TRANSFORMING ANTHROPOLOGY

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Beyond Genealogies: Expertise and Religious Knowledge in Legal Cases Involving African Diasporic Publics

Abstract

This article considers the way genealogical approaches to religion have not been able to take into account how the production of knowledge, including religious knowledge, affects global politics. Specifically, it is concerned with the production of expert testimony, which is used to provide the evidentiary basis for a new industry of civil and human rights claims and protections. I explore how genealogical approaches to religion offer a way to see that the constructs we understand to be religion were produced and rendered legible through the formation of contemporary constructions of knowledge and power. I demonstrate that—through these approaches—in order for religious protections to be acknowledged in legal domains, they also need to be rendered visible and legible to the law. Ultimately, I argue that the production of these knowledge practices into portable knowledge packages enables courts to assess issues that have resulted from the migration of ethnic and religious groups; but they also tell us a lot about the limits of genealogical approaches in understanding fully the complexities of Black Atlantic religious practices. [*genealogies of religion, obeah, Yoruba religion, law, Santería*]

INTRODUCTION

In 1993, Talal Asad published the essay, "The Construction of Religion as an Anthropological Category" in his book, *Genealogies of Religion*, as a way to reject essentialist definitions of religion and to articulate the extent to which the legibility of religion itself is a product of historical and discursive practices. By rethinking Clifford Geertz's popularization of religion as operating within a symbolic field, Asad's intervention asserted a critical break from symbolic anthropology of the 1980s to a Foucauldian poststructuralist one in which the question to be posed was not so much that of religion as object and its systemic function in society, but instead that of religion as a product of knowledge and power through which subjects are shaped. Yet, as groundbreaking as Asad's genealogical approach to religion was in destabilizing analytic assumptions about religious objects of anthropological study, a culture of expert testimony, in the 1990s, and an industry of refugee lawyers and claimants and US and Canadian constitutional reforms around religious freedoms were concurrently underway. These industry experts sought various knowledge foundations through which to procure equality and rights for subaltern classes. They drew on essentialist definitions of religion grounded in symbolic anthropology.[1] This essay is concerned with how Canadian and American mainstream legal systems, as well as particular tenets of the anthropology of religion, have created a condition of illegibility of non-Western, especially African diasporic, religious subjects. Such examples of definitional illegibility of African diasporic spheres span from Orisha Voodoo to Obeah Santería and Candomblé.

Beginning with a consideration of Talal Asad's seminal reframing of religious contexts through a "genealogical" trajectory, the essay argues for a fuller understanding of how law, anthropology, and colonialism can work together to erase religious subjects and practices. In doing so, it demonstrates the ways that modernist taxonomies, including the tools used in expert testimonies, such as "technocratic productivity," also contribute to the creation of legibility and illegibility of African diasporic religious practices. We see that in order for religious protections to be recognized in legal domains, they must also be rendered visible and legible to the law. It is more important than ever to recognize that the religious claims before North American courts today are artifacts of the scholarly imagination being excavated and rendered legible within the lens of empirical certainty. For

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example, the aforementioned African diasporic religious practices are made legible in legal proceedings through the category of "the occult." This rendering of anthropological theory into legal categories raises new questions about the ways that social science knowledge has the power to produce packages of history and assemblages of culture that are disconnected from the conditions of their making and eventual circulation. The implications of this packaging are key to clarifying the contemporary nature of knowledge production and the limits of genealogical approaches in understanding fully the complexities of Black Atlantic religious practices.

For many invested in poststructuralist analysis, genealogical approaches to religion offered a way to see that the very constructs we understand to be religion were produced and rendered legible through the formation of contemporary constructions of knowledge and power. We understood that religion itself is not a thing—a knowable entity that remains untouched and unchanged and that one simply converts into or claims in contradistinction to secular knowledge. Following Michel Foucault, what Asad demonstrated through deconstruction is that the production of religious knowledge emerged with a concept of the secular that normalized particular "behaviors, knowledges, and sensibilities in modern life" (Asad 1993, 24), and "invisibilized" their alliances with contemporary Christianity. This construction of the secular as social knowledge, behaviors, and sensibilities—deemed absent of religious influences—shaped Asad's point of departure and made an important contribution to a growing set of scholarly debates on the topic (For example, see Feldman 2005; Mahmood 2015; Taylor 2007; Weber 1992 [1930]).

However, even as this genealogical approach to religion and secularism emerged alongside poststructural and postmodern interventions, a new industry was underway whose adherents needed desperately to derive from anthropological and sociological expertise a particular knowledge domain that contained the very cultural and religious spheres being deconstructed. Although conceptualizations of secularism emerged against the production of explicit religiosities, what also emerged were new innovations around Christian practices that made the presence of new Christian practices more pronounced, more visible but dialectically tied to particular religious aka *occult* underworlds. These otherized *occult* religious worlds were defined against Christianity and were seen as "uncivilized" and demonic. In the case of African diasporic religions, the demonized associations and designations of *the occult* have had a significant impact in everyday criminality and have played a legitimizing role in legal proceedings. Indeed, these formulations of religious categories and histories require that we take into account the particularities of modernity, race, and inequality as they relate to the interpretive field of expert knowledge and its impact on rendering particular practices legitimate or illegitimate. As I explore here, symbolic anthropological definitions of culture embedded in essential social system theory from the 1930s to 1970s were being mercilessly revived by legal experts as a way to produce portable knowledge packages and a type of Christian revivalism that celebrated itself against other religious traditions perceived as "occult."

Asad would view these knowledge practices, in their construction as *occult*, as driven by institutions of knowledge and power. They were being deployed to enable courts to assess the nature of those "occult" religions, deemed occult, and the range of related issues that resulted from the regional migration of persons from the ethnic and religious groups fleeing war or persecution, or seeking better life opportunities. As a result of their mobility and the growth of diverse challenges, increasing measures were taken by governments to understand the proliferation of religious claims as well as determine the limits on those freedoms (see also Richardson 2015 and Ingulli 1985–1986).[2] The formats ranged from refugee commissions, human rights commissions, local regional civil and criminal cases, to Supreme Court hearings throughout North America, Europe, and Australia, and engaged in the management and regulation of particular religious practices. These formations fostered a new culture of experts with cultural and religious knowledge tools engaged in the evaluation and assessment of the practices under scrutiny (see Fortman 2012; Ridler 2010).

But if the rise of genealogical approaches highlighted the place of knowledge and power in shaping contemporary religion, this new industry of experts and their religious-cultural knowledge tools emerged alongside the radically transforming public discourses that would reshape the contours of contemporary religiosity (see Jackson 2013; Stewart and Shaw 1994). A language of religious rights and protections promoted forms of entitlements that shaped the way religion and tradition were becoming popularized. What prevailed with this new turn were individualized justice claims

and protections propelled by new forms of legality. These ranged from the rise of constitutionally procured discourses to the emergence of a language of legal protections by which particular forms of identifiable religions were pursued by its users. The inherent ethical challenges that emerged were concerned with the functioning of political-legal domains in relation to the ethics of inequality.

If the rise of a new culture of experts and their tools was not enough to *rock* the way Christianity was constructed as against secular norms, another tenet of change radically reshaped the discourses through which Christianity became more pronounced in seemingly secular spaces. The reality was the reverse mission of Christian Pentecostalism—from the Global South to the Global North into spaces previously deemed secular, like civil court hearings and tribunals—and its transformation of indigenous spirituality into spaces of religious disrepute (see Barreto 2010; Bertolino 2010; Olupona and Gemignani 2007). The celebration of Christianity in juridical settings exploded with the rise of Pentecostalism in Africa and the Caribbean. What prevailed in this new turn were born-again testimony, spiritual awakening, and profound forms of individualism for inner transformation. What transpired was the re-signification of Christianity through new ways of constituting African diasporic religions, such as Obeah and Santería, as not simply unintelligible through the explicit standardization of Pentecostal Christianity but as backward, unenlightened and demonic. As religious forms that are a product of innovation in the Atlantic world, Obeah and Santería involved religious cosmologies that were seen as tools of protection and warfare against deeply violent plantation labor circumstances (Gilroy 1993; Glissant 1995; Khan 2003, 2004, 2008; Mintz and Price 1976; Price 2001; Trouillot 1998; and Whitten and Szwed 1970; Ortiz 1995[1947]; Gruzinski 1993; and Bastide 1972).

The explosion of Evangelical Pentecostalism was dialectical and fostered a repudiation of traditional religious practices deemed demonic and uncivilized. The association of newly innovative Christian enlightenment tropes with tensions over what has been called the *occult* underworld produced new innovations in contemporary religious practices that remain unaccounted for in Asad's genealogical account. The reality is that African diasporic lineages, like all lineages constructed through genealogies, cannot be traced through linear taxonomic cartographies.

These three shifts—the procurement of religious expertise, the emergence of religious legal protections, and the reverse missions propelling a new public face of innovative Christian practices—have complicated the contemporary analytic terrain in which religious theory has lived up until now. This is because in the contemporary period reverse missions from the Global South to the Global North and legal expertise have become central to the making of religious subjects, and these formations are leading to an assemblage of African postcolonial religiosities that require new formulations in the way we map genealogical histories of contemporary Christianity. These formulations of religious histories require that we take into account the particularities of modernity, race, and inequality as they relate to the interpretive field of expert knowledge and its impact on rendering legitimate or illegitimate particular practices.

Beyond Christianity and Islam, religious practices such as Obeah and Santería were deemed historically "non-religious," outlawed during plantation slavery in the Americas, and rendered invisible to public scrutiny and records. We see that genealogical approaches have their limits. For while colonial records (especially Spanish colonial records) document the existence of African Diaspora religions for the sake of taxonomizing them,[3] studying the formation, subversion, and re-emergence of particular religious practices rendered illegitimate allows us to map the evolution of particular knowledge forms through various laws. However, such study does not help us to understand aspects of those practices hidden from the public eye and rendered negatively visible in dominant discourses through words like "voodoo" or "Obeah" or "Santería." Rather, to study the gaps and the silences—those hidden aspects—helps to make sense of how law and democratic publics engage in the practice of rendering particular (religious) practices unintelligible.

The foregoing considers the changing nature of religious sociality. It offers a way to rethink a genealogical approach to the study of religion that goes beyond the making of religious subjects. Through a series of case examinations I will show that particular practices related to the perception of religious interaction and discursive structures are admissible only insofar as the perceived practices are recognizable by courts as legitimately religious, read: legitimately "social." The role of religion as a form of sociality is central, as is the relevance of evidentiary rules that shape the ways

religious practices are rendered legible through particular forms of legal epistemology. I rethink the ways that religious knowledge as artifacts of the imagination circulate and result in new cultural products of their own, sometimes in ways that escape straightforward genealogical accounts. In part, I suggest that a new form of religious sociality is transforming the terrain of the visible and requires that we consider not just how ontological frameworks are relevant to anthropology, but also how new institutional legal practices are producing the terms through which such frameworks are rendered legible (also see Butler et al. 2011; Butler 1993). A new domain of religious production and consumption is establishing the conditions under which new cultural products, created by expert witnessing and legal challenges, are being found legible to law.

