books, 2001.

²²⁷ Michael Taussig, *The Magic of the State*, 1997.

the Maussian exchange of gift is absorbed by a modern economic exchange of capital, in the American context the manufacture and sale of such goods by outsiders (such as the Jewish family who runs El Indio Products) is tied to a narrative of the American nation-state that attempts to absorb cultural and religious practice in an effort to regulate it.

In Luis D. Leon's 2002 study of an East Los Angeles botanica, he describes botanicas as "public loc[i] for the intersection of the sacred and the profane, " places where American capitalism and various religious practices occur.²²⁸ He writes that in botanicas,

The charisma of blessing and gifts so central to religious narratives is giving way to the rationale of capitalist ideology... As such it is the epitome of a postmodern religious place, whose success is found precisely in its ability consistently to transform religious irony and indeterminacy into efficacious social functionality.²²⁹

While critics of contemporary botanica businesses argue that the adoption of an American capitalist model of a religious marketplace promotes a culture of individualism that replaces traditional and communal understandings of religion and health, others contend that in a globalized era, botanicas promote religious diversity and create new modes of transcultural exchanges.²³⁰ In many ways the

²²⁸ Luis D. Leon, "Soy una Curandera y Soy Una Catolica: The poetics of a Mexican Healing Tradition," in *Horizons of the Sacred: Mexican Traditions in U.S. Catholicism*, by Timothy M. Matovina and Gary Riebe-Estrella, (Ithaca, NY: Cornell University Press, 2002), 115.

²²⁹ Ibid, 116.

²³⁰ Hendrickson, *Border Medicine*, 186.

analysis of botanicas as capitalist spaces reflects/mirrors the American Medical Association's own interpretations of medicine, advertising, and commerce. Medicine, religion, and commerce are juxtaposed against each other, and though physicians in the United States usually earn higher wages, and are of a higher economic status than those without medical schooling, licensed doctors (bound by the Hippocratic oath) are held to a standard of imagined charity. That is, folks perceived to be making a profit (however meager) on curandero/healing/religious practices are viewed under the scrutiny of benevolence. I'd like to consider a counter narrative to the idea that these are primarily capitalist spaces in the "spiritual marketplace." In the context of curanderismo, botanicas are then strategic re-articulations of the religious strategies and sensibilities of curanderismo. Curanderismo survives as a practice through its malleability and openness to incorporation of a wide variety of religious traditions, as well as its location within the retail space.

Born out of the colonial encounter, curanderismo and its associated religious practices reflect the spaces they inhabit—they work together to create alternative forms and spaces of religious economy and exchange. That is, in order to survive shifting iterations of colonialism, empire, and neoliberalism, and occupation, curandero practices, whether in homes or botanicas, change to accommodate dominant paradigms, and changes them as well. ²³¹

²³¹ Jennifer Scheper Hughes and Maria das Cores Campos Machado, "Spirits, Bodies, and Structures: Religion, Politics, and Social Inequality, in Latin America, *Latin*

The narrative of spiritual marketplace contributes to a capitalized notion of progress, requiring that occupied communities assimilate to dominant forms of politics and economy, and understanding religion in the Americas through a rubric of neoliberal exchange. I propose to shifting the way these spaces, advertisement, and products are understood; rather than mechanisms of capitalism, they may be seen as evidence of a type of “code-switching,” an adoption of the language of capitalism and consumerism as a mechanism of subversion and survival.

Botanicas represent spaces that defy regulation; unlike the regulation of curanderismo practices in hospitals and the quantification of the efficacy of herbal medicine, curanderismo (in its various forms) in botanicas continue to exist at the margins of American culture due to the nature of the practices themselves and to the racialized ideas imposed on such spaces. When curandero practices conform to the regulations of the American Medical Association and state medical boards they are rendered neutral and non-threatening, divorced from their religious and communitarian roots. So long as the state can absorb it, commodify it, and sell to the American public as a regulated therapy, it can be subject to control of the nation-state. When curanderismo operates outside of the apparatus of the state, these healing modalities are suspect, dangerous, and threatening to the safety and health of the American body politic. It is representative of a larger trend of fascination

American Perspectives, Vol 43, no. 3 (May 2016), 4-14. Here Hughes and Machado critique religious marketplace models based on capitalism, like that proposed by Andrew Chesnutt in *Competitive Spirits: Latin America's New Religious Economy* (2007).

with Native American religions and customs since the nineteenth century that divorces religious and ethnic identities from religious and cultural practices under different rubrics of American spirituality and religion. This type of cultural appropriation and fascination with the other both reinscribes and erases religious and healing traditions from historical and cultural contexts. In the botanica, curanderismo is racialized because it is a healing modality primarily for brown bodies by brown bodies; in hospital settings, in corporate run grocery stores (such as Target, which now carries votive candles once specific to botanicas) and in hipster gift shops, these traditions are often understood as postmodern secular practices, or mere novelties. Though, as Hendrickson argues, transcultural exchange is part and parcel of these traditions, (and in the globalized contemporary moment), its potency is mitigated by the American racial imagination.

The prevalence of Don Pedrito Jaramillo in the literature of curanderismo appears to fit within this rubric of multiculturalism, especially as his biographers highlight his work among Anglo-Americans in the South Texas region. However, my observation of contemporary practices involving San Pedrito devotion, especially in the political climate of the Rio Grande Valley, and the petitions for safety from border patrol raids and immigration detention position Don Pedrito as a safeguard against the power and violence of the state.²³² It is this seeming contradiction—his

²³² These types of written petitions are seen inside the Don Pedrito shrine, on small pieces of paper left on the walls by devotees. This is also observed by Paul J. Vanderwood during his visit to the Don Pedrito shrine in 1999, as recorded in Juan

appeal to whiteness and multiculturalism, and his work in extra-legal matters that makes him ubiquitous in the literature and imagination of Mexican folk healing practices in the United States. His image, his appearance as small mentions in press clippings, and his persistence in the historical narrative calls attention to a history of Mexican curanderismo that constantly shifts and defies essentialization. Don Pedrito Jaramillo, continues to welcome the stranger and feed her, regardless of race and ethnicity, while simultaneously challenging the boundaries of the nation-state.²³³

Borderlands scholar and resident of the Rio Grand Valley, Gloria Anzaldúa famously described the U.S.-Mexico border as an open-wound in a constant state of rupture and healing.²³⁴ In curanderismo, “choque,” or shock, is a psychological state caused by trauma that manifests in the body as illness.²³⁵ If as Taussig describes, shock also “sums up as process what is at stake in magic’s journey through time... in regards to the human body, shock’s [choque’s] magic is no less an exploration of

Soldado: Rapist, Murderer, Martyr, Saint (Durham, Duke University Press, 2004), 219.

²³³ Jennifer Koshatka Seman argues that Don Pedrito Jaramillo and Teresa Urrea, created alternative transnational projects through *curanderismo* that privileged the subaltern in the U.S.-Mexico borderlands. See *The Politics of Curanderismo: Santa Teresa Urrea, Don Pedrito Jaramillo, and Faith Healing in the U.S.-Mexico Borderlands at the Turn of the Twentieth Century* (Dissertation – Southern Methodist University, 2015).

²³⁴ Gloria Anzaldúa, *Borderlands/La Frontera: The New Mestiza* (San Francisco: Aunt Lute Books 1987), 19.

²³⁵ For glossaries of so-called “folk illnesses,” including “choque” in curanderismo see Eliseo “Cheo” Torres and Timothy L. Sawyer Jr., *Healing with Herbs and Rituals: A Mexican Tradition*, (Albuquerque: University of New Mexico Press, 2006).

time than it is a type of historiography,” then the border as open wound, and its affects and effects a la Gloria Anzaldua manifests as “choque” spiritually, politically, and materially. The choque of colonialism, of imperialism, and occupation, the shock of displacement, of bodily precarity – this a historiography of healing that open wound. Don Pedrito’s continued presence in the Rio Grande Valley operates as curandero practice—he heals individual bodies, but continued devotion to him in historical moments of racial discrimination, racial profiling, and violent enforcement of the border also position him as a curandero of a body of larger communities and of geographic and politically contested landscapes.

Conclusion

In the late twentieth century, the War on Drugs launched a new era of racialized law enforcement.²³⁶ This, coupled with an influx of refugees from the Caribbean and from Mexico, each with their own distinct set of folk practices, attracted the attention of law enforcement agencies seeking to curb drug trafficking and undocumented migration through the surveillance of religious spaces such as

²³⁶ See Gabriel J. Chin, “Race, The War on Drugs, and the Collateral Consequences of Criminal Conviction,” *Journal of Gender Race and Justice* 6, no. 2 (Fall 2002), 253-276; Lawrence D. Bobo and Victor Thompson, “Unfair by Design: The War on Drugs, Race, and the Legitimacy of the Criminal Justice System,” in *Social Research An International Quarterly* 73, no. 2, (Summer 2006), 445-472.; Paul Finkelman, “The Second Casualty of War: Civil Liberties and the War on Drugs,” *Southern California Law Review* 66, no. 4 (May 1993): 1389-1452.

botanicas.²³⁷ Indeed, though sites of religious commerce and innovations, individuals unfamiliar with Latino popular religious traditions imagine botanicas as potential sites and sources of criminal activity.

Popular media depictions of botanicas in Mexican and Mexican American communities, especially emphasize illicit and sensationalized forms of curandero religious practice. Most recently, the USA network show, *Queen of the South*, depicts a young Mexican woman from Culiacan, Sonora in El Paso, Texas, seeking medical attention from a dangerous religious cult of Venezuelan drug lords in the back of a local botanica. Likewise, the 2015 film *Paranormal Activity*, set in Oxnard, California sets the scene for botanicas as underground environments of physical danger and occult behavior, and the Showtime series, *Dexter* uses a Miami botanica as the stage for occult murder practices tied to Santeria and Santa Muerte devotion.

²³⁷ Investigations and cases involving botanicas and drugs continue. See Sharon Bernstein, "County Leaders Target Network of Storefront Drug Providers," *Los Angeles Times*, July 29, 1998, 73; "H.G. Reza, "Hordes of Pharmaceutical 'Ratpackers' Ply the Border," (part 2 of Dangerous Medicine: On the trail of black market drugs) *Los Angeles Times*, May 24, 1999, 169.; Jean Guccione, "L.A. County's Antidote for Illegal Pharmacies," *Los Angeles Times*, November 22, 2002, 44.



Figure 2.9 “Queen of the South” screenshot of Season 2, Episode 7.

More than mere entertainment, depictions of botanicas as dangerous places of criminal activity reflect circulating ideas about curandero religious practices in the United States in popular culture. These attitudes also inform law enforcement attitudes towards Latinx religious communities, discussed further in the following chapter. A 2015 book circulated in law enforcement circles, titled *Narco-Cults: Understanding the Use of Afro-Caribbean and Mexican Religious Wars* contains an entire section detailing a history of curanderismo and Mexican folk religion.