I examine a number of high profile socio-religious legal cases in the US and Canada that raised questions of evidence and intelligibility as ways to resolve for multiple publics the meanings of religion in relation to expectations of state accommodations of religious difference. I begin with Obeah,[4] a folk magic or form of sorcery and religious practice derived from Central African and West African origins and manifest in the Americas in different forms. Obeah has followed a syncretic tradition, but its roots have grown out of the historical Ashanti culture in West Africa. As Africans were enslaved and transported to different islands in the Caribbean (i.e. Jamaica, Suriname, Virgin Islands, Trinidad, Tobago, Guyana, Belize, Bahamas), what has come to be known by its practitioners as "Obeah religion" assumed different forms, eventually merging with religions practiced by colonialists. Some commonalities in the religion remained, while regional and transnational differences emerged[5] (Erskine 1981, 2005, 2014; Henry 1983, 2003). I then move to Santería—or as it is also referred: "La Regla de Ocha" or "Lukumi." Like Obeah, Santería is a Black Atlantic religion embedded in the making of modernity. It emerged as a product of the transnational trade of African captives, but is known to have originated in Cuba and incorporates core religious beliefs of the Yoruba, members of a region of Southwest Nigeria, and the worship of Catholic saints.[6]

At a time when the exponential increase of Pentecostal Charismatic and Islamic fundamentalisms have radicalized the face of religious publics globally, these cases highlight the urgent need to protect religious freedoms at all costs. The issues under examination highlight the problem of the recognizability of some religious claims but not others. In Canada and the US, these cases, from lower courts, provincial and state courts, and constitutional courts, as well as Refugee Boards and Homeland Security cases, concern religious practices that hail from many parts of the world. In Canada, "religious freedoms" are popularly discussed as being protected in the Canadian Charter of Rights and Freedoms through which it protects "freedom of conscience and religion." In the US, the notion of "religious freedom" is popularly articulated in relation to the First Amendment to the Constitution that asserts the free exercise of religious freedoms through its prohibition of making laws to impede the free exercise of religion, freedom of speech, freedom of the press, and so on. In internationally recognized spheres of governance, the most authoritative documents on religious freedom are those under the United Nations rubric—The Universal Declaration of Human Rights, the International Covenant, for example. Despite these various discussions about protections, however, the very notion of religious freedom is fundamentally about the exercise of difference in complex spheres of inequality. For the challenges in guaranteeing freedoms have always involved questions over determining when and how to restrict those freedoms or how to accommodate various religious claims. At the base of the controversies opened up through the cases under examination ahead are questions concerning the role that the state should play in the legal protection of individual religious rights and what should be its limits. What do these controversies tell us about the nature of new forms of religious sociality today, especially as it relates to what legally counts as religion; who is qualified to inform these judgments; and how do such legal determinations serve to marginalize or shape the ways that practitioners organize their religious claims? How are inequalities of practice and prestige unfolding in a horizontal axis between practices such as Palo, Santería, Obeah, Candomblé, Umabanda, and Espiritismo?[7]

While we will see how notions of "religious freedom"—and following Asad—"religion" are misnomers, products of our making, I am arguing that the contemporary modernity of religion represents a domain in which expertise is playing a key role in the adjudication of state accommodations of a range of practices—including religious and cultural practices. In these case studies under question, it is scholarly experts who are being (and have been) called on to define the scope of

acceptability as they relate to religious practice. I end by considering the rise of the category of the scientific expert in the formalization of British common law and the consequent emergence of Anglo-American law and its eventual adoption of juries, particular rhetorical practices involving hypothetical questioning, and the use of scientific experts. What we see through these formations are ways to highlight the centrality of anthropological expertise in shaping categories of religion and their consequent meanings.

In the twenty-first century, definitions of religion are not simply being shaped through mechanisms of scholarly and religious knowledge made legible through institutions of power. They are also being actively shaped by various rhetorical formulations during litigious processes involving religious adherents, as well as other spaces in which "religious subjectivity" is produced, such as through practices popular in the public sphere like Christian declarations against Obeah and voodoo as evil witchcraft. The reality is that some religious conceptualizations are being revived in the name of legal and religious certainty while others are being shaped through what Jacob Olupona (2007, Olupona 2014) has popularized as "reverse missions." The idea of reverse missions highlights the decline in traditional Anglo Saxon Christian popular worship in the West. It describes the new phenomenon of immigrants from the Global South to the US, Europe, Australia, and so forth, who have become the new face of popular Christianity and the face of defendants in court who lay claim to African and Black Atlantic religions. The tension that exists involves inquiries into how subjects are constituted by institutions of knowledge and power and how they constitute themselves through new public personalities, refashioned, and re-Africanized values. This reality returns us to the crises at the center of anthropological theory—that religion today has far exceeded the limits of systemic definitions popularized by Emile Durkheim (2001 [1912]) and Clifford Geertz (1966) but is not adequately resolved through the genealogical approach advocated by Talal Asad (1993).

PRODUCING SUBJECTS THROUGH KNOWLEDGE AND POWER: OBEAH AND THE SCHOLARLY IMAGINATION

In *R v. Rowe*, a case heard before the Supreme Court of Canada in 2006 related to gang activity and the death of a local drug dealer, the Court upheld the conviction of the lower court—the Superior Court, which had admitted statements made by the defendant to an Obeah priest during an "Obeah sting." The defendant had established a relationship with the Obeah priest and disclosed to him information about an armed bank robbery in which he was involved. The statement included a confession that the defendant had accidentally murdered a bank employee during the robbery. With the goal of evading capture, the defendant told the Obeah priest of his plans to commit a bank robbery. After the robbery and murder, the Obeah priest, in the quest to collect a reward for tips for criminal activity, faked a ritual context by donning a ritual robe and head covering in a dark room lit by candlelight and chanting various words (Smart 2012). He then asked the defendant to recall the bank robbery, which was covertly video-recorded by the priest and turned over to the police by the Obeah priest. Rowe was convicted in a jury trial in the Superior Court of Ontario.

Rowe's appeal raised three issues as matters of national importance. These included "Whether the employment of an Obeah religious and spiritual advisor as a police agent to secure a confession from a suspect, by exploiting his religious and spiritual beliefs, is a 'dirty trick' as described by this Court in Rothman v. The Queen, [198] 1 S.C.R. 640, and subsequent cases."[8] "A dirty trick," in legal parlance, would be "the type of conduct which justifies exclusion of the evidence thereby obtained...whereas less offensive conduct which amounts to a mere 'trick' will be admissible."[9] At issue for the Court was the relationship between Mr. Rowe and the Obeah priest, which was intended to facilitate criminal activities (committing crime, facilitating escape) rather than to seek religious counseling. No evidence of Rowe's sincerity of belief in Obeah was established; his communications with the Obeah priest were secular in nature. The police in this case did not act in bad faith, as the bogus Obeah priest came to the authorities in order to report a crime and to offer his assistance in bringing the perpetrators to justice.

Related is the question of whether the police should be free to impersonate priests or other spiritual practitioners, as long as they present themselves as "corrupt" by holding out to the suspect some hope of material advantage. In *R. v. Pinnock and Welsh*, the Peel Police Service learned that the mother of two murder suspects was a believer in Obeah. Relying on the decision of the trial judge, they sent an undercover police officer into the field posing as an Obeahman named "Leon," His

mission was to establish a relationship with the suspects' mother, convince her of his spiritual powers, and exploit her spiritual beliefs to obtain inculpatory evidence against her children. The undercover officer prepared for his role as an Obeahman by reviewing the videotapes of Mr. Rhyll Carty's meetings (the Obeahman in Case I) with the Applicant and Mr. Campbell (Case II), and it is apparent that many elements of his performance were directly modeled on Mr. Carty in which he struck up a relationship with the mother of those who would be the defendant in Case II, Ms. Robinson, and convinced her, also through various tricks and staged demonstrations, that he possessed great spiritual powers; persuaded her that she and her sons were possessed by an evil spirit that was, among other things, causing her to suffer from migraine headaches; advised Ms. Robinson that the evil spirit was capable of using the criminal justice system to harm her and her sons; and promised to protect her and her sons both from the evil spirit and its manipulation of the justice system but only if they were entirely truthful with him and gave him all the information he required. Having won the trust of Ms. Robinson and, through her, one of her two sons, the undercover officer held phony Obeah sessions with them and one of their friends (the third accused), which incorporated many of the religious elements and rituals seen on the videotape of Mr. Carty's meeting with the Applicant and Mr. Campbell. During these sessions, Ms. Robinson's son made inculpatory admissions.

In both cases I and II outlined here, the notion of "religious rights" did not outweigh state strategies. The court recognized that there were limits on how far the state can go in attempting to acquire evidence. As this case shows, the basic elements of Obeah are not granted equal religious status in Canadian law. The key issues at play are about striking an appropriate balance between religious rights and the limits of cultural accommodations. But as we see, it is not about the protection of religious freedoms alone. Many issues related to religious freedoms remain unresolved or unclear; this is where the knowledge of sociologists and anthropologists is brought to bear on the technocratic production of cultural knowledge. Academics are called on to document practices, offer opinions, write reports, and testify to the legibility of particular practices and their relevance to various claims. This is not only because of the recognizability of cultural difference in the articulations of those practices to be protected but also because of the extent to which religious rights are actually tied to the exercise of democracy and as such participate in the production of knowledge products that are being increasingly managed and rendered visible to the state and its economy.

A review of the testimony in R v. Rowe and the taped conversation between Carty and the defendant highlighted the understanding that Obeah is a belief system embracing a variety of religious traditions widely shared by persons of Caribbean origin; that one of the core beliefs of Obeah adherents is that the spirits of the dead inhabit the living and control their daily lives and that these spirits can be exorcized by Obeah rituals; that the defendant believed that Carty was an "Obeahman," and Carty encouraged this belief; and that based on that belief, the defendant went to Carty for help. The request for help was based on Carty's claim that (1) the defendant was possessed by the invasive spirit of the deceased, and that (2) Carty could remove this spirit if, and only if, the Applicant related everything that had happened during the shooting. That condition, and the Applicant's acceptance of it, was the foundation of the entire confession. Yet, also central to the impersonation and entrapment that was at play was the use of various stereotypes about Obeah that live in the popular diasporic imagination, especially in relation to the religion's relationship to crime and wrong doing.

But for purposes of the legal case, the lack of a recognized Obeah religious public sphere both in Canada and elsewhere rendered its religiosity questionable. This was the evidentiary challenge—the hardship of getting beyond Judeo-Christian standards of religion as publicly articulated through a "church" or "congregation." Such institutional considerations of religious sociality return us to some of the general foundations of religion in the social sciences, part of the cultural and intellectual inheritance at the core of issues now facing the court—Emile Durkheim's 1912 definition of religion in relation to his conception of the church or community as a central component of a religion.[10] Here he argued that,

> *A religion is a unified system of beliefs and practices relative to sacred things, that is to say, things set apart and forbidden—beliefs and practices which unite into one single moral community called a Church, all those who adhere to them*. The second element thus holds a place in my definition that is no less essential than the first: In showing that the idea of religion is

> inseparable from the idea of a Church, it conveys the notion that religion must be an eminently collective thing. (Durkheim 1912, 44, emphasis added)

This definition establishes what Durkheim calls Church—namely, the collective or communal aspect of religion that is central to the community-making component of religious practice. Like the earlier intellectual traditions of religious legibility, religion cannot be in the heart, in the realm of individual belief. This contributes to its evidentiary illegibility. The problem was that these anthropological notions of sociality have over-determined what was allowed to be deemed "religion" in such legal domains. It is Christianized secularity—that which also further renders Christianity as transcendental, which sets the framework for that definition. As a result, the court had an expectation that its religiosity had to be publicly verifiable through a statement of religious observance. It had to be public and open. To address this gap, the court interrogated a range of expert witnesses on the definition of religion in order to establish the legitimacy of Obeah as a religion.[11]

A lengthy pre-trial motion was held to determine the admissibility of Mr. Campbell's statements to Mr. Carty as religious. Four expert witnesses provided evidence that the sessions conducted by Mr. Carty were, in their essence, religious. Father Thomas Lynch, a priest and University of Toronto Theology professor, testified that Mr. Carty's actions suggested a "syncretistic" religious rite of "undoing" the Applicant's wrongs —a kind of forgiveness. He viewed Mr. Carty's back room, with its altar and artifacts, as "a sacred space" comparable to a small church or chapel. The exorcism of evil spirits, evident in the exchange with Mr. Carty, had a parallel in Catholic practice. In cross-examination he pointed out that a heartfelt expression of remorse for sin was not required of a Catholic penitent and that escaping temporal punishment by flight from the country was "not necessarily exclusive" of a genuine desire for forgiveness.

Dr. Abrahim Khan, an expert in Caribbean religions, also said that Mr. Carty was purporting to practice a form of religion, drawing on "a cluster of phenomena that we've got some rough names for such as Santarea, Pokamania, Oresha and Shango." He, too, viewed the practice as "syncretistic"—combining rituals from various other religions. Khan stressed the rituals apparent in the videotape and the theme of protecting the living from the spirits of the dead found in many religions. Mr. Carty's "moral admonition" to the Applicant that what he had done was "very, very wrong" made the proceedings which followed "a religious phenomenon."

Dr. Frederick Case, an expert on Caribbean and African religions, said that Obeah was not, in his (minority) view, a "religion" but a form of spirituality in which there is "absolute belief in the world of spirits." This belief extends to the exorcism of "duppies"—spirits capable of haunting a place or a person. Carty's practices—candle-lighting; baths; oils; and the laying on of hands—are common in Obeah, as is Carty's use of the appellation "brother." Dr. Case gave evidence that it was important in Obeah practice to be truthful to the Obeahman if the rituals were to be efficacious, and that clients would expect anything they told the practitioner to remain confidential.

Finally, in a written report prepared for the Crown but put into evidence on the *voir dire* by the defense, Dr. Frances Henry, professor emeritus of Anthropology at York University and an expert in Caribbean spiritual practices, pointed out the widespread belief among Obeah adherents in the existence of duppies and their daily influence in the natural world. She viewed the Applicant, on the tape, as convinced that he was "in the hands of an Obeah practitioner" who was attempting to remove a *duppy* from him. In cross-examinations of these experts, the Crown emphasized that the Applicant had sought protection in advance for his crimes; that he had hoped to escape legal punishment for what he had done; that he hoped to be able to commit further robberies; and that he did not renounce his criminal behavior. The expert witnesses acknowledged these features of the relationship but denied that they removed the Applicant's exchange with Mr. Carty from the religious sphere, noting the widespread Caribbean spiritual belief that one's temporal well-being is closely connected to, and influenced by, the presence of the spirits of the dead.

Despite the scholarly evidence of the religious nature of Obeah religions, the Ontario Court of Appeal upheld the conviction of the trial court, and disallowed the defendant's appeal that the Court review the evidence that the fake rituals and police surveillance of the defendant constituted a dirty trick and offended the sanctity of religious relationships between the client and the priest (Johnson and VanVonderen 1991). Key here is that unlike the Supreme Court which recognized the religiosity of Santería and protected the

religious interests of its adherents against governmental interests that might undermine the free exercise clause, the Canadian court disallowed the free exercise of religion, citing their decision to not recognize Obeah as a religion and not to recognize the disguise of the priesthood as a "dirty trick." Marlon Rowe was convicted of first-degree murder.

Where experts, such as anthropologists, are called by courts to serve as cultural mediators, it is important to make sense of the ways that these mediators articulate religious and cultural definitions, as well as the ways that courts translate these social science concepts in their attempts to decide cases. Ultimately, these experts are part of the making of these subjective states and in that process they, too, shape the legibility or illegibility of how we come to constitute Black Atlantic orisha, Obeah, and voodoo practices that—by their very histories of trans-Atlantic slavery—have been driven underground and rendered secretive, especially in North American multicultural contexts. Such forms of translation or cultural mediation highlight the limits of the law in making sense of the subjective states of actors, especially in relation to their religious worlds and religious experiences, and they also reveal the role of experts in shaping new forms of governance and the concealment of genealogies of religious formation.

The legal limits are connected to the inability of law and legal actors to know or demonstrate a point via evidence. Thus, certainty is based on evidence. When Western epistemologies, especially modern science and philosophical definitions of reality, become the court's presumed worldview, "evidence" includes solely those objects or arguments verifiable within a North American or European intellectual framework. This approach renders an Obeah worldview unintelligible because it emerges from various indigenous African epistemologies which take seriously the concept of a spirit world whose permeable border with our spacio-temporal realm enables innumerable spirits to interact with and influence the outcome of human endeavors (also see Ochoa 2010; Santo 2015; Matory 2009; Beliso-De Jesus 2015). Prayer, ritual, and herbal remedies become efficacious for healing and, if so designed, for harm. Furthermore, African epistemes often include geomantic and/or mediumistic divination, oral resources that remain untenable within Western paradigms but are the primary means for verifying truth in African worldviews. Indeed, within autochthonous African knowledge systems, the results from a consultation with sacred oral texts such as Ifá or the information revealed during a trance become "evidence." To consider those religious practices that emerge from American or European Christian cosmologies as the norm in court hearings is to superimpose Western epistemologies upon different yet impactful ways of knowing. Moreover, it causes the Court to predetermine what counts as viable evidence within cases dealing with African and African diasporic religion. But because of the Court's current assumptions about reality, Evol Robinson and Ruben Pinnock's lawyer can argue that, "the impossibility of any harm actually occurring through the mechanism of prayer or spells in the real world precludes a finding of [unlawfulness or conspiracy]. Harm or obstruction by 'spell' is an imaginary crime not encompassed by attempts or conspiracy to commit a crime. There is no likelihood in the material world of it causing harm."[12] This claim would falter if the Court considered legitimate the African worldviews inherent within Obeah, because what constitutes the "real world"—its limits, mechanics, and agents—would suddenly denominate the defendants' prayers as possible evidence of intended harm. The burden of proof would lie with the Defense to indicate that their client's spiritual intentions did not correlate with an attempt to cause an unlawful outcome. What is interesting here is that the efficacy of religion has been complexly addressed. There are a range of examples where divination has been used as a form of legality in African systems—where spiritual harm has been considered a crime, where the practice, for instance, of making zombies was outlawed in Haiti[13] or Obeah convictions enforced historically in Jamaica[14] and quite recently in Trinidad.[15]

This reality of the making of religion in particular ways through its erasures or invalidations highlights the role of the technocratic manufacture of religious practices in relation to what constitutes religion and why. This technocratic process raises questions about how expert witnesses grate against or compliment the Court's intellectual history. For instance, the expert witnesses in the R. v. Rowe case presented conclusions about the religiosity of the Obeah session recorded by the police that concurred with the definition of religion produced by a Western intellectual history. Abrahim Khan, a professor of religious studies, found that the recording demonstrated the existence of a religious setting but his conclusion involved comparing Carty's interaction with the client's to confessionals between a Catholic priest

and a parishioner. This comparison upholds Durkheim's framework presupposing that religion required a church. In this way, though Khan suggests Obeah is a religion, his methods still uphold a particular Western intellectual definition of religion. Similarly, anthropologist, Francis Henry noted the lack of "ritual behaviors" in the recording, but claims there are elements of Obeah practice. It seems that Henry agreed with Durkheim's assumption that ritual conduct is at the core of all religious practice. In effect, neither Khan nor Henry's analytical process challenged the Court to step beyond the bounds of its intellectual inheritance. Rather, the law was presumed to be absent of cultural religious biases while also deeming Christian frameworks in which religion involves a church community, as potentially universal. The tensions at the core of this issue emerged because the prosecution argued that Obeah could not be credited as a religion as it has no buildings, communities, or pre-established liturgy. Yet, the defense team insisted that it is precisely this type of religion that follows a different cosmological order that is most in need of protection.

In an attempt to pinpoint the unintelligibility of Obeah as a religion when forced to define it in relation to Judeo-Christian intellectual cosmologies, I now turn to my expert testimony from the related case of R. v. J. Welsh, E. Robinson, and R. Pinnock, referred to earlier, that grated against such Judeo-Christian biases at the foundation of Western definitions of "religion." My attempt to challenge the biases within the works of key thinkers such as Durkheim and Geertz aimed to encourage the Court to reconsider its perceived objectivity through which different conceptualizations of Obeah as a religion could be considered. Similarly, Dr. Beverly reminded the Court that "Religious scholars have increasingly recognized the danger of according privileged status to religions simply because they are mainstream and established." Previous negativity toward African and Caribbean religions such as Obeah has also been diminished by a gradual recognition that the alleged dark sides of these practices have been overstated.

Scholarly study of new and marginalized religions has shown how religious traditions, such as Obeah, have been misunderstood because of dominant and false perceptions about witchcraft, the occult and esoteric traditions."[16] Beverly's argument pushed against the Court's intellectual history by emphasizing the biases involved in constructing religion as a category. His testimony also calls the Court's attention to the vocabulary used to marginalize Obeah, thereby designating it as a non-religion. The contrasts between Clarke and Beverly's approaches to the Obeah question and that of Khan and Henry's illustrates how expert witnesses actually participate in the (re)construction of religion. Expert testimony on topics facing the Court intends to clarify something that remains unclear, to intervene and certify a fact. Yet the Obeah case clearly shows that the moment of intervention often becomes a site of construction. What we also see are attempts to re-establish the distinction between the secular and the religious—that is, how the designation of something as religious reifies the sacred/profane landscape of the courtroom and law. This is akin to upholding the primacy of law of Man versus law of God within theological arguments.

The case study of R. v. J. Welsh, E. Robinson, and R. Pinnock illustrates the challenges of religious freedom for adherents of Obeah. This case was first heard before the Ontario Superior Court of Justice in August 2007 and involved the admissibility of evidence obtained from Obeah adherents by a police officer impersonating an Obeah priest, in a case of alleged homicide. Here the disguised police officer approached the defendant and a family member with the goal of eliciting criminal confession. The defendants sought to have statements made to a police officer impersonating an Obeah priest declared inadmissible on the grounds that the police behavior constituted a "dirty trick," conduct defined as egregiously offensive and antithetical to religious rights. Building upon the success of the Obeah sting in *Rowe*, the police used a police officer posing as an Obeahman as a vehicle for eliciting criminal confession. The defense claimed that "the Crown in our case seeks to diminish the offensiveness of its investigative technique by corrupting the relationship Leon [the fictitious name assumed by the police officer] created between himself and the Robinsons [the defendant and his mother]—by having Leon request money and offer to harm justice system participants" so as to render the relationship unworthy of protection (Bayliss 2007). Instead, the defense attempted to define the relationship as a religious one "during which the subjects receive religious guidance in a fully justified expectation of confidentiality—no less than a Catholic penitent receiving the sacrament of confession" (ibid). Meetings in this case were argued to be religious in nature and involved elements of Obeah ritualistic practice, initiated by the posing officer.

In this matter, the Crown ruled against the defendants. Evidence obtained by the officer under false pretense as "Leon" was deemed admissible, and the three defendants were later convicted of the first-degree murder at issue. Among troubling aspects of the evidence ruling, Ontario Superior Court Justice T.P. O'Connor found that "[w]hile the police conduct did interfere to a degree with Robinson's religious freedom, it did not do so in a manner that was more than trivial or insubstantial. He was not constrained or coerced in his religious practice. The planted fake religious leader did not interfere with his freedom to worship or express himself spiritually. In fact, Leon encouraged him to believe in Obeah, to participate in the chanting, the use of candles and handkerchiefs and the various rituals of the belief system, as only then could he help him defeat those who wished to harm him. While Leon was a fake, playing on the Applicant's belief in his authority as a spiritual leader who could bring him positive benefits, i.e., protection from evil spirits and from prosecution, Leon did nothing to interfere with the Applicant's ability or right to worship nor did he coerce him to disbelieve or disavow his religious beliefs" (R v. J. Welsh, E. Robinson and R. Pinnock ¶42.). Furthermore, Justice O'Connor concluded that "even if the undercover police investigation did restrict Evol Robinson's freedom of religion as guaranteed under s. 2(a) of the Charter, the restrictions constitute a reasonable limit demonstrably justified in a free and democratic society under section 1 of the Charter." The "clear harm to the effective prosecution of crime and the proper administration of criminal justice, should this evidence be suppressed, outweighs any potential harm to the relationship of pastoral counseling between the pastor and his congregation" (¶ 74, ¶97).