Curanderos are described as healers whose discretion make their services appealing

to drug traffickers, who may seek them “to get magical assistance in escaping rivals and police.”²³⁸

In the contemporary United States, where 28.2 million residents under the age of 65 were uninsured in 2016, and public assistance programs are threatened with defunding, botanicas continue to serve as alternative health care providers.²³⁹ In post 9/11 United States, material religion, often procured from botanicas and associated with Mexican and other Latinx religious practice, becomes a visual marker of racialized and criminal identity. Newspaper cases continue to report botanicas as locations of fraudulent behavior, violence, and danger.²⁴⁰

While in the early twentieth century, curanderos were characterized as frauds and “quacks,” in the early twenty-first century they are also tied to criminal organizations and the drug trade. As this chapter has demonstrated, curanderismo has been subject to surveillance, investigation, and prosecution through shifting

²³⁸ Tony Kail, *Narco-Cults: Understanding the Use of Afro-Caribbean and Mexican Religious Cultures*, P154. More details on the creation and circulation of these materials and discourses among law enforcement officials and communities are discussed in Chapter 3, especially concerning how the religious iconography of Mexican (and other Latinx religious actors) are conflated and essentialized under the category of “narco-saints.”

²³⁹ “Health insurance coverage” National Center for Health Statistics, Centers for Disease Control and Prevention, January 2017.

²⁴⁰ James T. Pokines, “A Santeria/Palo Mayombe ritual cauldron containing a human skull and multiple artifacts recovered in western Massachusetts, U.S.A.” *Forensic Science International* 248 (March 2015), 1-7; “Witchcraft threas don’t stop prosecution over bird feathers,” *Chicago Sun Times*, August 19, 2016; “Skull found at L.A. area spiritual shop prompts investigation,” *Orange County Register*, January 22, 2016;

legal strategies since the early twentieth century. In response, curanderismo has also changed; its practices have found new homes in *botanicas* and economic modes as strategies of survival.

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Chapter Three: A potentially lethal Catholicism

Abstract

This chapter focuses on post 9/11 American law enforcement tactics, exploring how Latina/o material religion has become a signifier of illegality and criminality in traffic stops and in court trials. I argue that racial profiling of Mexican material religion, specifically the Catholic rosary and the image of the Virgin Mary, is tied to the policing and maintenance of the U.S.-Mexico border. As changing patterns of labor migration have created new Mexican immigrant enclaves in states far from the Southwest, the international border has shifted from a mere geographic area to a cultural boundary marked by Protestant secularism, policed on highways, city streets, and public schools.

Introduction

In the photographs, the rosaries are aligned, grid-like against a grey background. Small bundles of plastic are separated from others made of wood or glass, like a catalog of beads and small crosses (Figure 1). But these objects are not for sale—they are Catholic rosaries found in the garbage of Customs and Border Protection in Arizona after being removed from the custody of undocumented migrants. Deemed “potential lethal, non-essential property” by law enforcement, the rosaries were confiscated and subsequently discarded, only to be recovered by a local janitor. As he searched for food to donate to local pantries, he recovered hundreds of objects—toilet paper, wallets, shopping bags, and rosaries. Now they

have achieved a new status—displayed in Tom Keifer’s “El Sueño American” project, alongside other confiscated personal items found in the possession of detained migrants.²⁴¹ Transformed by post-9/11 American border enforcement policy, Catholic rosaries now occupy the same place as weapons. Kiefer’s photographs reveal the potency of such displays of Latino religion; for law enforcement agents, the Catholic rosary demonstrates the potential for criminality and illegality.²⁴² These rosaries can also be read as extensions of the Latino body. Even far from the U.S.-Mexico border, the adornment of bodies and vehicles with normative symbols of Mexican Catholic religiosity become markers for “reasonable suspicion,” used as evidence of undocumented status or of potential gang affiliation.²⁴³

²⁴¹ Baker, Peter C. “A Janitor Preserves the Seized Belongings of Migrants.” *The New Yorker Magazine*, March 12, 2017. Accessed March 13, 2017. In interviews, Kiefer remarks that his photographs are not meant to promote any kind of political agenda.

²⁴² In light of reports of child separation from parents in U.S. detention centers along the U.S.- Mexico border, images of Keifer’s images have achieved a new internet popularity. As of June 2018, images are circulated as “internet memes”, and used in comparison to Nazi policies during WWII, when similar items were confiscated in concentration camps.

²⁴³ While detention centers for undocumented migrants have been shaped and largely modeled after prisons and the U.S. carceral system, they are uniquely different in the laws concerning intake and legal oversight, including but not restricted to issues of intake, identification, transport, and due process. See David Hernandez, “Detained in Obscurity: The U.S. Immigrant Detention Regime,” in *NACLA Report on the Americas* (2016); Tom K. Wong, *Rights, Deportation, and Detention in the Age of Immigration Control* (2015); Lauren Martin, “The geopolitics of vulnerability: children’s legal subjectivity, immigrant family detention and US immigration law and enforcement policy,” *Gender, Place, and Culture*, Vol 8: 4 (2011). Additionally, while personal items are confiscated during prison intakes in the United States, religious items are permitted for inmate use, including rosaries and other prayer beads. See, “Prisoners Gain Access to Religious Materials,



Figure 3.1. Tom Kiefer. “Rosaries,” “El Sueño Americano,”

This chapter draws on the legal record to explore various ways that markers of Mexican Catholic religiosities are identified as signifiers of illegality and criminality among law enforcement agencies in the United States. Material objects

Resolving DOJ Lawsuit, “ in *Religious Freedom in Focus*, United States Department of Justice, January 2012, Volume 50.

such as rosaries and images of the Virgin of Guadalupe are marshaled as evidence against the extension or withholding of national cultural citizenship to immigrant communities.²⁴⁴ I argue that recent efforts by law enforcement agencies to codify these specific religious devotions as evidence of “probable cause” reflect a sustained effort to criminalize Mexican communities through perpetuating historical ideas about the racial other—non-white, unorthodox, and resistant to assimilation. Since before the nineteenth century, culturally distinct Roman Catholic popular religious practices have been associated with Mexican culture in the American imagination, and various structures of law enforcement draw on these practices in the racial profiling of Mexican immigrant communities. Many of the profiling practices in question are codified and distributed through legislation, in training manuals, and in investigative guidelines.

The surveillance of Mexican, and other Latino, communities in the United States reflects increased anxiety and suspicion about immigrants and their religions in the post 9/11 period. However, while legal scholars of race and immigration focus their attention on phenotypical appearances of racialized groups in the policing of respective racialized communities, less attention has been focused on the use of religious symbols in racial profiling outside of literature produced on the

²⁴⁴ The ethnographic work of Shaylih Muehlmann includes references to Jesus Malverde pendants hanging from rearview mirrors. See *When I Wear My Alligator Boots: Narco-Culture in the U.S. Mexico Borderlands* (2013).

policing of Muslim communities.²⁴⁵ This chapter addresses the gap in literature by arguing that the continued racialization of normative Mexican Catholicism is largely obscured by popular media attention to so-called “narco-religion” and “narco-saints.”²⁴⁶

While this chapter focuses on material representations of Mexican Catholicism, the popular religious expressions of the U.S.-Mexico borderlands (as seen in previous chapters) include non-orthodox, and vernacular expressions.²⁴⁷ Recent categorizations of such practices, especially in the last three decades of the “War on Drugs” include terms such as “narco-religion,” “narco-spirituality,” and “narco-cults” as categories of religiosities tied to narcotics trafficking in Mexico. To be clear, this is not a comprehensive study of “narco-saints,” but rather is an

²⁴⁵ The most notable marker of Islam in racial profiling cases is the hijab See: “The Legal Status of Hijab in the United States: A Look at the Sociopolitical Influences on the Legal Right to Wear the Muslim Headscarf.” *Race and Poverty* 441 (2008); Louise Cainkar and Sunaina Maira “Targeting Arab/Muslim/South Asian Americans: Criminalization and Cultural Citizenship.” *Amerasia Journal* 31, no. 3 (2005): 1-28;; Dina Jadallah, and Laura El-Khoury. “State Power and the Constitution of the Individual: Racial Profiling of Arab Americans.” *Arab Studies Quarterly* 32, no. 4 (2010): 218-37.; Rebecca S. Robinson. “Hijab in the American workplace: visibility and discrimination.” *Culture and Religion*, 17, no. 3(2016): 332-351.

²⁴⁶ The 2014 United States of America v. Maria Vianey Medina Copete and Rafael Goxon Chagal case is the most prominent example highlighting the risks in the promotion of law enforcement officials as experts on immigrant religion. Other court cases where Santa Muerte iconography and devotion is case for “probable cause” include: United States of America v. Victor Pena-Ponce (2009); Gonzalez v. State of Texas (2011); United States v. Beltran Aguilar (2011); United States v. Felix (2013); United States v. Garcia (2013); United States v. Garcia (2013); Mireles v. State of Texas (2013); Genaro v. State of Texas (2013); United States v. Antonio Esquivel Rios (2013);

examination of the way borderland religions of this region are constructed under the larger rubric of “narco-culture,” a category that serves to function as a method of state surveillance. My goal is to turn the gaze from the religious practices and their sensationalized representations and to focus instead how these representations are wielded by the state.

My own deconstruction indicates the problematic nature of the term “narco-religion” as a cultural construct. First, the term adheres ideas about “narcoculture” to religious practices that are otherwise culturally complex institutions often external to the narcotics trade. Second, narcoculture in itself is a category influenced by sensationalized reporting and representations in popular media. Despite the popular origins of the term, “narcocultura” is mediated at multiple levels, its meaning continually wielded towards an end that creates a fantasy of the “narco.”²⁴⁸ The representation of narcocultura by journalists, mass media, and law enforcement shape perceptions “about state power, foreign policy, and transnational capitalism. Drug-war literature, music, television, and films have become privileged cultural forms for reflecting upon larger political-economic power.”²⁴⁹

The effects of these influences transcend television, movies, and music, as

²⁴⁸ Julieta Haidar and Eduardo Chavez Herrera trace the term “narcoculture” to 1990s Colombia, “coined by the Colombian elite” and mentioned in print for the first time in 1995 as a positive affirmation of wealthy drug dealers in the country. See “NarcoTraffic in Light of Cultural Semiotics and Complexity Theory,”

²⁴⁹ Miguel Cabanas, “Narcoculture and the Politics of Representation,” *Latin American Perspectives* (2014), 3.

law enforcement officials draw on entertainment media as a source of information about popular religious practices among Mexican communities, and even in the identification of suspected criminal activity. Rather than use the term narco-saints in reference to popular saints of the U.S.-Mexico border, I use the term borderland saints.²⁵⁰ Otherwise, the term narco-saint not only becomes the primary identifier for these practices, but also signifies that all popular religious practices from this geographic region are related to drug trafficking.

Movement and migration, both legal and undocumented, is already deeply racialized and criminalized; in the American imagination the movement across borders is linked to the violence of drug trafficking in Mexico.²⁵¹ Legal scholar, Kevin R. Johnson, contests this, arguing that migration is motivated by economic factors related to labor and neoliberalism. He makes a connection between the metaphorical “war on drugs,” and “the war on terror” as rhetorical strategies supporting anti-immigrant sentiments and immigration restriction. As Johnson states, “immigrants are people who many love to hate, and if you add in their so-called involvement with drugs, crime, or terrorism, then you have the perfect enemy.” When the religious practices of Mexican immigrants are then included as

²⁵⁰ Other scholars who use this term critically include, Desirée Martín, *Borderland Saints: Secular Sanctity in Chicano/a and Mexican Culture*, (New Brunswick: Rutgers University Press, 2014); James S. Griffith, *Folk Saints of the Borderland: Victims, Bandits, and Healers* (Tucson: Rio Nuevo Publishers, 2003); Patrick A. Polk, *Saints and Sinners: at the Margins of the Americas* (Fowler Museum: UCLA, 2015).