To date, the August 2007 Canadian Superior Court Judgment, on a motion to disallow evidence collected under false pretenses, failed before the Superior Court however, and the case is under appeal. In this case, like the other cases, the key issues reflect challenges to the contemporary state in managing religious freedoms in relation to claims to North American religious pluralism. The court wanted to establish not only the definition of religion, and the legitimacy of the defense's call for client-priest privileges, but also whether the evidence collected was obtained under legitimate grounds, thus admissible before the court (Clifford 1988).

The cases also point to the challenges of the multicultural state to accommodate religious and cultural difference while also setting limits for the exercise of democracy. Here we see that the trial judge's finding is that the religious distinctions relied on by the Court of Appeal draws on what is essentially a Christian model of religion. By emphasizing incidental attributes of mainstream religious practices, the Court of Appeal missed the core of the issue: "pastoral counseling," "repentance," "confession to sin," "divine forgiveness," and "spiritual cleansing" are all distinctly Christian concepts. However, Christian religions vary in the extent to which they view confession, and God's forgiveness, as conferring earthly protection and benefits on the penitent. In this case the breadth of constitutional protections afforded to suspects in contemporary, multicultural society is defined according to the Christian standards.

The underlying premise of the ruling in both courts is that if a person hopes a religious ritual will yield a temporal ("secular") benefit, his/her purpose is for that reason alone not "religious," and the ritual is stripped entirely of its religious character. This is a false dichotomy and points to the inseparable nature of North American civil societies with Judeo-Christian core values in conceptualizing the law and personhood. Many mainstream Christian denominations teach that ritual, combined with faith, will be efficacious in sparing believers from the deserved consequences of their actions. Many faithful Christians believe that their trust in God's power and participation in church rituals will lead to them being protected and even blessed in their secular affairs. Many other religions have no concept at all of an after-life or any divinity to whom confessions can be made, and no realm beyond the terrestrial. Yet those religions, too, presuppose that the observance of its rituals will ensure benefits to the believer. The ontological difference of African and African-inspired religions —as a source for theorizing religious experiences across differences—is what creates the biggest challenge for the genealogical approach to tracking this kind of religiosity. It is not supple enough for tracking African diasporic religious fluidity: for example, the making of community, self, and place on multiple material and spiritual levels and tacks between being and becoming as an ontological sphere of meaning. This was the challenge for me when I also served as one of the expert witnesses in this case.

When given the terms of reference for this case, it became very clear to me that poststructuralist genealogical approaches to defining religion in relation to the constructed nature of religion as a

concept were not going to be useful in rendering Obeah legible before the court. Rather, as noted in my testimony below, I returned to a more rigorous systems analysis in my quest to define religion for the court. As I explained:

> Religion, broadly defined, represents a sphere of cultural meanings, practices, beliefs, and forms of social logics that enables people to understand their social world. It ranges from belief in one god to beliefs in multiple deities, spirits, forces, often involving rituals, codes of ethics, and philosophies of life. One of the most widespread anthropological approaches to understanding religion in the social sciences was spearheaded by Clifford Geertz (1973) in which he defined religion in a broadly symbolic domain as: "(1) a system of symbols (2) which acts to establish powerful, pervasive and long-lasting moods and motivations in men (3) by formulating conceptions of a general order of existence and (4) clothing these conceptions with such an aura of factuality that (5) the moods and motivations seem uniquely realistic."

In an attempt to make a connection between religious symbols, signs, and our communicative modalities I explained that:

> This approach to religion highlights the ways that symbols and signs convey messages to us about the nature of our world. For religion enables us to communicate our worldview and gives us understandings about the connection between our worldview (how the world is) and our ethos (how we live or ought to live) which shapes our experience and frames how we should respond to our experience. In this regard, religion represents a manifestation of collective beliefs through which society might be able to transcend itself by using rituals to express and regenerate society. At times this transcendence might take the form of ennobling paths of higher consciousness through which members of society create religious objects, ritual, beliefs, and symbols in order to produce a particular sphere of understanding.

I clarified that at the center of most religions is a commitment to particular ways of defining the power of a force larger than oneself and through such explorations to use religious practices and beliefs to shape one's social world. I defined the elements of religion according to the following components:

- Belief in something sacred (e.g., gods or other supernatural beings).
- Ritual acts focused on sacred objects.
- A moral code believed to have a sacred or supernatural basis.
- Characteristically religious feelings that tend to be aroused in the presence of sacred objects during the practice of ritual.
- Prayer and other forms of communication with the supernatural.
- A worldview, or a general picture of the world as a whole and the place of the individual therein.

This picture contains some specification of an overall purpose of point of the world and an indication of how the individual fits into it.

Then I explained the histories and intellectual developments that have influenced the definition of religion historically, including:

> (1) an understanding of faith in relation to social collectives (Durkheim 1915); (2) an anthropological articulation of religion as expressed through daily ritual (Geertz 1973); (3) the social construction of reality in which beliefs, meanings, and truth are shaped through the production of knowledge about the world (Asad 1993; Clarke 2004).

It was important for me to think about these developments in relation to *religious diversity* and the resultant complexities around which the spread and formation of Obeah took shape. I described such historical formations with the goal of highlighting how not only are African diasporic religions shaped by histories of complex interconnections with hegemonic world religions but that they are also products of ontological difference, shaped by the particularities of social life in the socio-political contexts in which they have emerged:

> In African states today, large numbers of the population are Christian, others are Muslims, others practice various world religions, and others practice indigenous religions which often involve the worship of deities and spirits associated with both the dead and the living. According to the definitions of religion articulated above, Obeah can be considered a religion, in that we see that the definition of religion refers to specific fundamental sets of beliefs and practices (rituals and observances

> of faith) generally agreed upon by a number of persons or sects. In fact, to argue that Obeah is not a religion because religious systems require a system of established liturgy and community rituals, or that the end result of its practices recast its religious form as something other than religious is to misunderstand the history of Obeah's suppression in social life. (see Barrett 1974, 83)

Accordingly, I explained how the Ashanti of West Africa had a clearly defined system of religion in which the Supreme Being, (Onyame), known as, Nyankopon, or Great One, existed alongside numerous minor deities or spirits (abosom) who acted as mediators between God and human beings. The Ashanti practice emerged from a complexly sophisticated set of religious observances, which involved Nyankopon, the spirits, priests, and shaped daily affairs such as birth, marriage, death, and so on. In my testimony, I sought not only to limit my analysis to the older more symbolic approaches to religion but also to detail the very complex analytics of anthropology of religion and religious practice through which these "diasporic religions" took shape.

I began the next section with an examination of *syncretism/religious change*, in which it was important for me to establish the term "syncretism" and its use in the social sciences and humanities. My intent was to establish the term historically as it refers to a melding together of practices thought to be separate and distinct, and how it has been used to identify new forms of practices such as Santería and Obeah. I discussed how a new anthropological definition of syncretic religions highlights the merger of African religious practices prior to the transatlantic trade of slaves with Christian forms in the Afro-Atlantic world of plantation slavery. For example:

> Obeah['s] roots grew out of the historical Ashanti culture in West Africa. As African peoples migrated to different islands in the Caribbean (i.e. Jamaica, Suriname, Virgin Islands, Trinidad, Tobago, Guyana, Belize, Bahamas), the religion took on different forms in these distinct colonies, eventually merging with the religion practiced by the colonialists. Some commonalities in the religion remained, while regional differences emerged.

I ended by detailing the different ways to think about religious practices and attempted to highlight how a comparative approach to religious practice seems to be more useful for rendering intelligibility in court. Even those practices that are the hegemonic standard are a product of complex change over time.

> All contemporary religions are syncretic. Both Judaism and Christianity originated within Middle-eastern cultural traditions and were brought to the West and the Far East centuries later. The Christian church at-large recognizes the Judaic roots of the religion, without which its message of Jesus' relevance would be devoid of meaning. One might argue that over the centuries, the truly syncretic nature of Christianity was borne out in the multitude of social groups throughout the world from which a plethora of traditions have arisen. In his study of over 100 world religions, *Eternity in Their Hearts* (1981), Don Richardson corroborates this point. World religions are not static entities. They have been recognized by academics, theologians, and practitioners alike to be fluid—evolving over time, along with the cultures within which they are expressed—and their adherents continue to use these religions to adapt to change and to make meaning of life.

My testimony suggests that so-called syncretic practices functioning alongside mainstream practices are often constituted by them; religious practices such as *Cumina*, Shango, Vodoo, Santería, and Condomble are examples of these syncretic manifestations. They represent the fusing of the beliefs and practices of various ethnic traditions from various African countries (Barrett 1974) with particular forms of Christianity present in the Americas during the development of plantation slavery. The documented evidence that Africans on plantations were able to combine beliefs in their gods with those of the gods in their new world contexts[17] makes a clear case for a more practical application of the comparative study of African diasporic religions.

As we see from the testimony above and the challenge before the Courts, at the core of the first two cases is the need to define religion and to determine which evidentiary rules should be brought to bear on religious practices. It is necessary to make sense of the ways in which definitions of religion both shape and are shaped by religious practice. These cases highlight how we come to understand the making of religious claims

in a moment in which "the religious" has been rendered recognizable within a framework of the history of Christianity but in which new discursive strategies of institutional organization render invisible traditions of practice in which self-professed membership is not a necessary component. In other words, in Obeah, as in the Santería example to which I will move, the making of a church or a community is not the only way that members of these religious groups gain standing.

Also central is a question about the workings of democracy to protect those practices that out of historical conditions of modernity and the building of slave plantations were necessarily disguised and rendered unintelligible. The history behind the suppression of African-based belief systems in the Caribbean involves the conjoined twins of European identity politics and religion. The continued marginalization of these practices through their contemporary judicialization further demonstrates how the validity of non-European cultural practices is disputed and the practices themselves denied the ability to define their existence in relation to their own ontological context. Rather, their existence became bound up with the production of racial and ethnic categories of value and disregard. The example of the transatlantic slave trade is a case in point.

The transatlantic trade in human cargo and the plantation systems required the British, for instance, to define how they differed physically, culturally, and ideologically from Africans. As Audrey Smedley explains, this process began in Europe with English contempt for the Irish, a population whose nomadic pastoralist lifeways conflicted with British ideals of land ownership, farming, and social status (Smedley 2007, 59). Religion, especially protestant Christianity, became a principal indication of one's civility, read "humanity." Consequently, British civil society reified an idea of the "savage": "He was lazy, filthy, evil, and superstitious; he worshipped idols and was given to lying, stealing, murdering, double-dealing, and committing treachery" whereas "civilized men…were sedentary and bound not only to the land but to other men by laws" (ibid., 63). This rubric for the savage became a taxonomy for Black and brown bodies in the Anglophone Caribbean through the use of racial categories.[18] While colorism played a role in the European's bias against indigenous African and Indian people, religious differences became an equally important categorical tool. In keeping with Enlightenment thinking, the word "religion" marked the boundary between "'true' religion" and superstitions, magic, witchcraft, and paganism; the term distinguishes between primitive and civilized people (Paton 2009, 2). More importantly, as Aisha Khan explains, religion functioned as a form of power:

> Power is always an integral dimension of religion, through (1) the distinction made, at least in Western traditions, between the material and the mystical, the kind of relationship natural and supernatural forces are perceived to have with each other; (2) the debates about which interpretation of a given religion is correct, legitimate, or superior; and (3) disputation about what kinds of forces (natural, supernatural) can be determined "religious" at all, which in turn has implications for the way we understand social and cultural phenomena. For imagining a priori that certain forces, events, and beliefs are firmly rooted in the category religion actually reflects assumptions about the character of religious phenomena as these are constructed out of power relations. (2004, 119)

Khan parses religion further, noting it operates as a synthesis of "worldviews, beliefs, moral values, and consciousness that work together according to particular cultural histories, social contexts, and vested interests" (ibid.). These intertwined components require dissection if one will understand how Obeah, along with Black and brown bodies, became the antithesis of "religion" and "man" in the West. Sylvia Wynter (2003) decoded these processes in detail, summarizing the Latin-Christian Europeans' centuries-long progression from defining the human as "Christian," and thereby a "religious subject of the church" (265) to a "political subject of the state," which she calls Man_1, which later became "a bio-economic subject," or in Wynter's parlance, Man_2 (318). Crucial here are the "others" produced by these quests for the "self." "Pagans" became the opposite of "Christians," and people indigenous to Africa and the Americas became "the physical referent of the idea of the irrational/subrational Human Other." (ibid., 266). Economically disadvantaged people of color, especially in North America, functioned as opposites to "the jobholding Breadwinner" (Man_2) (ibid., 321).