²⁵¹ See Kevin R. Johnson, It’s the Economy, Stupid: The Hijacking of the Debate over Immigration Reform by Monsters, Ghosts, and Goblins (or the War on Drugs, War on Terror, Narcoterrorists, Etc). *Chapman Law Review*, vol. 13: 583 (2010).

part of their criminal profile, the religious practices themselves become signifiers of criminality, allowing for a new mechanism for racialized policing. Religious practices prevalent in the borderland region prior to the late twentieth century growth of narcotics trafficking and drug based agricultures are no longer tied strictly to ethnicity, but to criminal behavior. Historically, Our Lady of Guadalupe is representative not only of Roman Catholicism, but of Mexican nationalism and identity.²⁵² In the current political climate of the United States, the image of the Mexican Virgin is now often associated with criminality by law enforcement.

In engaging in this critique, I do not dismiss the very violent and very real narcotics trade problem impacting both Mexico and the United States. At the time of this dissertation—the social, economic, political, and physical consequences of the drug war are undeniable and well documented. However, I do intend to destabilize prominent notions of “narco-religion” by exposing the role of American state power in relation to these religious practices.²⁵³ In doing so, I hope to reveal that the terms

²⁵² See Jacques Lafaye, *Quetzalcoatl and Guadalupe: The Formation of Mexican National Consciousness, 1531-1813* (1987); Serge Gruzinski, *Images at War: Mexico from Columbus to Blade Runner* (2001); William Taylor, ; DA Brading, *Mexican Phoenix: Our Lady of Guadalupe: Image and tradition across centuries* (2002); Elaine Peña, *Performing Piety: Making Space Sacred with the Virgin of Guadalupe* (2011); Ana Castillo, *Diosa de las Américas* (1996).

²⁵³ Scholars of devotion to La Santa Muerte have explored the relationship of Mexican state power and the religious movement, though largely ignored the U.S. relationship. Amalendu Misra’s *Towards a Philosophy of Narco Violence in Mexico* includes a chapter theorizing La Santa Muerte devotion as a competitive force against the sovereignty of both the Mexican government and the Roman Catholic Church. For Misra, it is the refusal to shed Roman Catholic identity that creates a larger problematic image of Santa Muerte devotion. In “Santa Muerte as Emerging

“narco-religion” and “narco-saints,” are wielded and constructed in the context of policing and surveillance and that the terms have become flexible enough to incorporate any and all forms of religious visual and material culture associated with Mexican identity, including practices that would be generally considered normative Catholic practice .

Further, rather than examine evidence of extra-legal behavior among devotees, my analysis focuses primarily on structures that create and construct categories of criminality: the public legal record, court case rulings, and materials produced to train law enforcement agents, especially those that concern Latino ritual devotions. While recently anthropologists of the U.S.-Mexico border have focused their studies on the materiality of clothing and survival gear along the migrant trail, I contend that similar logics extend to visual and material representations of Mexican religion.²⁵⁴ In the twenty-first century, the adornment

Dangerous Religion?” (2016) David G. Bromley argues that devotion to the popular saint is “on the threshold of designation and treatment as a dangerous religion.” Desiree Martin, in *Borderland Saints: Secular Sanctity in Chicana/o and Mexican Culture* also describes how the Mexican government destroys Santa Muerte shrine because they are perceived as threats of criminal activity in Northern Mexico, despite being a popular devotional figure to law officers in the region. See also, Andrew Chesnutt’s *Devoted to Death: Santa Muerte, the Skeleton Saint*. (2012) and Patrick A. Polk’s introduction to *Sinful Saints and Saintly Sinners in the Margins of the Americas* (2015).

²⁵⁴ See Jason De León, “‘Better to Be Hot Than Caught’: Excavating the Conflicting Roles of Migrant Material Culture,” *American Anthropologist* 114, no. 3 (2012): 466-496; Jason De Leon, Cameron Gokee, and Ashley Schubert, “By the Time I Get to Arizona’: Citizenship, Materiality, and Contested Identities Along the US-Mexico Border,” *Anthropological Quarterly* 88, no.2(2015): 445-480. Gabriella Soto examines vernacular shrines created by undocumented migrants in the Sonoran

of bodies with Roman Catholic rosaries and the various ways in which these bodies are linked to vernacular religious practice mark them as unsuitable political and religious subjects.

My examination of several key legal cases surfaces several, related salient observations. These cases reveal how religious material culture and devotional practices are wielded as evidence of criminality in court proceedings and the process of racial profiling, as law enforcement officers identifying traditional markers of Mexican Catholic practice with crime. In court cases where Mexican religious practices are used as evidence of criminality, the courtroom has also become the location of theological debate. As demonstrated in this chapter, expert witnesses testimony offered by so-called experts on Latino religious traditions and narcotic investigators often define devotion to Mexican saints and Catholic displays of religiosity against Christian orthodoxy, deeming Mexican Catholicism not only criminal, but theologically heterodox. Mexican Catholicism is thus policed in courtrooms, strip malls, and on city streets—even beyond what the ACLU terms the “100-mile border zone,” that is the geographic area in which border patrol agents have extra-Constitutional powers.

desert, arguing that they serve as *memento mori* and testaments to the physical dangers and risks of traversing the harsh landscape of Southern Arizona. See “Migrant memento mori and the geography of risk,” *Journal of Social Archaeology* 16, no 3 (2016), 335-358.

Training Manuals: Tying normative Catholic practices to Crime

The creation of recent law enforcement training manuals and publications are mechanisms through which Mexican normative Catholic practice is criminalized. As reflected in previously mentioned court testimony by arresting officers, displays of rosaries and images of saints by Mexican and Mexican Americans is often used as probable cause and reasonable suspicion in identifying criminal behavior. In such trainings and materials, law enforcement officials are trained to conflate normative Catholic practices with those that fall outside of orthodox practice. The presentation of normative Catholicism and “narco-religion” as synonymous practices is key to the construction of Mexican Catholicism as potentially criminal and lethal. Despite disclaimers that religious images cannot be used for the purposes of reasonable suspicion, the training of law enforcement officials in the identification of Mexican Catholic imagery continues.

The sources provided for this section of the chapter are resources produced for the specific purpose of being sold, distributed, and circulated among law enforcement groups, military personnel, and affiliated state agencies. Many of these bulletins, pamphlets, books, and videos are sold and advertised in law enforcement training seminars, while others are part of routine news bulletins written for, and by, members of law enforcement agencies. Indeed, the academics that produce these materials are part of a network of anthropologists and government analysts that form part of the larger network of National Security studies. In addition to serving as lecturers in academic settings, many also hold private appointments as security

consultants, geopolitical analysts, and instructors for the Federal Bureau of Investigation and the Department of Defense.²⁵⁵

A 2005 publication by the Foreign Military Studies Office in Fort Leavenworth Kansas, titled *The Death Cult of the Drug Lords: Mexico's Patron Saint of Crime, Criminals and the Dispossessed* attempts to write a history of Santa Muerte, from its origins in Aztec/Mexica mythology to her present veneration. The report, written by Kevin Freese, conflates Santa Muerte veneration with the Afro-Caribbean practices of Regla de Ocha (commonly known as Santeria), Palo Mayombe, neo-indigenismo, and devotions to popular Central American saints (like San Simon). Further, the first 100 words of the report are dedicated to describing a scene from the 2004 Denzel Washington film "Man on Fire" as an accurate representation of the quote "corruption (some would say perversion) of the Blessed Virgin in Mexican Catholicism."²⁵⁶ Freese adds that "because its practitioners do not seem to seek any spiritual enlightenment, simply favors and rewards, the cult of Santa Muerte is probably best described not so much as a religion as an esoteric practice wrapped in the trappings of a religious movement."²⁵⁷ The report distinguishes between official

²⁵⁵ My attempt to attend these training seminars in several U.S. cities proved futile, as attendees are required to be law enforcement officials or employed by law enforcement agencies. Robert Almonte's training requires a police badge for admittance.

²⁵⁶ Kevin Freese, *The Death Cult of the Drug Lords: Mexico's Patron Saint of Crime, Criminals, and the Dispossessed*, Fort Leavenworth: Foreign Military Studies Office, (2015).

²⁵⁷ Ibid.

and illicit forms of religion to link criminal behavior to religious practice. The August 2008 edition of the *FBI Law Enforcement Bulletin* included an article in their Focus on Officer Safety section titled, “Jesus Malverde’s Significance to Mexican Drug Traffickers,” by Robert J. Botsch, explaining the importance of identifying devotion to popular Mexican saints as evidence of probable criminal activity (see Figure 2).²⁵⁸ By 2011, the FBI Academy compiled a bibliography of suggested readings titled “Santa Muerte and Mexican Narcocultos” compiled by Robert J. Bunker and his wife, researchers and analysts in security operations.

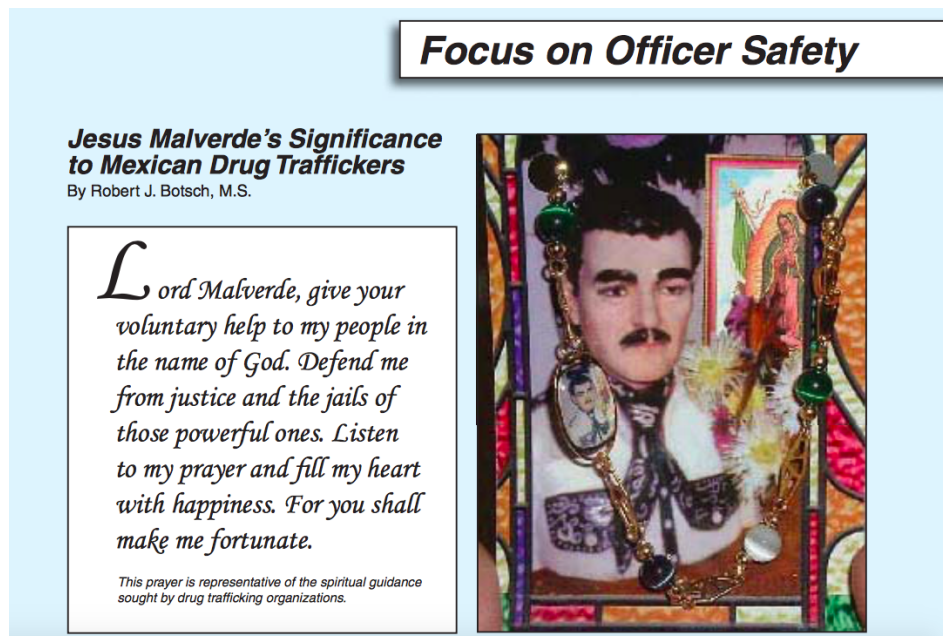


Figure 3.2 *FBI Enforcement Bulletin*, Vol. 77:8 (2008)

²⁵⁸ Robert J. Botsch, “Focus on Officer Safety: Jesus Malverde’s Significance to Mexican Drug Traffickers,” *FBI Law Enforcement Bulletin*, 2008.