With respect to the Obeah case, it is useful to consider how Wynter's thinking pinpoints how Western religious constructs position any non-

Christian belief as non-normative. She argues the West's Man_1 and Man_2 dissolve any supposed link between human ontology and religious concepts. Furthermore, the Christian Heaven–Earth binary stratifies the natural world from the celestial, and the body from the soul. Many indigenous African religions, on the other hand, esteem the earth's sacrality. Both Akan religion and Vodou, for instance, deify the earth. These cosmologies produce ontologies wherein spiritual principles and divinities themselves render the body paramount. The ideological (and later scientifically reasoned) spectrum that positioned Black bodies and the spirituality they practiced at the nadir of human existence contradicts African worldviews, but as Wynter demonstrates, colonialism enabled the West to reify human *beingness* according to its scientific constructs and domains of rationality. As such, the realm of the secular court, which governs religious meaning through predominant Christian binaries, produces a terrain in which the other, "the heathen," must be analyzed in relation to pre-existing normative standards of *beingness*—especially as it relates to the public dimension of its practice.

Ultimately, the clash between seemingly Western and African ideologies and the power of European dominance afforded Judeo-Christian biases about religion to marginalize Obeah and its practitioners. Accordingly, Diana Paton (2009) noted that in the Caribbean, the definition of vagrancy often included Obeah. Furthermore, anti-Obeah laws in the Anglophone island colonies emphasized "the fraudulent, gainful, or injurious purpose for which this power was 'assumed'" and thereby led colonial governments to categorize "the Obeah practitioner as primarily a fraud or a charlatan" (ibid., 7). The language within the law reinscribed ideas about savagery and in return the rubric for the savage infused racism into the law. Often those arrested for practicing Obeah were indeed Black people, thereby pinning Obeah's perceived immorality to the character of Black Caribbean people in general.

Colonial laws rendered Obeah unintelligible not only by characterizing it as indicative of immorality but also by aligning it with incivility, and thereby, inhumanity. It became oppositional to modernity. Multiple centuries of religious oppression in the Caribbean locate Obeah's roots in Western intellectual history through a demeaning inheritance that is imbricated within Enlightenment reasoning and questions about human difference. Such realities have shaped contemporary assumptions about religion, reality, and rationality itself. Acknowledging the prejudices and historical events at the basis of the Court's perspective on African and African-based religions requires us to inspect current cases for their institutionalized reliance on this intellectual lineage. Given this history, what accommodations should be made to incorporate religio-cultural differences into new legal considerations?

It is clear that in a world of competing rights claims developing theories of religion that make clear not just genealogies but the workings of technocratic productivity—and the concepts that circulate and render other concepts invisible—are all part of the reshaping of the meaning of modernity of religion in the contemporary present. But these formations are directly tied to the increasing use of expert knowledge as evidence in court cases (Boyer 2008, 2013; Carr 2010; Engelke 2008; Mertz et al. 2016; Sullivan 2015, 2016) or the way that contemporary Christianity is being publicly transformed through the demonization of Santería or Obeah by those from ancestral groups that are also its historical authors. This is tied to the conflicting basis for what constitutes acceptable forms of religious practice and highlights some of the most controversial issues of our time.

THE CONSTRUCTION OF THE "EXPERT" AS A DOMAIN OF KNOWLEDGE AND POWER

The use of expertise in contemporary common law trials has its roots in early British litigation models, long before the eighteenth century in which experts were deployed by the court as juries or decision makers. They were partial court agents helping the court to make decisions about cases (Golan 1997). However, by the eighteenth century courts attempted to constitute themselves through assumptions of neutrality. Litigants engaged in the production of a legal science of proof through the development of evidentiary standards in which experts deemed neutral were called on in courts as witnesses before juries. A famous civil case of 1782, *Folkes v. Chadd,*[19] set a key precedent for scientific expert testimony. This case, involving the opinions of John Smeaton, a well-known engineer, established the basis for the admissibility of expert testimony in contemporary common law cases. By agreeing that the "neutral" expert could play a critical role in shaping non-expert juries, what emerged was the rise of an adversarial mode of legality that took root in nineteenth and twentieth century Anglo-American law.

The nineteenth century civil trials were deeply inundated by property and commercial legal challenges shaped by complex uncertainties about how to understand scientific evidence (Golan 1997, 1999). With increasing interest in the application of science in criminal matters as well, emergent patterns depended on scientific evidence for murder convictions.[20] However, because of the widespread mistrust of science in the eighteenth century members of the public tended to be wary of the epistemological and ethical standing of expert witnesses (Golan 1997, 1999).

It was not until the industrial revolution in the early to late nineteenth and early twentieth century that the foundation of rules governing evidentiary standards took shape through what Stephan Landsman called the convergence of a larger "adversarial apparatus" that involved experts, jury evaluation, and the deployment of hypothetical questions (ibid; Landsman 1995). Thus, the role of the expert witness emerged in the nineteenth century with the increasing significance of a jury—as an "impartial" body of one's peers—that was placed in situations in which they were expected to make case determinations based on very little knowledge. Alongside the growth of an expert legal category among those in the bio chemical sciences, the growth of psychological and then human sciences emerged as a way to assess the inner mind of the individual and to determine "criminal" culpability (see Herbart 1891, [1824]; Ladd 1894).

The early twentieth century saw the rise and standardization of the human sciences as ways to know and measure social groups and individual behavior (Hale 1980; Hamilton and Godkin 1894). By the mid–twentieth century, social sciences, like sociology and anthropology, became popular modalities for establishing evidence for those determining modes of culpability through understandings of the normal social order. The second half of the twentieth century led to the construction of the "neutral" *expert*—as scientist, scholar, doctor, practitioner. The *expert* became critical to the increasing significance of an assumed objective scientific knowledge in which determinations for truth were procured through the active formation of the adversarial court model of the twentieth century (Golan 1997, 1999). Such a model depended on particular scientific ways of knowing that over time became increasingly aligned with public expectations of neutral and objective knowledge claims (Jones 1994; Peak 1801; Stephen 1883). These modes of knowing rendered what was knowable as tangible and structured knowledge within particular certifiable domains.

Today experts are called on by both defense and the prosecutorial teams to offer analyses of statements of fact by claimants. Their roles are widespread, ranging from criminal and civil cases to asylum and human rights and arbitration hearings, to name a few (Anders 2014; Carr 2010; Crane 2014; Ford 2016; Gershon 2012; Gibb 2008; Levidow and Carr 2007; Mosse 2011). Key to the emergence of such contemporary litigation needs is the production of a data-driven science structured to clarify what can be known and what is unknowable. The emergence of this domain of knowledge production reflects struggles over the measure and control of expert truth through the rubric of science (Ingold 1996; Latour 2009, 2010; Latour and Woolgar 1979; Luckhurst 2006; Wilson 2016; Zenker 2016). These domains shape the construction of the subject, based on conventions deemed legitimate. Yet, the anthropology of religion has stopped short in theorizing the ways that experts, and not just religious experts, are engaged in shaping religious assertions that are then taken up by practitioners in religious articulations. This reality highlights the need for constellations of linkages between religion, law, and realities of their products that circulate in some of the most expected and obscure spaces.

PRODUCING RELIGION THROUGH JUDICIAL CONTESTATION: SANTERÍA RITUAL

Over the past two decades, another issue related to evidentiary questions and the making of legible religious practices taken up by courts has involved the interface between the ritual practice of animal sacrifice and the attempts by US courts to adhere to its constitutional and international treaty obligations. In the U.S., Santería rituals involving animal sacrifices have raised legal questions regarding the freedom of religion and its limits in the management of public safety and animal rights. The landmark case of the *Church of the Lukumi Babalu Aye, Inc. v. City of Hialeah 508 U.S. 520* (1993), brought before the district court in Florida, held that "the ordinances [against the rituals under question] had three compelling secular purposes: (1) to prevent cruelty to animals; (2) to safeguard the health, welfare and safety of the community; and (3) to prevent the adverse psychological effect on children exposed to such sacrifices" (Backer 2008).

Many followers of Santería argue that the animals are treated carefully, killed humanely, and most often eaten afterwards. Some have pointed out, by way of comparison, the widespread inhumane treatment of animals on commercial farms. Others have pointed out the general acceptance of sport hunting and other practices involving killing that are secular in nature (Drinan and Huffman 1993). The counter-argument regarding health concerns underscored the lack of evidence that there has been any spread of disease from the disposal of animal carcasses in the areas in question. Furthermore, Santeros asserted that the sacrifices, which are a principal form of devotion, have been part of their ancestral ritual practices for over one millennium (Robinson 2009).

In response to a number of city ordinances enacted at the time the church announced plans to build a house of worship, practitioners "filed this suit under 42 U.S.C. 1983, alleging violations of their rights under, inter alia, the Free Exercise Clause of the First Amendment" (ibid). The District Court acknowledged that the enacted ordinances were not religiously neutral but ruled in favor of the city, "concluding among other things, that compelling governmental interests in preventing public health risks and cruelty to animals fully justified the absolute prohibition on ritual sacrifice accomplished by the ordinances, and that an exception to that prohibition for religious conduct would unduly interfere with the fulfillment of the governmental interest because any more narrow restrictions would be unenforceable as a result of the Santeria religion's secret nature. The Court of Appeals affirmed," (ibid) and the case was taken to the Supreme Court, where the judgment was reversed.

Church of the *Lukumi Babalu Aye, Inc. v. City of Hialeah* established precedent with a Supreme Court decision in favor of the plaintiff and overturned an earlier Supreme Court ruling in *Employment Division, Department of Human Resources of Oregon v. Smith* (No. 88-1213), which essentially overturned what is known as the Sherbert Test that was used to ensure a balance between state and individual interests.[21] In *Employment Division v. Smith*, the question of religious freedom was raised when two members of the Native American Church were fired from their jobs as private drug counselors for ingesting peyote during a religious ritual. The Department of Human Resources Employment Division denied the plaintiffs their unemployment claims, arguing they were fired due to misconduct. In 1989, the case was argued in the Supreme Court where the ruling was made in favor of the state of Oregon. The central premise of the ruling established that the law against the use of controlled substances was not targeting religion; rather, it is one that is "neutral and generally applicable."[22]

In 1992, a coalition of diverse religious groups who were dissatisfied with the Smith decision created a bill titled the Religious Freedom Restoration Act,[23] which they presented to the House Subcommittee on Civil and Constitutional Rights. The decision of *Church of the Lukumi Babalu Aye v. City of Hialeah* thus restored the Free Exercise Act of the First Amendment to its pre-Smith state, which was the goal of the proposed Religious Freedom Restoration Act.[24] In this way, the 1993 outcome of the Hialeah case not only granted Santería practitioners the right to perform animal sacrifice within the limits of the law but it also expanded the interpretive framework of the Free Exercise Act to its earlier state.

To date, and over fifteen years later, cases underway illustrate continuing challenges to the free practice of animal sacrifice by Santeros and the way that the non-mainstream and secretive aspects of the religion render it illegible to the protection of the law. Most notable among such cases is that of Jose Merced, President of Templo Yoruba Omo Orisha Texas, Inc., who sued the City of Euless, Texas over municipal ordinances that prevented him from performing ritual animal sacrifices. The Washington-based Becket Fund for Religious Liberty spearheaded the appeal in which they launched a defense over whether municipal ordinances are neutral and of general applicability. In contrast, Euless asserted that it is "not Lukumi" and its practices that it is countering; it does not object to the fact that Jose Merced wants to keep and kill animals in his home. It objects to the "kind and number of animals Merced wants to keep and kill there" and argues that Merced is thus "treated no differently on account of his religion than he would be if his proposed activity were purely secular in nature."[25] To be specific, the City of Euless would permit Merced to sacrifice a specified number of chickens but not goats or other livestock. However, as Merced explains, according to religious prophesy, "You cannot do initiations without an animal with four legs. You cannot do it with just chickens. Without that, the religion ceases to exist" (Deleon 2007).

Additional challenges to the practice of ritual animal sacrifice and animal dumping have taken place in Coral Gables, Florida; Orange County,

Florida; and Torrance, California. Some of these cases have resulted in raids and individual arrests on the grounds of animal cruelty. And as of March 23, 2010, a bill (No. A10387) introduced by in the New York State Assembly was adopted to amend the agriculture and markets law in order to create a central registry for those convicted of animal abuse. At the core of these debates over animal sacrifice as expressions of religious freedom versus cruelty to animals are democratic principles that allow for the legal restriction of religious freedoms only if there is a justified or compelling reason and those reasons are "narrowly tailored to advance that interest" and do not burden, single out or suppress a particular religious practice. Rather, in the *Church of the Lukumi Babalu Aye, Inc. v. Hialeah,* the Court held that the ordinances were not narrowly tailored because they advanced governmental interests only when the conduct was motivated by religious beliefs—the health risk of animal sacrifices to participants, the emotional injury to children who witnessed the sacrifices, the need to protect animals from unnecessary killings, and the need to restrict the slaughter of animals to areas zoned for slaughterhouse use. But also central here is the role of ordering subjects, especially in relation to taxonomies of cruelties, species and appropriate practices. Donna Haraway (2015) and Danielle DiNovelli-Lang (2010) have usefully clarified these in relation to taxonomies, empathy, companionship, and spiritual genealogies.

Through these various cases, we see how the unintelligible aspects of Santería as a religion which requires sacrifice as key to its ritual components is rendered illegible to the state and requires translation and veridiction in order to make sense of its cosmologies of existence, its taxonomy of acceptability/cruelty. Seen in relation to the secretive nature of Santería practices such taxonomies highlight the centrality of "the private sphere" as a space of its ritual prestige and as key to its foundations of sacrifice. Among millions of Santeros spread throughout the Americas, this space of ritual prestige—the realm of the individual and "the private," "the secretive,"—is critical to religious expression. The fact that these cases involve the public (legal) scrutiny of a critically private religious realm makes them extremely fraught.

Central to the cases detailed above is the contemporary challenge of defining religion before various North American courts and determining which evidentiary rules should be brought to bear on those practices. They also attempt to make sense of the ways in which what counts as religion both shapes and is shaped by religious practice. In Santería, people do take on new birth dates, names, families, spiritual kin, and so forth and its publics are in plain sight but are made private by semiotic codification. Thus, its ontology is seen through the expansiveness of its self and community-making, which generates changes that are embodied, recognized by those who understand its semiotic meanings, experiential and foundational for making sense of how practitioners come to constitute themselves. These practices take shape not in "private" per se but through what James Scott (1990) referred to as "hidden transcripts." They highlight ways of understanding particular religious claims in a moment in which "religion" or "the religious" have been rendered recognizable within a history of Christianity. New discursive strategies of institutional organization render invisible traditions of practice in which self-professed membership is not a necessary component but reflects forms of community-making and membership. As mentioned earlier, in Obeah, as in Santería, practitioners are not required to ascend into a new institutional domain of practice in which one must break from the past and become a different form of person. The distinction between a private inner space of worship and a space of secular public life untouched by religious conviction is not relevant. The making of a church or a community is not the only way that members of various spiritual groups gain standing and are seen as appropriate practitioners. Rather, Obeah and Santería practices are operative through individual engagement with multiple worlds—spiritual, bodily, and so on—thus the invisibility of their practitioner's engagement with rituals are as important as their visibility with them. In that regard, mapping genealogies requires assumptions of historical legibility among practitioners whose ritual missions have always involved elusiveness and secrecy.

Yet, what we also see here is the manifestation of religion through its power to define itself as fundamentally private. The Christian impetus to privatize religion through frameworks that underwrite religion as a function of one's inner life (Butler et al. 2011, 71) requires that we rethink notions of the public outside of delimitations that frame it in relation to secular exteriorities and religion as private interiorities. These tensions between religious legibility, frameworks of visibility and manifestations of practice are at the center of the issues with which I close.

BEYOND GENEALOGIES OF RELIGION: REVERSE MISSIONS AND NEW CHRISTIAN PUBLICS

The third domain related to the manifestation of religion has involved contemporary challenges connected to the types of innovative practices that have emerged and transformed the public–private conceptualizations of religious life. Here I end with the claims of adherents to religious freedoms and their relevance in asylum cases throughout the U.S. and Canada. In these cases, the defendants use information about the very religious practices being reclaimed by others in the Americas as the basis for invoking evil, violence, and potential danger. A large number of these cases have involved Middle Eastern, African, and Asian immigrant defendants whose conviction for crimes in U.S. courts have led to deportation proceedings or whose asylum cases before Canadian courts address the dangers for the Applicant if he/she is sent back to their home country. One such case is that of *Ayodeji Odumosu v. Immigration and Naturalization Service. United States Court of Appeals for the Seventh Circuit. 11 May 1994*. Here, Mr. Odumosu's appeal for asylum was denied by the Board of Immigration Appeals and taken to the U.S. Court of Appeals.

Mr. Odumosu sought asylum as a refugee, defined by the INA § 101 (a) (42) (A) as a person who cannot return to his or her country "because of persecution or a well-founded fear of persecution on account of race, religion, nationality, membership in a particular social group, or political opinion." Mr. Odumosu claimed that he had been initiated into a traditional Yoruba cult group, the "Organization Ogbhoni," a "very secret powerful organization" of which his father was a member.[26] Odumosu testified that he feared persecution and probable death by cult members if he were to return to Nigeria, as he had been designated as his father's successor but refused to join the organization. He also stated that he feared persecution in Nigeria because he was a Christian. In denying the Appeal, the Court relied upon the State Department's advisory opinion that Odumosu "did not have a well-founded fear of persecution, as one-third of the Nigerian population was Christian and that, although religious differences may lead to 'inter-personal discrimination,' 'there is no government-inspired nor government-condoned persecution on religious grounds in Nigeria'" (R. 90).[24]

In the hundreds of cases that I reviewed and a number of them for which I served as an expert witness, the key issues raised in the overwhelming majority of these cases highlighted the challenges to the contemporary state in managing religious freedoms in relation to its discursive claims to pluralism and legal protectionism. In social theory, the 1990s move to constructivism (the study of the construction of social reality) and post-structuralism (the study of the concept of "self" as a singular and coherent entity, as a fictional construct with conflicting tensions and knowledge claims) has led to the move from a crisis in representation to a passionate need to marry real world challenges, transnational bodies, and traveling practices and products with articulations of those enactments as always constructed. The gap in the relationship between social theory and engaged practice has led to crises in North American courts. As a result, it has called on us to articulate social theories that reflect the complexities of practice and their uses. As we see by the asylum seeker case, notions of religion were claimed as rights and were petitioned to be protected. Yet even their concept of religion itself is also strategically deployed, struggled over, contested, and produced in particular regional zones and discarded in others.[27]

Given these competing challenges before the court—the interplay between different approaches and meanings of traditions and the cultural production of those practices—it is clear that contemporary religious claims are being reclaimed through new public articulations and are reshaping the meaning of religion itself. In a world of competing claims, especially when court decisions can lead to human danger and even death, we must develop theories of religion that can also have practical application and legibility. Indeed, the public articulations of religion are doing a different type of work. The asylum seeker's characterization of "African tradition," and of the peoples and cultures connected to particular African religious practices seen as "barbaric" and "backward," are made in relation to the importance of the Western courts to intercede in the name of human rights and individual freedoms. Such articulations of the heritage religions as "backward" highlight not only the way that African diasporic subjects and practices have been historically constructed but also the way that new publics are emerging and reconstituting those narratives rhetorically through the reformulation of themselves as "born-again," pious, "enlightened" rights-bearing citizens who are committed to reframing the way that enlightened Africans

should be seen. Through these discourses, invoked with conviction while also strategically, various claimants articulated their commitments to their religious conviction through the reclamation of Christianity through its professed emancipatory possibilities (Comaroff and Comaroff 1997, 1999, 2000, 2002, 2004a, b).

Let us take Adewole, a former refugee from Nigeria and one who saw himself as a reformed Christian. He described his practice as being open for everyone to see and distinguish his practice from Obeah by saying that "Obeah is not a religion. It is a medicinal approach that can involve bad intentions or good intentions." For Adewole, Obeah means "bad medicine." But through his own reformulation of Christianity and what he sees as enlightened traditional rituals he approaches his religious practices with "a free heart, a true soul and truthfulness." When I told him about the Robinson case and the various other impersonation cases, he indicated that "if there is a case involving evil and lies, then it either must come to light or it should be thrown out." He continued, "there are two basic people in the world—good and bad, or otherwise understood as those who 'know' and those who do not 'know.' Among those who do not know—we should leave them and let them be. Ours is not a religion of active conversion. They may eventually come into the light in this life…if not, it's not their destiny. For those who know, they are the ones who come to their destiny from the spirit world. Some of those people are 'Christians' and they come to us for things. Some are down and out and have nowhere else to turn. Ultimately, we change lives. But Obeah, I'm not sure that it has the ability to change lives for the positive. It's practice is from Ghana and it has had a history of bad doing—witchcraft—devil work… No Nigerians would be willing to support it. If it's a religion, it's not a good faith religion. It's secretive and harmful."

Here we see how some discourses about African diasporic religion in the public sphere travel with various Nigerian Christians involved in "reverse missions" (Olupona, 2007, Olupona 2014). It highlights how new narratives about appropriate forms of religiosity constitute different subjects whose lives are shaped by complex syncretic elements and judicial categories, but whose reformulation of Christianity has come into being through practices and values popular in the public sphere. These alternate readings of religion offer us opportunities to ponder the ways that religious knowledge produces new cultural products of its own not encompassed by straightforward genealogical accounts. What we see is that reverse missions and the public nature of Africanized Christianity provide ways to go beyond religious subjects as purely artifacts of the legal imagination. And while African Christian churches, like the Aladura Pentecostal churches[28] that worship throughout West Africa, Europe and the Americas, do not necessarily exhibit the types of behaviors characteristic of reverse missions, the negotiation of Esin Ibile (traditional Yoruba religion), especially by women, provides the epistemologically "Yoruba" aspects of the new practice. These postcolonial Nigerian conceptualizations of traditional practices can sometimes render traditional practices unintelligible. What we see is that "prayer," as a modality of cleansing and purification, provides the central way to deliver the practitioner from evil forces seen as rampant in "traditional spirituality" and daily life. Through prayer, practitioners engage in prophesy and call for divine intervention against evil spirits and, as such, engage in the further taxonomies that distinguish between particular practices as "good" and others as "dark," "demonic" and "evil." It is these contemporary revivalist Christian formations, such as Aladura and reformed Christianity that might be seen as extensions of earlier missionary excursions into Africa but if traced genealogically would render unintelligible the complexities of knowledge forms deemed "traditional."

Genealogical approaches to religion have provided the field with the armature to make sense of the relationship between social constructs and power. By mapping the coming into being of categories and concepts, such approaches render visible the formation of practices that are sometimes taken for granted. However, what we are seeing in the contemporary period is that the production of "religion" today is conjoined not only with genealogies of knowledge and power but also with the making of portable concepts that have the power to deny practices like Obeah, spirits, and witches their place in knowledge production processes. This is happening through the reformulation of new pious subjects worthy of "saving" and "redeeming" through asylum processes. What we see, therefore, is the emergence of particular legal practices rendered legible through the widespread rights language and new ways to manage and regulate the contours of religious freedom in the contemporary period. Yet, as artifacts of the scholarly imagination, practices such as Obeah and Santería produce linkages between religion, law, the state,

and ultimate expressions of practice, and represent distinctions and tensions between public and private worship.