The United States Marshal service disseminated a press release in January of 2013 citing the importance of understanding Mexican popular religion to fight criminal organizations (2013). Soon after, a three part bulletin released by the FBI, titled “Santa Muerte: Inspired and Ritualistic Killings” makes almost the same argument. Robert J. Bunker, also an adjunct professor for the Claremont Graduate University and investigator for the FBI’s behavior science unit, the Strategic Studies Institute and the U.S. Army War college, refers to “the rise of deviant spirituality” and argues that “evidence suggest[s] that the numbers of defections to the cults that worship a perverted Christian god and the various unsanctioned saints have grown for years.”²⁵⁹ Bunker writes that law enforcement officials need “spiritual armor” to confront this type of devotion.²⁶⁰

Former United States Marshal Robert Almonte of the Western District of Texas (an associate of Bunker) is a widely sought-after expert witness in cases where narcotics officers and immigration enforcement rely on religious material during traffic stops and vehicle searches. Though forced to resign in 2016 from Marshal’s services after accusations of ethical and financial misconduct, Almonte continues to train law enforcement agencies across the United States.²⁶¹ Titled after

²⁵⁹ Robert J. Bunker, “Santa Muerte: Inspired and Ritualistic Killings,” *FBI Law Enforcement Bulletin*, 2013.

²⁶⁰Ibid.

²⁶¹ Robert Moore and Ramon Bracamontes, “El Paso U.S. Marshal Almonte Resigns,” *El Paso Times*, May 11, 2016.

his self-produced documentary “Patron Saints of the Mexican Drug Underworld,” his course seminar offers information on the use of religious images as “beneficial to law enforcement officers in all parts of the country who may encounter images, icons, statutes, and other items during or pursuant to an investigation.”²⁶² And, while Almonte claims that the presence of these material objects is not enough for probable cause and arrest, court records of officer testimony demonstrate that, nevertheless, law enforcement officials rely on them for search and seizure.

Titled “Patron Saints of the Drug Underworld,” Almonte’s course is advertised deploying images heavily featuring traditional Day of the Dead altars and women painted as *catrinas* and *calacas* in celebration of Mexican All Saints and all Souls Day (see figures 2,3,4) This is particularly notable -- Day of the Dead celebrations in the United States are now considered part of the American multicultural landscape -- there are two recently animated films related to this holiday, and school children are taught its cultural significance. In my own fieldwork among festivals, it is also seen as a sort of ground-zero for gentrification and cultural appropriation. Given its increasing acceptance in mainstream US culture, it is significant, that law enforcement has tied the celebration to narcotics trafficking. Almonte proudly advertises the influence of his courses as “include[ing] information on various legitimate and illegitimate saints and icons used by criminals,” boasting that “several significant arrests... as well as drug and money seizures throughout the country have been attributed to this course.”

²⁶² Almonte, n.d.

In the thirty-second introduction to the documentary, made available for purchase through narcoticstraining.com and at various law enforcement training seminars, Almonte presents a montage of various religious images set to dramatic music and interspersed with violent imagery. Images of La Santa Muerte, the Virgen of Guadalupe, El Santo Niño de Atocha, Saint Jude, the stigmata, and an orisha are displayed alongside images of guns and dead bodies. Almonte claims that the presence of these material objects is not enough for probable cause and arrest. But the court records of officer testimony demonstrate that, nevertheless, law enforcement officials rely on such objects for search and seizure. Additionally, T-shirts sold as mementos and souvenirs at his trainings feature an image of Saint Michael the “Patron Saint of Police Officers” standing behind two officers arresting what Almonte describes as a “demonic figure.” (see figure 4) This image, superimposed onto an American flag, positions law enforcement within the realm of “legitimate religion,” as opposed to the “illicit” religion of Mexican criminals.



Figure 3.3 From Almonte Consulting and Training Facebook page. Accessed November 2017

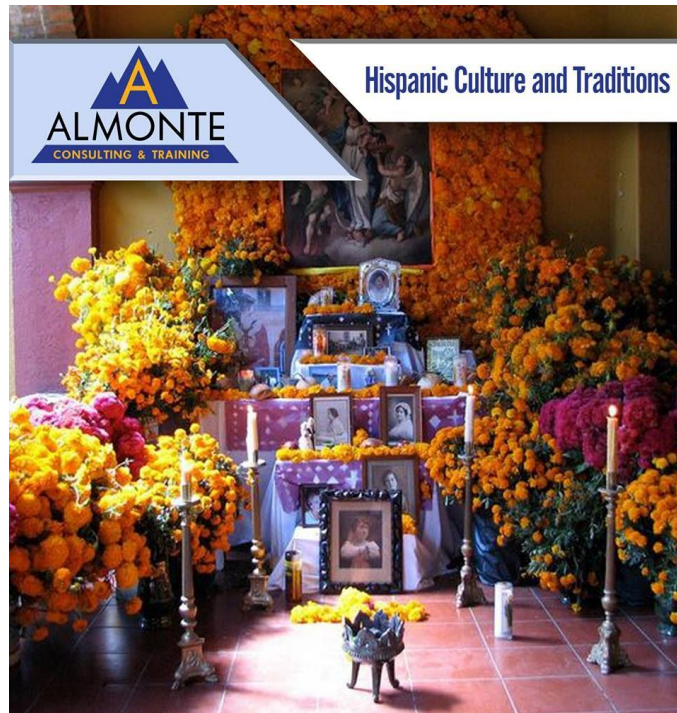


Figure 3.4. Almonte Consulting and Training Facebook page. 2017



Figure 3.5 Almonte Consulting and Training Facebook Page, February 2018

In a 2011 interview with Catholic magazine *On Being*, Almonte identifies Santa Muerte, St. Jude, John Paul II, and the Virgin of Guadalupe as Catholic saints commonly used as protection by narcotics traffickers, lumping Mexican devotion to saints under the broader category of un-official religion.²⁶³ Most recently Almonte has also included San Ramon and San Toribio Romo as “clues” for criminal activity. Indeed, while the sensationalist reporting on narco-saints focuses on “unofficial” and “unsanctioned” religious images, law enforcement includes images of orthodox saints as potential signs of criminality. The inclusion of Saint Jude Thaddaeus, John Paul II, and the Virgin of Guadalupe are significant to the construction of the illegal and the criminal other, as all of these “official” saints are linked to Mexican forms of devotion.

Tony Kail’s 2015 *Narco-Cults: Understanding Use of Afro-Caribbean and Mexican Religious Cultures in the Drug Wars* is an instruction manual in identifying Afro-Caribbean and Mexican religious practices. Kail, a cultural anthropologist, serves as “Southern Regional Director for the Symbol Intelligence Group, a private law enforcement resource firm that specializes in counterterrorism research and education.”²⁶⁴ He teaches a course titled “Investigating Crimes Involving the Narcoculture” and specializes in “documenting African and esoteric religious

²⁶³ Susan Leem. “The Substitute Saints of Drug Trafficking: An Interview with U.S. Marshal Robert Almonte,” *On Being*. August 2011. Accessed March 25, 2015. <http://www.onbeing.org/blog/substitute-saints-drug-trafficking-interview-us-marshal-robert-almonte/2555/.2011>).

²⁶⁴ Tony Kail biographic page, *Tritech Training and Forensics*,

cultures throughout the U.S. and Africa.”²⁶⁵ His book reveals his expertise in a knowledge of the material cultures of Latin America and the Caribbean, as well as his experience as a former deputy sheriff.

Despite warnings that these religious practices are not exclusive to criminal groups in each of the ten chapters, Kail’s book relies heavily on physical representations of religious material culture and photographs of violence by Mexican drug cartels. As with Almonte’s training video, the juxtaposition of these two types of representations—both religious and violent—creates a visual register equating Catholic material culture, curanderismo, borderland saint veneration, Vodou, Palo Mayombe and Regla de Ocha as with ritualistic violence. In a chapter titled, “ Investigations,” Kail reflects on traffic stops and court cases involving religious material culture, (including) the Goxcon-Chagal case to prove that the profiling of suspects with religious material culture in their possession serves as an effective tool in creating reasonable suspicion and probable case. In regards to defending this type of profiling in court, Kail writes

Investigators testifying in court regarding cases where artifacts are collected as evidence should prepare for potential questions regarding religious artifacts. There is a precedence of defense attorneys using issues relate to religious freedoms and religious persecution in cases where artifacts have been used as evidence. In some cases, defendants have hired religious academics to testify as expert witnesses in their cases. Investigators that

²⁶⁵ See Kail’s other publications including *Santa Muerte: Mexico’s Mysterious Saint of Death* (2010), *Magico-Religious Groups and Ritualistic Activities: A Guide to First Responders* (2008), *A Cop’s Guide to Occult Investigations: Understanding Satanism, Santeria, Wicca, and Other Alternative Religions* (2003).

choose to use religious items as evidence in criminal cases need to be prepared to answer questions regarding artifacts.²⁶⁶

While Kail and Almonte both claim that these religious materials are not necessarily tied to criminality, they both train law enforcement officers to identify the objects with criminal behavior. Like Almonte, Kail includes images of Our Lady of Guadalupe among the “narco-saints” of Mexican cartels and other criminals.²⁶⁷

Additionally, governmental information circulated about Latina/o religion draws inspiration from, and is influenced by popular media representations of Latina/o devotional practices. The publications disseminated and taught by American law enforcement agencies, since 2010, feature sensationalist accounts of Mexican and Latino religion that parallels, in many ways, the ideas about Mexican religion that were popular in the nineteenth century. Indeed, Freese’s article points to the idea that Mexican views on theology and their devotion to images such as Saint Jude Thaddeus, fall outside of recognized Christian orthodoxy. Bunker analyzes these devotions as “perversions” of Christian worship and quasi-religious Christian acts. While the narcotic violence often seen in the U.S.- Mexico border region often exists alongside devotion to popular saints, the arguments made by

²⁶⁶ Tony Kail, *Narco-Cults: Understanding Use of Afro-Caribbean and Mexican Religious Cultures in the Drug Wars*, T & F Publishing (2015), 288.

²⁶⁷ Kail includes ritual cannibalism and the skinning of cartel victims to Huitilopochtli tattoos found on cartel members as part of “narco-spirituality,” invoking nineteenth century stereotypes of Mexicans as bloodthirsty Aztecs.

individuals training law enforcement officers make a clear association between popular Mexican saints and criminality.

Traffic Stops: First and Fourth Amendment Violations

In 2010, Arizona governor, Jan Brewer signed Senate Bill 1070 into law. The Support Our Law Enforcement and Safe Neighborhoods Act, commonly referred to as the “show me your papers” law was separated into two different types of stipulations:

- 1) Individuals were required to provide verification of legal residency when asked by a law enforcement officer, or face imprisonment or deportation
- 2) Police officers were required to act as extensions of Homeland Security and the Immigration and Custom Enforcement Agency by asking for verification for legal residency and enforcing federal immigration law

Foreign appearance during a traffic stop, or the perceived inability to speak fluent English could be the basis for asking an individual for proof of residency or citizenship. Reasonable suspicion also gives officers a reason to look for probable cause, most commonly resulting in the search and seizure of vehicles. This resulted in the arrest and detention of Latinx citizens and permanent residents who could not produce proof of citizenship upon request. As a preventative measure and response to the passing of SB 1070, immigrant advocacy groups in Arizona advised Latinx residents to remove rosaries from their rearview mirrors, as racial profiling during traffic stops based on these religious materials (under the guise of obstruction of field of vision), was already documented in states like California and Texas.