Shifting the study of religion to its public manifestation involves the relationships between categories of knowledge, power, and subjectification as it relates to the making of these social categories. The exploration of my expert testimony through the reflections of my role in technocratic productivity and recognition that particular methods would render the object of inquiry unintelligible will hopefully move us closer to a theory of anthropological praxis that involves understanding the ways that these social categories operate and the way they circulate. It highlights how academics participate in relationships of knowledge and power through technocratic productivity and in doing so often foreclose various formations while opening others. The argument here is that the "religion people see" shapes what we understand as acceptable and believable. But how scholars study it and profess its realities is a problem of method that requires disclosure and reflexivity about what is at stake. If the experience of the spirit is ultimately unknowable by others, the challenge that emerges is concerned with larger questions about ontology and legibility. Using genealogies to track such formations allows us to articulate that which is visible, present and recognizable. Contested religious forms seen as "indigenous" are inseparable from the history of Christianity and colonization. Yet at times both adherents and technocrats have demonized them and rendered them outside of the sphere of *intelligibility* for the purposes of genealogical meaning-making.

The reality is that one cannot understand religions such as Santería and Obeah without the backdrop of Christianity and colonial violence. Despite this, one must also recognize how the very practices of making and regulating African diasporic practices through Judeo-Christian frameworks also led to the terms for the negation of African diasporic spiritual worlds. They operated through legality only in terms of the history of European modernity, its linearity, and its constructed truths and histories. Given this, how we understand the contemporary explosion of Western governance attempts to manage religious practices deemed deviant and *illegal* requires that we also rethink the role of a new twentieth century trend in the establishment of expert witnessing in religious and cultural cases. Yet this trend has its characteristic contours in reifying classical categories and analytics that will assist in rendering legible the subaltern practices under examination (Povinelli 2002).

In summary, the genealogical approach, while useful, has limits when dealing with the issues that arise with marginalized peoples and practices—such as Obeah and Santería—not readily intelligible to courts. Comparative approaches to the assemblages of fracture in African diasporic religions are critical for understanding the ways that the making of the West through transatlantic slavery has led to histories of rupture and consequent ontological inequalities. A re-conceptualization of both the genealogy of religious knowledge and the deployment of its expertise must not only involve the role of experts as knowledge producers for North American courts but must also acknowledge the importance of not simply dismissing the category of "religion" as a historical, analytically useful construct. It is crucial to recognize that colonial and Christianized histories of empire continue to render non-mainstream practices illegible, and that in doing so they render suspect, on an ongoing basis, the everyday lives and customs of those who claim those practices. The contemporary explosion of rights-based adjudicatory mechanisms is one prime example of anthropological knowledge moving beyond theoretical dispute to a position of genuine impact, a transformation that will continue to improve our understanding of the play of knowledge and power in relation to these histories of inequality. In the realm of legal expertise, a comparative approach to the study of religion allows for the visibility of marginalized beliefs and practices by granting them status, even if questioned, in their own right. This in turn dignifies the practitioners of historically marginalized belief domains and provides the possibility for a more equitable administration of law.

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NOTES

1. It is worth noting here that there are many moments in which rendering subjects visible and invisible happened over the course of history. This contemporary moment is instructive for thinking of the role of rights language in both invisibilizing and articulating religious categories in particular ways. Another moment in Santería cosmology was the scientific movement known as *Sprititualism* in which processes of modernization contributed to the rendering legible of various subjects. The abolitionist cause in the US during the 19th century also emerged as another moment of legibility and invisibility. These developments are key to understanding.

2. Also see Native American Indian Claims and anthropological expert testimony. See United States v. Diaz, 499 F. 2d 113—Court of Appeals, 9th Circuit 1974; United States v. Washington; Native American Church v. Navajo Tribal Council, 272 F. 2d 131, Court of Appeals, 10th Circuit 1959; United States v. State of Washington, 384 F. Supp. 312, District Court, WD Washington 1974; and Alto v. Jewell, Dist. Court, SD California 2015.

3. For example, for Yoruba returnees such as Samuel Johnson, as noted in *The History of the Yoruba* (1921) written in the 1890s by a Yoruba Anglican priest educated by the Christian Missionary Society (CMS), we see an interesting example of the role of nationalist movements in circumventing the relevance of genealogical approaches in constructing religious subjects vis-a-vis Christianity and African (inspired) religions. Yet, while Johnson played an important role in taxonomizing Yoruba religion, he did so within a modernist trajectory by which notions of nationalist tropes were part of the story of Yoruba origins.

4. In some Caribbean nations, Obeah refers to various African folk religions with admixtures; in other areas, Christians include elements of Obeah in their religion. In Jamaica, slaves of West Ashanti descent used the Ashanti term "Obi" or "Obeah" to describe the practices of slaves of Central African-descent. Thus, those who worked in a Congo form of folk religion were called "Obeah men," practitioners who used their religion to resist the power of those who had enslaved them. Obeah also came to refer to any physical object, such as a talisman or charm, used for evil magical purposes. However, despite its fearsome reputation, Obeah, like other forms of folk religion or folk magic, contains many traditions for healing, helping and bringing about luck in love and money. It contains various forms of religiosity, such as veneration of the ancestors, divination, spirit possession, animal sacrifice, and at various times the incorporation of religious texts such as the Bible and some of its related practices. It highlights liturgy, elaborate rituals, and forms of theology that attempt to explain the role of human beings in the world. These tenets that describe its religious texture are relevant to social science and anthropological understandings of Obeah as a religion. See also Handler and Bilby 2001; Pulis 2003; Udal 1915; and Williams 1932.

5. Clarke, M. Kamari. Expert Testimony before Canadian Provincial Court. April 20, 2007.

6. Among other groups, Yoruba natives were abducted from Yorubaland in West Africa and transported to the Caribbean countries of Cuba, Haiti and Brazil, Trinidad, Puerto Rico and the Dominican Republic, among other Caribbean islands. Ritual animal sacrifice is a principal form of devotion to an Orisa, or spiritual being or presence that is a manifestation of God (Olofi), and has been practiced as part of the Santería religion for over a millennium.

7. For more on how legal determinations create conditions for how practitioners organize religiosity in different ways, also consider institutions such as pharmacology and medicine and their role in helping to produce legible subjects. See also Paul and Beatriz Preciado's discussion of Foucault in *Testo Junkie* or Sean Brotherton's work in *Revolutionary Medicine: Health and the Body in Post-Soviet Cuba* (2012).

8. R. v. Rowe [in the Supreme Court of Canada, Applicant's Memorandum of Argument" at Paragraph A.1.]

9. *Rothman v. The Queen* referred to in *R. v. Rowe*, paragraphs 49 and 50.

10. Section IV of Chapter One, "Definition of Religious Phenomena and of Religion."

11. This finding has many precedents. For example, the Five-Percent Nation believes that only ten percent of the world's population understands the truth of existence. These elites control the remaining 85 percent by keeping them ignorant of this truth. The remaining are the Five-Percent Nation whose role is to enlighten the rest of the population. The Five Percenters provide a challenge for the courts in that they have been

recognized as a religion in New York (see Patrick v. Le Fevre, 745 F. 2d 153, Court of Appeals, 2nd Circuit, 1984) and as a "security threat group" in New Jersey (see *Fraise v. Terhune, 283 F.3d 506* [*3d Cir. 2002*]).

12. Factum for Her Majesty the Queen vs. Evol Robinson and Ruben Pinnock, "Obeah Motion," 38.

13. For historical cases involving the arrests of those practicing zombification and other Vodou practices in Haiti see Spencer St. John (1884). *Hayti or the Black Republic*. London: Smith, Elder and Company; Anon (1864) "Horrible superstition of the Vandoux heretics"; and Kate Ramsey (2011). *The Spirits and the Law: Vodou and Power in Haiti*. Chicago: University of Chicago Press.

14. Historical cases from Jamaica include: The "Woman of the Popo Country," Jamaica 1770s. Copies of certain of the evidence submitted to the committee of Council of Trade and Plantations in the course of their enquiry into the state of the African slave trade, 1788, BT 6/10, folios 182–190; Polydore, Jamaica 1831 Proceedings of trials of T House, Polydore, and Industry convicted for Obeah. Howe Peter Browne, Marquess of Sligo, Governor of Jamaica, Jamaica No. 315, folios 355–375, The National Archives, UK, CO 137/209; Rose Ann (Mammy) Forbes and George Forbes, Jamaica, see "Charge of Practicing Medicine against a Woman." *Gleaner,* August 5, 1910 and "Cases in the Mandeville Court" *Gleaner* 7 April 1916; Cindy Brooks, Jamaica 1964, see "Woman fined 25 for practising Obeah," *Daily Gleaner*, 26 March 1964. Also see the Obeah Histories: Researching Prosecution for Religious Practice in the Caribbean website. Accessed on January 15, 2014—https://obeahhistories.org/

15. On October 4, 2014, Abeomi Jeremiah, a nine-year-old boy in Longdenville, Chaguanas, Trinidad, was found in his bed motionless with candle wax on his ears, eyes, and face. The police arrested the boy's twelve-year-old sister, who they suspected performed necromancy, an Obeah ritual used to communicate with the dead. Police reports indicated that Jeremiah's mother, Ingrid Francis, smelt smoke coming from the room around 11:30 p.m. When she entered the room, she found Jeremiah's sister with her hair on fire along with a wardrobe that was also burning. The girl was released two days later due to a lack of evidence. The girl was not brought to trial (Sookraj 2014). In another recent case, Sandeep Gangadharaiah, Krishna Chennai Madras and Manjunath Govindappa were arrested and charged for practicing Obeah in St. John's. The police entered the men's property with Search Warrants and confiscated several objects alleged to be used in Obeah ritual practices, which are crimes under the Obeah Act, Cap 298 of the Laws of Antigua and Barbuda (Antiguan Police Arrest Three for Practicing Obeah, *Times Caribbean,* November 11, 2015). In 1931, Daniel Young was convicted in Trinidad for "obtaining money by the assumption of supernatural powers." Young's case is significant because it shows that people who were prosecuted for Obeah during this period were using magic and healing rituals from a variety of sources, not only from Africa but also mixed with European mystical practices (https://obeahhistories.org/daniel-young-trinidad-1931/) Accessed January 15, 2014. For additional historical cases, see the following headlines in the *Gleaner*: "Arrests Made," March 10, 1916; "Fined £20 on Obeah Charge at Montego Bay," September 8, 1927; "Arrested on Obeah Charge at Alley," September 26, 1930; "Here and There in the News," April 30, 1934. Also see several press cuttings from unnamed newspapers located in a scrapbook kept by Deputy Inspector General of Police, JA, John Henry McCrae, Jamaica Archives, Spanish Town 7/97/3, ff. 63, 65, and 133: "Arrests for Obeah in Clarendon," "A Baker's Dozen and a Word of Praise for the Clarendon Police," July 28, 1899; "Crime in Clarendon"; and "Obeahism Extraordinary." For more detail and discussion of these cases, see Paton and Forde 2012. The number of cases in Jamaica and Trinidad fluctuated depending on several factors including political agitation and pressure from the press as a result of campaigns directed against Obeah. Policy decisions among high ranking police officers also affected the rate of arrests and prosecutions of Obeah practitioners. In 1898 the Obeah Act was passed in Jamaica, which resulted in a sharp increase in arrests during the following year. For example, in Clarendon, aggressive crusades resulted in thirteen convictions in the parish that year (Paton 2015). See also Bell (1893) for more historical background on Obeah in the West Indies.