The passage of Senate Bill 1070 made it a requirement for law enforcement to request the immigration status of anyone suspected of being an undocumented immigrant. Dr. Miguel De la Torre's evocative documentary film, "Trails of Hope and Terror," (2017) brings attention to this issue. In response, immigrant advocacy groups began to encourage Latina/o residents to remove rosaries from their rearview mirrors.²⁶⁸ Arizona was not alone in targeting the "Mexican rosary" for special scrutiny. On February 8, 2009 San Francisco Immigrants Defense Committee, La Raza Central Legal, and numerous San Francisco residents appeared at a City Hall hearing alleging "that they had been pulled over and given tickets because they had a rosary hanging from their vehicle's rearview mirror."²⁶⁹ Similarly, in 2013, Latina/o residents of Racine, Wisconsin voiced concern over racial profiling during traffic stops that included the presence of rosaries in the vehicle.²⁷⁰ For law enforcement officials, the Mexican rosary has come to signal the possibility of criminal activity and suspected undocumented status.

On the afternoon of August 25, 1999, Jenaro Ramon drove north on Highway 385, just south of Marathon, Texas. United States Border Patrol agents Andrew Graham and Martin Tashman observed from outside of their station posts, noticing

²⁶⁸ Jessica Hopper, "Immigrants Prepare for Enforcement of Arizona Law" *ABC NEWS*, July 27, 2010.

²⁶⁹ "Minutes of San Francisco Police Commission and City and County of San Francisco Meeting," March 18, 2009.

²⁷⁰ Cara Spoto, "Airing hurts and fears: Latinos address racial profiling concerns at meeting," *The Journal Times*, June 11, 2013.

that they had never seen the Suburban drive along this highway and agreeing that the radio antennas and the dark tinted windows were cause for suspicion. Both agents trailed the vehicle, and after the Suburban's registration information was returned without a warrant or cause for concern, Graham and Tashman determined that the "metallic fish symbol, one Virgin Mary sticker, and one sticker proclaiming a religious phrase," were reasonable cause to pull the vehicle over .²⁷¹ The K9 unit alerted the officers of narcotics in the vehicle, and Ramon and his passenger were arrested and detained.

Criminal convictions based on traffic stops and involving religious materials have been successfully overturned by citing the violation of the First and Fourth Amendments, as well as the Religious Freedom Restoration Act.²⁷² In the literature on racial profiling during traffic stops, and cited in appeals to such convictions, *United States v. Brignoni-Ponce* (1975) is foundational in invoking the Fourth Amendment and restricting the use of racial appearance as probable cause during Border Patrol enforcement.²⁷³ Indeed, in the approved motion to suppress evidence of narcotic possession during the *U.S. v. Ramon* case, the Court agreed with the

²⁷¹ *United States v. Ramon* According to their testimony, the agents reported that "they ha[d] been trained to regard vehicles displaying religious decals and symbols with suspicion, as such decals are used by smugglers who masquerade as God-fearing Christians."

²⁷² The Religious Freedom Restoration Act of 1993 protects the exercise of religion from burdens imposed by the rule of general applicability.

²⁷³ *United States v. Brignoni-Ponce*, 422 U.S. 873 (1975)

defendant's argument that the stop and search of the vehicle was in direct violation of both the First and Fourth Amendments, stating that:

Similar to the wearing of long hair and rosaries, the display of religious decals on a vehicle is protected by the First Amendment Free Exercise Clause a means of emphasizing the faith of the owner. Even though the display of religious decals may not be a tenet of any religion, the right to emphasize one's religion by such a display cannot be burdened by a governmental policy of targeting individuals who choose to do so. The Border Patrol should be aware that targeting individuals for a display of religious decals on the sole basis of such a display violates the Free Exercise Clause of the First Amendment.²⁷⁴

Further, in their discussion of the Fourth Amendment, the court determined that regardless of officer training to identify potential criminals by use of religious iconography to "mask" criminal activity, the appearance of possible Mexican ancestry and religious symbolism was not cause for search and seizure.

Similarly, the 2008 motion to suppress evidence in the trial of Hermerejildo Magana, Jr. was also granted based on violation of the First and Fourth amendments. On the morning of July 25, 2007, Hermerejildo Magana Jr. traveled eastbound on I-10 in Gonzalez County, Texas in his white Chevrolet Cavalier. Texas State Trooper Michael A. Turk observed a "wobbly rear tire" on the vehicle and proceeded to perform a traffic stop. Magana informed Turk that it was a bent rim that made the tire appear defective and handed over his driver's license and insurance (both of which checked out). Turk noticed Magana was nervous, and observed a small statue

²⁷⁴ *United States v. Ramon*, 86 F. Supp. 2d 665 (W.D. Texas 2000)

of the Virgen de Guadalupe on his dashboard and an air freshener hanging from the rearview mirror. According to Trooper Turk's court testimony,

In previous drug seizures we have noticed that there's been religious symbols in vehicles when we've seized drugs from them." Trooper Turk testified that religious symbols are possibly indicators, along with other things, that increase his suspicion of drug trafficking. He stated he considered the presence of a religious symbol as part of the "totality of the circumstances" when developing his suspicion about possible criminal activity.²⁷⁵

Though the tire was not damaged, and Magana had not committed a traffic violation, Turk had him step out of his vehicle based on suspicion of criminal activity. After radioing Gonzales County Deputy Sheriff Floyd Toliver for assistance, both officers proceeded to search the vehicle based on this suspicion. They eventually found a secret compartment containing bundles of heroin.

The Court ruled that Magana's First and Fourth Amendment rights had been violated, and that the display of religious items in the vehicle is protected under the First Amendment's freedom of expression. They ruled that it was impermissible for law enforcement to use religious paraphernalia in their calculation of reasonable suspicion. As in the case of *U.S. v. Ramon*, Magana was stopped and detained by two law enforcement officials (Texas State Troopers, in this instance) based on the "religious statue" affixed to the dashboard of his vehicle. The Court determined

²⁷⁵ "Order Granting Defendant's Motion to Suppress," *United States v. Magana*, 544 F. Supp. 2d (W.D. Tex 2008).

“that religious symbols cannot be used to generate reasonable suspicion of drug dealing or criminality.”²⁷⁶

Pete Resa and Betina Hernandez were pulled over on October 16, 2006 in Bradley County, Tennessee. Despite having run the license plates and gaining knowledge that the car was not a stolen vehicle, Officer Eduardo Choate pulled the car over and questioned Resa and Hernandez after observing that they were of Latin American heritage and had a rosary hanging from the rearview mirror. The U.S. District Court of Tennessee at Chattanooga denied the motion to suppress evidence in the trial despite testimony by the arresting officer. In the affidavit presented to the presiding judge. Officer Choate stated that

...his suspicions were raised when he saw a rosary hanging from the rearview mirror of the vehicle because he knew that a rosary or cross is a recognized sign of drug traffickers who are seeking protection on their journey. In response, Officer Choate stated that, because the Roman Catholic faith is common among people of Hispanic heritage, and because it is well known within law enforcement circles that Hispanics are disproportionately over-represented among drug traffickers, a rosary or cross would be consistent with this observation as well. Officer Choate again stated, however, that it was the totality of the facts and circumstances surrounding this incident, and not any one specific factor, that led to his suspicions.²⁷⁷

The officer testified that, because the Roman Catholic faith is common among people of Hispanic heritage, and because it is well known within law enforcement circles that Hispanics are disproportionately overrepresented among drug traffickers, a rosary or cross would be consistent with this observation as well.”

²⁷⁶ *United States of America v. Hermejildo Magana, Jr.* 544 F. Supp. 2d 560 (2008).

²⁷⁷ *United States of America v. Betina M. Martinez and Pete Resa*, 522 F. Supp. 2d 720-Dist. Court, ED Tennessee 2008.

Despite the officer's testimony, in this instance the court determined that the traffic stop and subsequent search of the vehicle was legal, dismissing arguments that it was based on racial profiling. In this particular case, the court ruled out racial profiling as Choate argued that the initial traffic stop was due to improper use of headlights. It did not address the rosary also used as justification for reasonable suspicion.

Racial profiling based on the Mexican rosary extends beyond states bordering Mexico. In 2010, ten Latino motorists successfully sued the City of Alexander, Arkansas, for racial profiling, proving that Officer Tommy Leath made routine traffic stops targeting Latinos.²⁷⁸ According to the case file, Leath identified the males based on the appearance of their skin tone, hair color, eye color, as well as the material culture displayed in their vehicles- five out of the ten defendants had displayed rosaries on their rearview mirrors. In his deposition, Leath admitted that 75 percent of "the citations he wrote for windshield obstructions were written to Hispanics." And two witnesses, who served as ride-along passengers during Leath's patrols testified that he specifically targeted Hispanics by their skin color, or sometimes he would see Mexican flags or other symbols that tended to identify the vehicle as belonging to a Hispanic person. The court found Leath guilty of racial profiling, and the City of Alexander liable for the officer's conduct.²⁷⁹ In the 2013

²⁷⁸ Giron 2009.

²⁷⁹ According to the official record "None of these items hanging from the rearview mirror were attached to the windshield of window of the vehicle."

trial of Luis Fonseca Ramirez, in the United States District Court in Nebraska, the court denied a motion to suppress evidence despite testimony by the arresting officer that his training included identifying rosaries with smugglers who are “very religious or superstitious and ... use religious items as good luck charms.”²⁸⁰ As in the Resa and Hernandez case, the court did not address any violation of the First Amendment. The decision to deny the motion to suppress rosaries as evidence, while it is deemed racially and religiously motivated profiling in others, reveals a tension in the courts. While rosaries are considered religious markers, they are read as visual markers of potential criminality.

On June 28, 2011, Rafael Goxcon drove his pickup truck down I-40 in New Mexico, with his partner Maria Medina in the passenger seat. According to New Mexico Police Sergeant Arsenio Chavez, Goxcon was driving his truck too closely to the vehicle in front of him. Goxcon pulled over to the side of the road after seeing Chavez flash his police lights, and handed the officer the car registration, proof of insurance, and his Oklahoma State driver’s license. Nervous, Maria Medina could not stop her legs from shaking. To calm her nerves, she began to recite a prayer from the small religious card she held in her hands:

For protection during a trip:
Holy Spirit of Death, I invoke your Holy Name to ask you to help me in this venture. Make my way over the mountains valleys and paths an easy one, never stop bestowing upon me your good fortune, weave destiny so that bad instincts vanish before me because of your powerful protection.

²⁸⁰ Ibid.

Officer Chavez observed her prayer, and after issuing Goxcon a traffic citation, continued to question him. Based on their perceived nervousness and the prayer card, Chavez asked for consent before searching the truck and finding a secret compartment containing methamphetamine. While in custody both Goxcon and Medina denied knowledge of the compartment; the truck had been borrowed from a family member to pick up several household items from a storage facility to transport from Tulsa to Las Vegas. Goxcon was charged with possession and intent to distribute, and Medina was booked and charged for illegal entry and re-entry into the country.

Former United States Marshal Robert Almonte of the Western District of Texas testified as an expert witness in the case against Medina and Goxcon. Described by the government as “a cultural iconography hobbyist,” Almonte’s testimony tying Medina’s religious devotion to criminal behavior helped to return a guilty verdict against both defendants. Almonte testified that although “non-criminals also pray to Santa Muerte... the prayer found in Medina’s hands, even without other evidence of criminal activity, would be a very good indicator of POSSIBLE criminal activity.”²⁸¹ Almonte contrasted the Santa Muerte prayer with a prayer to San Judas Tadeo, which he said is not “an indicator unless the officer observed other suspicious behavior or items in the vehicle.” Almonte distinguished between Santa Muerte and Saint Judas stating, “St. Jude is a legitimate Catholic saint:

²⁸¹ United States v. Medina Copete, No. 13-2026 (10th Cir. 2014), 9.

and a criminal praying to St. Jude would be misusing him.”²⁸² Further, Almonte testified that Santa Muerte was not a saint, because she was not an historical person, arguing that the defendants were participating in heretical religious devotions that “are not recognized by the Catholic Church in either Mexico or the United States.”²⁸³

Three years later, on July 2, 2014, Medina and Goxcon successfully appealed the drug conviction, as the 10th circuit U.S. Court of Appeals overturned the ruling on the grounds that Almonte, testifying on the couples veneration of Santa Muerte (1) did not successfully prove that veneration to Santa Muerte is evidence of criminal activity; and (2) “the district court allowed the witness to wander afield and render theological opinions about the legitimacy of Santa Muerte vis a vis other venerated figures.”²⁸⁴ The appellate court ruled that “a criminal trial is no place for a theological disputation on sainthood and the power of prayer” and that the testimony bordered on “psychobabble.”²⁸⁵

Nohemi Peña was driving her white Chevy Tahoe south along Highway 77 in Kingsville Texas, when she was pulled over by Police Officer Mike Tamez for going 2 miles per hour over the posted speed limit. Noting that there were “several rosaries” on the rearview mirror as well as a “St. Jude symbol” on her key chain, Tamez

²⁸² Ibid., 11.

²⁸³ Ibid., 10.

²⁸⁴ Ibid. 30.

²⁸⁵ Ibid.

determined that these materials along with the her husband's "labored" breathing constituted probable cause to search the vehicle.²⁸⁶ In his testimony, Tamez stated that he observed, "Pancho Villa and St. Jude medallions on a keychain, both of which he characterized as icons commonly used by drug smugglers as symbols for righteousness and protection."²⁸⁷ He also noted the three rosaries hanging from the rearview mirror, which his experience led him to believe are also used by drug traffickers for protection." In 2015, the court of appeals denied the motion to suppress the evidence, allowing it in the prosecution of money laundering, arguing that though,

[they] had concerns that the classifying of ... certain religious imagery as indicators of criminal activity risks putting drivers in a classic 'heads I win, tails you lose' position. But we need not decide whether these items alone, or in combination with one another amount to reasonable suspicion because we find the more suspicious evidence to be the array of air fresheners and inconsistencies in the driver's responses to the officer's basic questions. We have long recognized that the presence of air fresheners, let alone four of them placed throughout the SUV, suggests a desire to mask the odor of contraband.²⁸⁸

Other cases include the 2013 trial of Luis Fonseca Ramirez, in the United States District Court of Nebraska, where the court denied a motion to suppress evidence despite testimony by the arresting officer that his training included identifying

²⁸⁶ United States. v Peña-Gonzalez No. 14-40126 (5th Cir., 2015).

²⁸⁷ Ibid.

²⁸⁸ Ibid.

rosaries with smugglers who are “very religious or superstitious and... use religious items as good luck charms.”²⁸⁹

As scholars elsewhere have elaborated, foundational U.S. court cases made race an essential component to American citizenship, the legacy which is still apparent in various structures of state power and government.²⁹⁰ Further, as legal scholars of immigration argue, this racial component facilitates “the conflat[ion between] noncitizenship and undocumented status.”²⁹¹ In their analysis of traffic stops and racial profiling, Carbado and Harris argue that the legal categorization of Latinos as “white” while simultaneously racializing them as “nonwhite and inferior... complicates and obscures Latino experiences as distinctly racial.”²⁹² As documented in criminal court cases where violation of Fourth Amendment rights due to racial profiling comes into argument, the racial ambiguity of Latinos, coupled with the acceptable use of race as a marker for suspicious activity in immigration law, enables the enforcement of traffic stops of Latinos based on physical appearance. The extension of immigration law and enforcement into the power of local law enforcement agencies in the interior of the nation thus results in a preponderance of

²⁸⁹ *Ibid.*

²⁹⁰ See *Gonzalez v. City of Peoria* (1983), *United States v. Vasquez Ortiz*; *United States v. Alvarado Bermudez* (1980); *United States v. Quintana* (2010); *United States v. Tarango-Hinojoso* (1986); *United States v. Cuevas-Robledos* (2006).

²⁹¹ Carbado and Harris, 1593

²⁹² *Ibid.*, 1594

use of racial and ethnic appearance as an acceptable category for determining probable cause.

Similarly, reports of profiling at entry points along the U.S.-Mexico border target individuals displaying religious materials. The procedures for reasonable suspicion and probable cause differs according to guidelines by the Department of Homeland Security—and extends the international border to within 100 miles of any U.S. external boundary, granting Border Patrol agents extra power within this zone. At ports of entry “federal authorities do not need a warrant or reasonable suspicion” for routine searches of vehicles or personal items. This type of policing and surveillance reflects the increased authority given to local law enforcement officials in immigration control capacities. These four cases reveal that law officers in the United States are trained to identify this religious material as reasonable suspicion of a criminal act.

In the post-9/11 period, law enforcement training in the United States on crime and Latinos has been focused heavily on undocumented migration and the narcotics trade. Law enforcement officers are taught to use Mexican religious material objects as evidence of reasonable suspicion during routine traffic stops. In these training seminars and materials, law enforcement officials are trained to conflate even the most normative of Roman Catholic practices with so-called narco-religion, and vernacular Catholic practices. This includes publications by the Department of Homeland Security, the United States Marshals Service, and the Federal Bureau of Investigation.

It is significant that material religion is being used for racial profiling. Even when this profiling is recognized in court, it still serves in some cases to alter religious behavior, for example when people remove rosaries or other religious objects/identifiers from their vehicles.

Dress Code Enforcement

Throughout the twentieth century, the display and adornment of Mexican and Mexican-American bodies with the Catholic rosary has resulted in suspicion of criminal behavior and regulation of dress standards. From the pachucos and zoot suiters of the 1930s and the 1940s, to the rise of cholos in the 1950s into the late twentieth century, the rosary as a sartorial choice has been an integral part of Chicano identity. This is most evident in the restriction and attempted criminalization of the rosary in public schools across the country. Between 2008 and 2016 there have been over ten reported cases of public school districts banning both Mexican rosaries and images of the Virgen of Guadalupe from being displayed on the bodies of students.²⁹³ When local schools have difficulty enforcing such bans, local law enforcement and legislation is used to enforce the policies. After a police training session identifying the use of rosaries as gang attire, “particularly among

²⁹³ This includes the ban of the Virgen de Guadalupe on clothing in Santa Fe (1998); the ban on Catholic rosaries in Dallas, Texas and Colorado Springs (2008), Schenectady, New York (2010) Brownsville Independent School District and Fremont Public Schools in Nebraska (2011) Coon Rapids Middle School and Matacoa High School in Richmond Virginia (2012) and Farmington Middle School in New Mexico (2015).

Latinos,” Lake Chelan School District in Washington banned rosaries from being worn by students in 2005 (“Wearing Rosary Beads”). Marin County banned the display of rosaries, as gang-affiliated attire, from the Marin County Fair in 2013. Most recently, a student in Amarillo, Texas was arrested for criminal trespass after refusing to remove the rosary that adorned his neck in 2014.²⁹⁴

In *Chalifoux v. New Caney Independent School District* (1997), the United States District Court of Texas determined that school regulations banning the use of rosaries as fashion accessories was a violation of the First Amendment. Rather than signal potential gang affiliation and criminal behavior, the court determined that it signaled Catholicism, but more importantly Christianity, as the cross or crucifix adorning the rosary is universally recognized among Christian denominations. Most of these cases do not make it to the judicial courts, as most bans were repealed by school districts after the American Civil Liberties Union threatened to sue based on First Amendment protection on expression of religion. However, it is noteworthy and perhaps unexpected that, in many cases that local church leadership has articulated support of such bans in so far as they are perceived as protecting important religious objects from misuse or misappropriation by gangs. This was the case, for example, in the ban on rosaries by the Colorado Springs School District 11,

²⁹⁴ Jessica Chasmar, “Texas student arrested after refusing to remove ‘gang related’ rosary,” *The Washington Times*. November 3, 2014.

during which the diocesan vicar general, Monsignor Robert Jaeger, criticized the use of rosaries as jewelry.²⁹⁵

School districts around the country are thus often caught in the battle between freedom of religious expression and maintaining the separation between church and state in publicly funded institutions. At the same time, the ban on traditional ethno-Catholic objects of material religion particular to Mexican religious devotion, leads to an association between these material religious objects and criminal behavior. The objects become racialized, identifying the students as both un-American and criminal.²⁹⁶ In some instances, for example the ban on rosaries in Fremont, Nebraska schools, the rosary is considered gang-affiliated even when worn by Euro-American students, signaling that the rosary (for many school officials and the police districts that inform their anti-gang policies), is an agent of criminalization and racialization.²⁹⁷

Further, this type of policing and surveillance reflects the increased authority given to local law enforcement officials in immigration control capacities. As Matthew Coleman writes, in “bind[ing] immigration control to criminal law

²⁹⁵ A local priest also supported the ban in a Porterville, California Middle Elementary School in 2015. See “California boy banned from wearing rosary at school,” *Orange County Register*, August 21, 2015.

²⁹⁶ After 2001, however, the use of hijab by Muslim students carries a similar stigma. Also, the targeting of Native American cultural and religious displays is especially relevant considering the history of religious bans of indigenous religions in the United States.

²⁹⁷ “School Prohibits”, 2011.

enforcement,” the likelihood that undocumented migrants found guilty of a crime can be deported is increased when local police officers are charged with the responsibility of identifying and criminalizing suspected undocumented migrants.²⁹⁸ Thus, the enforcement of the U.S./Mexico border as a symbol of American sovereignty and security relies on the policing of public spaces far from the geographic border. Legal scholars Meghan McDowell and Nancy Wonders note that the identification of undocumented migrants as criminals serves to eliminate them from the geographical and political landscape of the United States.²⁹⁹ By identifying undocumented migrants on the basis of Roman Catholic imagery, they are also excluded from cultural citizenship, as outsider status is constructed against an Anglo-Protestant landscape.

Maintenance of the U.S.-Mexico Border

As scholar of religion Charles McCrary argues, American secularism is defined by the separation of church and state. The American judicial system is in charge of determining what constitutes “religion”—that is, what practices and organizations are worthy of defense and fit the criteria for First Amendment protections under the Establishment Clause, and those practices that register solely

²⁹⁸ Mathew Coleman, “Immigration Geopolitics Beyond the Mexico US Border,” *Antipode* 39, no 1. (2007), 56.

²⁹⁹ Meghan McDowell and Nancy Wonders. “Keeping Migrants in Their Place: Technologies of Control and Racialized Public Space in Arizona.” *Social Justice* 36, no. 2 (116) (2009): 58.

as “superstitious.”³⁰⁰ Practices and beliefs that are considered “neither secular but not religious” are not protected by the First Amendment but fall into the category of superstition. Instead they are policed and “targeted for elimination.”³⁰¹ This is central to the process of racialization and criminalization of Mexican material religion.

As Latinx Studies scholar Mary Pat Brady theorizes, the national border produces two things: First, It marks the separation of temporalities between Mexico and United States. The border distinguishes between the modern, and the pre-modern. The second function of the border, related to the first, is to mark the Mexican migrant as both abject and illegible, an “illegal” and an “alien” compared to citizen-subjects.³⁰²

This is why normative Catholic practices from Mexico are received/viewed as superstitious and signals of outsider behavior and identity in the United States. If the border marks both a geographic and a temporal divide between nation states, then the Mexican Catholic is pushed back into a temporal state of colonial subjectivity. Her religion and her customs become signals of “backwardness” and “anti-modernity”. This perceived posture of refusal and inability to move forward

³⁰⁰ Charles McCrary, “Superstitious Subjects: US Religion, Race, and Freedom,” *Method and Theory in the Study of Religion* (Brill 2017), 2.

³⁰¹ *Ibid.*

³⁰² Mary Pat Brady, *Extinct Lands, Temporal Geographies: Chicana Literature and the Urgency of Space*, (Durham: Duke University Press, 2003), 53.

towards a teleological end of progress (as observed by political and cultural critics of Latinx migrants such as Samuel Huntington) becomes the basis for arguments that Mexican migrants, and Mexican Catholics especially, do not assimilate. Indeed, this dichotomous boundary also divides “religion” from superstition and ideologically, “emanate[s] from a benevolent paternalism that sees the anachronistic aspects of folk religiosity as signs of ignorance and backwardness—superstition and even picturesque folklore...for hindering the modernizing project.”³⁰³ The juxtaposition of the anti-modern primitivism of Mexican Catholicism and the violence and potential criminal threat of the narcotics traffickers, echo historical racist discourses of the nineteenth century. As examined in Chapter One, Mexican Catholics in the United States were understood as inheritors of ancient and barbaric practices of indigenous religions and Spanish Catholicism (tied to the violence of the Black Legend). This supposed posture of moral inferiority also left Mexican Catholics prone to criminal activity, as their moral constitutions made assimilation to American norms difficult (if not impossible). Similarly, the Mexican migrant embodies both backwardness and violent threat, as religious practices are tied to immorality.

In this framework, not only are Mexicans and Mexican Americans considered unsuitable political subjects, they are also considered unsuitable religious subjects. While at first glance it appears that ideas about heterodoxy (what is considered true

³⁰³ Gerardo Gómez Michel and Jungwon Park, “The Cult of Jesus Malverde,” *Latin American Perspectives* 41, no 2 (2013), 203.

Catholicism v. superstition) inform the process of creating illegality. the conflation and codification of a wide variety of practices including Church sanctioned ones create a systemic targeting of Mexicans and Mexican Americans based on ANY display of material religion, including the display and use of normative Roman Catholic imagery and objects. The ambivalence of court rulings also testifies to this, as these practices and displays vacillate between definitions of these materials as religion or superstition in the consideration for First Amendment protections.

Much like the bodies that carry them, the objects themselves also become targets of the nation-state. In the act of border crossing, both the Mexican migrant and the objects in their possession are criminalized and classified as suspect and potentially dangerous. The production of these materials trains law enforcement officials to create frameworks that tie race, ethnicity and ethics to legality in an attempt to maintain the geopolitical border. In the case of individuals of Mexican descent targeted for displaying religious materials in public, religious devotion is racialized and becomes a signifier of exclusion.

While the 2016 settlement in the lawsuit between the National Immigration Law Center, et al. and the State of Arizona marked the end of requiring law enforcement officers to request proof of citizenship, this has not stopped states like Texas from passing laws attempting to expand police-based immigration enforcement. An annual report on arrests and deportations by Immigration and Customs Enforcement, shows that while the number of arrests in the U.S.-Mexico border region declined by 25 percent, the arrests made in the interior of the U.S.

increased by 42 percent. In 2017, the deportation rate increased by 37 percent demonstrating an increased focus on the patrolling of interior states.³⁰⁴

The permeability of the desert and the failure of the border and its agents to stop the flow of Mexican migrants into the country's interior produces an understanding of the border and its security as more than a geographic location—that is, the border expands and contracts. It manifests in cultural and economic ways. It seeks reinforcement in places like Nebraska, in Arkansas, and Oklahoma, among rosaries hanging on dashboards and outside of religious services. Though there is some expectation that migrants will breach the geographic border [hence the 100-mile border zone, or the Constitution Free zone as the ACLU defines it], the fear is always the penetration of the interior. This anxiety, compounded with the idea that Mexican religion is a signifier of illegality and criminality, results in the repeated political rhetoric for the reinforcement and fortification of the border. To border patrol agents, police officers, and the contractors who train them, Mexican

³⁰⁴ This has resulted in surveillance of places once deemed “sensitive locations” by ICE officials. These include schools, hospitals, public demonstrations, and places of worship “such as churches, synagogues, mosques, and temples.” As the American public has witnessed in the last year, the new deportation regime no longer adheres to these agreements, as news reports of ICE arrests in sensitive locations attest. (In New York, there is a reported 900 percent increase of such arrests). However, while these locations are considered off-limits, this is not recognized by federal law. While ICE officers are guilty of violating an informal agreement, they are not in violation of federal law for enforcing immigration policy in these locations. Though the sanctuary movement has gained support among religious communities in the United States, there are no federal protections for congregations and religious leaders who shelter undocumented migrants.

material religion signifies non-belonging, non-citizenship, and the potential for criminality.

Conclusion: A Meditation on the Religious Artifact

In Richard Barnes' photographic work on personal belongings found on the unnamed bodies of deceased migrants in the Sonoran desert, the religious materials are displayed starkly against a bright, white background (Figure 6). Evoking the inverse of an x-ray, Barnes photographs what remains of each individual "John Doe"; in the sheer plastic bags, the viewer identifies Mexican currency, a charging cord, an image of the child Jesus, a scapular, a rosary (Figure 3.7). Like Thomas Keifer's photographs, Barnes' work invites us to imagine the individuals who carried these belongings in their attempts to cross the U.S.-Mexico border. More than symbols of religiosity, the rosaries and scapulars are symbols of undocumented bodies. Like those migrants who perish in the desert, the religious objects also perish. But the materials they are constructed with, like the plastic beads of their rosaries, sentence them to an afterlife. Recovered from what Jason De Leon calls the "killing fields" of the desert, they are embalmed, entombed, and displayed in plastic bags. In their display across museums in the United States, they become relics, extraordinary survivors of human tribulation.³⁰⁵

³⁰⁵ Anthropologist Robin C. Reinke, also calls the "desert borderlands ... a disappearing machine," a seemingly contradictory concept given that this is a landscape under constant heavy surveillance. See dissertation, *Naming the Dead: Identification and ambiguity along the U.S.-Mexico border* (2016).



Figure 3.6. Richard Barnes, “John Doe: Artifact #5,” (2016).



Figure 3.7. Richard Barnes, “John Doe: Artifact #6,” (2016)

The U.S.-Mexican border creates new identities for these Catholic objects. Much like the bodies that carry them, the objects also become targets of the nation-state. In the act of border crossing, both the Mexican migrant and the objects in their

possession are criminalized and classified as potentially dangerous. The production of these materials to educate and train law enforcement officials creates a framework that ties race, ethnicity, and ethics to illegality-- the perception of an illegal alien depends on the construction of a geopolitical border and the imposition of criminality onto the body of the racialized Latino other. According to sociologist Maria Romero, the construction of illegal immigrants as lawbreakers and criminals is motivated by the need to “determine that citizenship is visibly inscribed on bodies in specific urban spaces as ‘probable cause.’”³⁰⁶ In the case of individuals of Mexican descent targeted for displaying religious materials in public, religious devotion becomes a signifier of exclusion, embodied in a similar way racial phenotypes often are.

By looking at the construction of illegality through the use of these religious materials, I consider how Latinos are excluded from legal and cultural citizenship because of their religious practices. In this framework, not only are Latinos considered unsuitable political subjects, they are also considered unsuitable religious subjects. While at first glance it appears that ideas about heterodoxy inform the process of creating illegality, the codification of a wide variety of practices including most importantly for my argument Church sanctioned ones create a systemic targeting of Latinos based on any display of material religion, including on the display and use of normative Roman Catholic imagery and objects.

³⁰⁶ Mary Romero, “Racial Profiling and Immigration Law Enforcement: Rounding up of Usual Suspects in the Latino Community, *Critical Sociology* 32 (March 2006), 468.

Historian Mae Ngai notes, generations of Mexicans born in the United States continue to be recognized as “alien-citizens’—persons who are American citizens by virtue of birth in the United States but who are presumed to be foreign by the mainstream of American culture and at times by the state.”³⁰⁷ Within the geopolitical borders of the United States, Latino religion renders Latino citizenship suspect, relegated to permanent outsider status.

³⁰⁷ Mae M, Ngai, *Impossible Subjects: Illegal Aliens and the Making of Modern America*. New Haven: Princeton University Press, 2004.

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Conclusion

When I began the research for this project, I did not anticipate that my own automotive journey across the Southwest would inform my work. Suitcases packed, I departed for the archives in Santa Fe and Albuquerque in August 2016 in my small Silver Scion xB, fascinated by the changing desert landscapes across the Mojave in California, the Sonora in Arizona, and the beautiful blue skies of New Mexico. Checkpoint after checkpoint, questioned by Border Patrol agents about my national citizenship, I thought about the court cases of Latina/o motorists detained for displaying religious materials in their vehicles (my small bundle of sage remained unseen during my own encounters with the Border Patrol). Despite the routine checkpoint stops on the highway, it was not until I made the eleven hour drive from Albuquerque to Austin, Texas on Halloween of 2016, that I think I might have understood a fraction of the fear of being targeted for my race and ethnicity. Weeks from the historic election that would result in the Donald Trump presidency, my cell phone lost reception. At dusk and without GPS to provide me any mental security for the rest of the trip, my eyes were continually drawn to the campaign signs displayed in front of people's homes. "Make America Great Again" signs proclaimed next to "Private Property: No Trespassing", the forbidding placards giving the landscape a hostile, threatening quality.

It was in this political climate that I made my first visit to the Falfurrias shrine of Don Pedrito Jaramillo. The rain poured as I drove south along Highway 281 towards the U.S.-Mexican border. Unable to secure an interview with the

granddaughter of Don Pedrito, I visited the Falfurrias Heritage Museum where I met Ramiro Rodriguez, whose family had been in South Texas since at least the 1830s. I spent two hours that afternoon walking through the small rooms of the museum, learning Rodriguez's family history, and absorbing his fascinating stories of Don Pedrito. When it came time to depart, I realized I had never formally introduced myself, and when I reached out my hand and gave him my name, Don Ramiro took off his baseball cap and gave me a small bow. He warned me about being a single woman on the roads in that part of Texas, reminding me that even the bravest men in those parts didn't venture alone in the night. Promising to be smart and safe through my travels, I assured him that I would send a copy of my completed book when it was published. Leaving the small museum behind, I departed again on Highway 281, hyperaware that this road has (re)presented danger and insecurity for generations of South Texas Mexicans whether from immigration officials, vigilante groups, or violent narcotics traffickers. These were conditions Mexican religious communities faced when making pilgrimages to shrines and sacred sites in the nineteenth century and in the present, and when protecting their lands from potential invaders.

This dissertation argues that laws change around material religion as much as they shift around religious communities themselves. In the case of Mexican Americans this is manifest through property rights, medical and pharmaceutical guidelines, and arrest procedures. One of the underlying concerns has been the problem of "illegibility," that is, the persistent failure in policy and practice to

recognize seemingly “marginal” Mexican-American practices as legitimate religious traditions. This has led to the racialization and de facto criminalization of many religious practices common in immigrant communities. In the contemporary American imagination, Penitente moradas are emblematic of a romantic Spanish colonial past, medicinal herbs are potential causes of fraud and bodily harm, and rosaries are markers of illegality. Scholar of Mexican Catholicism, Jennifer Schepher Hughes challenges scholars of religion to “account for sacred objects as sources of action,” recognizing that “in Mexican devotional practice the relationship between image and devotee is not a vertical one characterized by subjugation to divine will but rather horizontal.”³⁰⁸ If we understand Mexican material religion as a vibrant part of religious communities, then ritual postures and care for objects are not mere propitiations, they are demonstrative of an affective relationship rooted in care for material objects demonstrated through participatory action; this care reciprocated in return, as rosaries, scapulars, herbs, and moradas provide their own forms of protection to the physical and spiritual well being of religious devotees.³⁰⁹ The religious materials are actants, on the physical body of the migrant, whether inhabited (Chapter 1), ingested (Chapter 2) or displayed (Chapter 3).

These religious actants move within communities of religious devotees.

³⁰⁸ Jennifer Schepher Hughes, “Mysterium Materiae: Vital Matter and the Object as Evidence in the Study of Religion,” in *Bulletin for the Study of Religion* 41, no. 4 (November 2012), 21.

³⁰⁹ Jane Bennett, *Vibrant Matter: A Political Ecology of Things*. (Durham: Duke University Press, 2010), 37.

Scholar Thomas Tweed proposes a theory of religion that considers the spatial practices of religious devotees, suggesting that they could be best understood through their “crossings” and “dwellings.” In the current moment political struggles are focused on new sanctions of the American state, operating with a new regime intent on limiting migrant travel due to nationality and religious practice.³¹⁰ The rapid acceleration environmental destruction of natural resources due to industrial pollution, the rise of new and violent political regimes, and neoliberal economic policies have created a migrant crises. In the United States the restriction of these migrant refugees is largely focused on the southern geographic border and in airports where individuals of Muslim descent are targets of bodily searches and detention based on nationality and experience. The urgency to deconstruct racist and discriminatory policies based on race has resulted in a plethora of academic work focused on migrant and transnational religion in the United States.³¹¹ As explored in the various chapters in this dissertation, borders are political constructions, used by nation-states to determine the criteria for to proper citizen-

³¹⁰ Ruth Braunstein, “Muslims as outsiders, enemies, and others: The 2016 presidential election and the politics of religious exclusion,” *American Journal of Cultural Sociology* 5, no. 3 (2017), 355-372.

³¹¹ See Richard Alba and Albert J. Raboteau, *Immigration and Religion in America: Comparative and Historical Perspectives*, (New York: New York University Press, 2008).; Alyshia Galvez, *Guadalupe in New York: Devotion and the Struggle for citizenship rights among Mexican immigrants*, (New York: New York University Press, 2009); Ray Taras, “Islamophobia never stands still: Race, Religion, and Culture,” in *Ethnic and Racial Studies* 35, vol. 12 (2012), 417-433.; David P. Sandell, *Open Your Heart: Religion and Cultural Poetics of Greater Mexico*, (University of Notre Dame: Notre Dame Press, 2015).

subjects and to differentiate between those deemed unworthy of citizenship rights.

While immigrant rights activists emphasize mobility as a human right, studies of ethnic enclaves in the United States highlight the right to remain rooted in place. As Tweed proposes, religion practice can also be understood in the kinetic act of “dwelling,” the act of “home making” through “contested historical traditions of storytelling, object making, and ritual performance.”³¹² Historians of American Catholicism, such as Timothy Matovina, remind us that Latina/o religious communities existed in places like Texas long before American annexation—many of these communities are not recent migrants.³¹³ I focus my discussion of this through an examination of the Atrisco Penitente court case and land grant rights; in the twenty first century, with increasing costs of living in urban areas and rising wage disparity is creating the same types of crises in cities like San Francisco and Los Angeles, where other immigrant groups fight the erasure of culture that accompanies gentrification.³¹⁴

Ultimately, this dissertation is about what Mexican religious communities do when they are restricted from movement, and the choices they make to access that which is restricted, whether an ancestral place of worship, the spiritual health

³¹² Thomas Tweed, *Crossing and Dwelling, A Theory of Religion*. (Cambridge: Harvard University Press, 2008), 74.

³¹³ Timothy Matovina, “Remapping American Catholicism,” in *U.S. Catholic Historian* 28, no. 4 (2010), 31-72.

³¹⁴ Vargas, Daisy and Jennifer Scheper Hughes, “Talking to Ghosts in Orange County: Santa Ana’s Day of the Dead Celebration,” in Richard Flory, ed., *Religion in California*, Los Angeles: University of Southern California Press (under review).

services of a curandero, or daily road transportation. Through legal, and extra legal means, the communities presented in these chapters continue to innovate strategies to ensure the survival of their religious practices in the face of occupation, restriction, and obstruction.

In the very weeks that I was completing the final stage of writing this dissertation, the American public was faced with brutal reports of children separated from their parents at the border, and the failure of the Department of Homeland Security to provide a total count.³¹⁵ In these detention centers, the living have joined the dead in their invisibility. Disappeared, detainees are held in invisible sites of detention; records of the incarceration of these prisoners under threat of erasure in the name of national security—not even the legal archive will account for them.³¹⁶ As my research into the legal archive has revealed, the destruction of legal documents also serves to erase communities and individuals from larger historical narratives—when considering the histories of racialized communities and immigrant groups, the purging of the legal record makes it difficult to recreate histories of marginalized communities.

³¹⁵ Caitlin Dickerson, “Trump Administration in Chaotic Scramble to Reunify Migrant Families,” *New York Times*, July 5, 2018.

³¹⁶ Victoria López, “Ice Plans to Start Destroying Records of Immigrant Abuse, Including Sexual Assault and Deaths in Custody,” *Speak Freely, American Civil Liberties Union*, August 28, 2017; Kate Morrissey, “Immigration officials plan to destroy detention records on sexual abuse, death, and solitary confinement,” *The San Diego Tribune*, September 12, 2017.

These issues are not necessarily restricted to the context of the United States. Indeed the destruction and restriction of archival documents and the community concerns over the historic preservation of religious objects are also occurring in Mexico. With regards to the repatriation of objects in the United States, the 1987 American Relationships Final Management Policy and the 1990 Native American Graves Protection Act, have (to some extent) facilitated the repatriation of sacred objects to federally recognized indigenous tribes in the United States.³¹⁷ However, there is no mechanism through which other racialized communities (such as the Hispano Penitentes) can recuperate objects or appeal for historic preservation in the same manner. In contrast, Mexican historic preservation operates under the guise of preserving cultural patrimony, and in some cases (as with the Cristo Aparecido de Totolapan) moderates the use of the religious object rather than restrict it from community use.³¹⁸ A transnational comparison of the two different modes of historic preservation would provide an important intervention in the impact of race and religion on historic preservation efforts in both the United States and Mexico. At the U.S.-Mexico border, Mexican religious objects are inspected,

³¹⁷ American tribes continue to struggle with the repatriation of bodies and ritual objects. See Nancy Scheper-Hughes, "Ishi's Brain, Ishi's Ashes: Anthropology and Genocide," in *Anthropology Today* 17, vol. 1, October 9, 2008, 12; Orin Starn, *Ishi's Brain: In Search of America's Last "Wild Indian,"* W.W. Norton Company, 2005.; Felicia Mello, "Native American tribes clash with UC over bones of their ancestors," *CALmatters*, July 10, 2018.

³¹⁸ Jennifer Scheper Hughes, *Biography of a Mexican Crucifix: Lived Religion and Local Faith from the Conquest to the Present.* (New York: Oxford University Press, 2009), 197.

confiscated, and sometimes destroyed—in some cases needing proper documentation to cross the border. Though historians recognize religious objects of contraband as a twentieth century phenomenon that occurred during the Cristero Rebellion in the smuggling of Catholic objects from the United States into Mexico, contemporary work has noted a reverse trend.³¹⁹

Religious actors and objects leave their traces in shrines and chapels. Even when physically absent, they “haunt” places like Penitente moradas and folk shrines, “no less effective because of disagreements about their appropriate names,” or a change in legal deeds.³²⁰ Sometimes their physical traces remain, as faded blood splatters from ancient penitential rites, graves under floorboards, or the soot of thousands of votive candles.³²¹ On my last trip to Falfurrias, I watched the screen

³¹⁹ For a history of Catholic contraband smuggled from the United States into Mexico during the Cristero Rebellion, see Julia G Young, *Mexican Exodus: Emigrants, Exiles, and Refugees of the Cristero War*. (Oxford University Press, 2015). In personal conversations with informants, who recount being sent to secondary inspection after reporting and displaying Mexican material religion in their vehicles at the U.S.-Mexico border kiosk. In 2008, an image of the Virgin of Guadalupe is seized at the Texas border for suspicion of contraband. See Amy Villareal’s dissertation *Places of Sanctuary: Religious Revivalism and the Politics of Immigration in New Mexico*. University of Santa Cruz (2014), 2. For an account of religious materials and border crossing permission see Jennifer Scheper Hughes and Daisy Vargas, “Traveling Image of the Holy Child of Atocha (Santo Niño de Atocha), Plateros Mexico,” in *Conversations: An Online Journal of the Center for the Study of Material and Visual Cultures of Religion* (2014).

³²⁰ Ann L. Stoler, “Intimidations of Empire: Predicaments of the Tactile and Unseen,” in *Haunted by Empire: Geographies of Intimacy in North American History*. Durham: Duke University Press (2006), 1.

³²¹ “A Morada Memory: Sacred Spaces for the Penitente Brotherhood,” *Chambers Architects blog*, October 18, 2016.

door at the front of the Don Pedrito shrine shut repeatedly on its own, opening and closing, over and over. As the sun shone behind the small building, I grabbed the door handle and stepped inside, ready to encounter the specters that dwell inside. The religious sites and historical archives of Mexican religious communities continue to beckon to us as researchers, calling scholars to alternative archives of history and memory.

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