16. The word, "occult" exemplifies the production of a negative meaning mapped onto a term in order to describe a religious group(ing). It's Latin root "occultus," as the Oxford English Dictionary explains, means "secret, hidden from understanding, hidden." In itself, the term does not denote evil or witchcraft; however, these modern associations reflect the West's stipulation that public practice defines religion. Dichotomies such

as public/private and positive/negative, wherein public is to positive as private is to negative, stand at odds with indigenous African and Afro-diasporic religions. The latter belief systems claim specialized knowledge is *hidden from understanding*; one must *earn it*. Thus "secret" groups with "hidden" initiations, apprenticeships, and rituals remain central to African and Black Atlantic religious practices.

17. Yet, despite these various shifts in the manifestation of various African religious practices, there remained what some scholars refer to as cultural retentions (Barrett 1974; Beliso-De Jesús 2015; Buisseret 2000; Capone 2010; Farris-Thompson 1984; Herskovits 1941) but what in a more refined sense represents particular traces of older forms of practices. It is these older forms that are today present and operative in Santería, Voodoo, and Obeah contemporary practices. This ranges from the adorning/covering of the head during ritual contexts, to the utterance of chants, the beckoning of the ancestors or eradication of spirits with banging or hitting prior to particular ritual encounters.

18. Social distinctions became racial distinctions produced through a scientific lens. The polygenist versus monogenist debate waged during the late eighteenth century in the United States featured scientists, anthropologists, and political leaders who attempted to crystallize race as a science by measuring human skulls from different geographical groups. Such studies produced three categories: Caucasoid, Mongoloid, and Negroid. Over time other distinctions emerged. Indeed American anthropology played a key role in this as early physical anthropology consumed itself with distinguishing human differences. Also see scholarship on anthropology and the crystallization of race into three distinct types: Caucasoid, Mongoloid, Negroid (see Boas 1916; Frazier 1939; Gould 1981; Curran 2011; Jackson and Weidman 2004).

19. *Folkes v. Chadd, 3 Doug. 157-1782*

20. See *Smethurst v. Mitchell*, 1 E. & E. 622, 1 El. & El. 622 (1859) and Knott (1923) for the Trial of William Palmer. See also Stephen 1883.

21. *Sherbert v. Verner*, 374 U.S. at 398; accord *Hobble v. Unemployment Appeals Commission of Florida*, 480 U.S. 136 (1987) at 141; *Wisconsin v. Yoder*, 406 U.S. 205 (1972).

22. *Employment Divisions, Department of Human Resources of Oregon v. Smith (No. 88-1213)*.

23. H.R. 1308 (103rd): Religious Freedom Restoration Act of 1993.

24. Ibid.

25. Appellees' Brief. *Jose Merced v. Kurt Kasson; Mike Collins; Bob Freeman; City of Euless*.

26. *Ayodeji Odumosu v. Immigration and Naturalization Service*, United States Court of Appeals for the Seventh Circuit, 11 May 1994. Accessed on January 15, 2014. http://www.unhcr.org/refworld/docid/3ae6b6cb18.html.

27. See Anthony Good (2004a,b, 2007, 2010a, b,c) for more on expert evidence in asylum and human rights claims.

28. The word "Aladura," prayer people, refers to the formation of various West African independent churches whose identity is shaped by their belief in divine healing, Holy Spirit baptism as well as prayer. Central to this faith is the belief that through prayer one can be saved from evil.

REFERENCES

Anders, Gerhard. 2014. "Contesting Expertise: Anthropologists at the Special Court for Sierra Leone." *The Journal of the Royal Anthropological Institute* 20(3): 426–44.

Anon. 1864. Horrible Superstition of the Vandoux Heretics. *Otago Witness*, October 29.

Antiguan Police Arrest Three for Practicing Obeah. 2015. *Times Caribbean*. November 11. Accessed July 7, 2016. http://timescaribbeanonline.com/antiguan-police-arrest-three-for-practicing-obea

Asad, Talal. 1993. *Genealogies of Religion. Discipline and Reasons of Power in Christianity and Islam*. Baltimore, MD: Johns Hopkins University Press.

Backer, Larry Cata. 2008. From Cuba to the United States: Santería and the Construction of Religious Liberty in the United States, the Untold Story. September 16. Accessed January 25, 2009. http://lcbackerblog.blogspot.com/2008/09/from-cuba-to-united-states-santera-and.html

Barreto, Jose-Manuel. 2010. *The Turn to Emotions: Law, Geopolitics, Aesthetics. Critical Legal Conference Utrecht, "Great Expectations" Multiple Modernities of Law*. Utrecht: Utrech University. 10 September.

Barrett, Leonard E. 1974. *Soul-Force: African Heritage in Afro-American Religion*. Garden City: Doubleday.

Bastide, Roger. 1972. *African Civilizations in the New World*. Translated by Peter Green. New York: Harper and Row.

Bayliss, David G. 2007. Memorandum Re: R. V. Robinson, Welsh and Pinnock. February 21.

Beliso-De Jesús, Aisha. 2015. *Electric Santería: Racial and Sexual Assemblages of Transnational Religion*. New York: Columbia University Press.

Bell, Hesketh Sir. 1893. *Obeah; Witchcraft in the West Indies*, 2nd edn. London: Sampson Low, Marston & Company.

Bertolino, Elisabetta. 2010. *Body, Emotions, and Human Rights Justice Critical Legal Conference Utrecht, "Great Expectations" Multiple Modernities of Law*. Utrecht: Utrecht University. 10 September.

Boas, Franz. 1916. "New Evidence in Regard to the Instability of Human Types." *Proceedings of the National Academy of Sciences* 2(12): 713–18.

Boyer, Dominic. 2008. "Thinking Through the Anthropology of Experts." *Anthropology in Action* 15(2): 38–46.

Boyer, Dominic. 2013. *The Life Informatic. Newsmaking in the Digital Era*. Ithaca, NY: Cornell University Press.

Buisseret, David. 2000. "Introduction." In *Creolization in the Americas*, edited by David Buisseret, and Steven G Reinhardt, 3–17. College Station: Texas A & M Press.

Butler, Judith. 1993. *Bodies That Matter: On the Discursive Limits of Sex*. New York: Routledge Press.
Butler, Judith. 2011. "Is Judaism Zionism?" In *The Power of Religion in the Public Sphere*, edited by Judith Butler, Jürgen Habermas, Charles Taylor, and Cornel West, 14–34. New York: Columbia University Press.
Butler, Judith, Jürgen Habermas, Charles Taylor, and Cornel West. 2011. *The Power of Religion in the Public Sphere*. New York: Columbia University Press.
Capone, Stefania. 2010. *Searching for Africa in Brazil: Power and Tradition in Candomble*. Durham: Duke University Press.
Carr, E Summerson. 2010. "Enactments of Expertise." *Annual Review of Anthropology* 39(October): 17–32.
Clarke, Kamari Maxine. 2004. *Mapping Yorùbá Networks: Power and Agency in the Making of Transnational Communities*. Durham: Duke University Press.
Clifford, James. 1988. *The Predicament of Culture: Twentieth-Century Ethnography and Art*. Cambridge: Harvard University Press.
Comaroff, Jean, and John Comaroff. 1997. "Postcolonial Politics and Discourses of Democracy in Southern Africa: An Anthropological Reflection on African Political Modernities." *Journal of Anthropological Research* 53(2): 123–46.
Comaroff, Jean, and John Comaroff. 1999. "Occult Economies and the Violence of Abstraction: Notes From the South African Postcolony." *American Ethnologist* 26(2): 279–303.
Comaroff, Jean, and John Comaroff. 2000. "Privatizing the Millennium New Protestant Ethics and the Spirits of Capitalism in Africa, and Elsewhere." *Africa Spectrum* 35(2): 293–312.
Comaroff, Jean, and John Comaroff. 2002. "Alien-Nation: Zombies, Immigrants, and Millenial Capitalism." *South Atlantic Quarterly* 101(4): 779–805.
Comaroff, Jean, and John Comaroff. 2004a. "Policing Culture, Cultural Policing: Law and Social Order in Postcolonial Africa." *Law & Social Inquiry* 29(3): 513–45.
Comaroff, Jean, and John Comaroff. 2004b. "Criminal Justice, Cultural Justice: The Limits of Liberalism and the Pragmatics of Difference in the New South Africa." *American Ethnologist* 31 (2): 188–204.
Crane, Johanna Tayloe. 2014. *Scrambling for Africa: AIDS, Expertise and the Rise of American Global Health Science*. Ithaca: Cornell University Press.
Curran, Andrew S. 2011. *Anatomy of Blackness: Science and Slavery in an Age of Enlightenment*. Baltimore: Johns Hopkins Press.
Deleon, Jessica. 2007. Santeria Priest Rejects Texas City's Deal in Clash Over Animal Sacrifices. Fort Worth Star-Telegram, March 22. Accessed February 8, 2009. http://www.constitutioncenter.org
DiNovelli-Lang, Danielle. 2010. *Nature, Value and Territory in Alaskan Subsistence Politics: The View From Brown Bear Bay*. Dissertation. New York: Columbia University Press, Proquest Publishing. EMI 3447841.
Drinan, Robert F, and Jennifer Huffman. 1993. "Religious Freedom and the Oregon v. Smith and Hialeah Cases." *Journal of Church & State* 35(1): 19–26.
Durkheim, Émile. 1915. *The Elementary Forms of Religious Life*. London: Hollen Street Press Ltd.
Durkheim, Émile. 2001 [1912]. *The Elementary Forms of Religious Life*. London: Oxford University Press.
Engelke, Matthew, ed. 2008. "Special Issue: The Objects of Evidence: Anthropological Approaches to the Production of Knowledge." *Journal of the Royal Anthropological Institute* 14 (S1): ii–iii, S1-S158.
Erskine, Noel Leo. 1981. *Decolonizing Theology: A Caribbean Perspective*. Marynoll, NY: Orbis Books.
Erskine, Noel Leo. 2005. *From Garvey to Marley: Rastafari Theology*. Gainesville: University of Florida.
Erskine, Noel Leo. 2014. *Plantation Church. How African American Religion Was Born in Caribbean Slavery*. New York: Oxford University Press.
Feldman, Noah. 2005. *Divided by God: America's Church-State Problem—And What We Should Do About It*. New York: Farrar, Straus and Giroux.
Ford, William K. 2016. "Introduction: Translating Law and Social Science." In *Translating the Social World for Law: Linguistic Tools for a New Realism*, edited by Elizabeth Mertz, William K Ford, and Gregory Matoesian, 1–28. New York: Oxford University Press.
Fortman, Bas de Gaay. 2012. *Political Economy of Human Rights: Rights, Realities and Realization*. New York: Routledge.
Frazier, E Franklin. 1939. *The Negro Family in the United States*. Chicago: University of Chicago Press.
Geertz, Clifford. 1966. "Religion as a Cultural System." In *Anthropological Approaches to the Study of Religion*, edited by Michael Banton, 1–46. London: Tavistock.
Geertz, Clifford. 1973. "Religion as a Cultural System." In *The Interpretation of Cultures: Selected Essays*, edited by Clifford Geertz, 87–125. New York: Basic Books.
Gershon, Ilana. 2012. *No Family Is an Island. Cultural Expertise Among Samoans in Diaspora*. Ithaca: Cornell University Press.
Gibb, Robert. 2008. *Problems of Cultural Translation in the Preparation and Adjudication of Asylum Claims in France*. Seminar Paper. Leiden: Department of Anthropology, Leiden University, 31 March.
Gilroy, Paul. 1993. *The Black Atlantic: Modernity and Double Consciousness*. London: Verso.
Glissant, Edouard. 1995. "Creolization in the Making of the Americas." In *Race, Discourse, and the Origins of the Americas*, edited by Vera Lawrence Hyatt, and Rex Nettleford, 268–75. Washington: Smithsonian Institution Press.
Golan, Tal. 1997. *Scientific Expert Testimony in Anglo-American Courts, 1782–1923*. Dissertation. Berkeley: Department of History, University of California-Berkeley.
Golan, Tal. 1999. "The History of Scientific Expert Testimony in the English Courtroom." *Science in Context* 12(1): 7–32.
Good, Anthony. 2004a. "'Undoubtedly an Expert'? Anthropologists in British Asylum Courts." *Journal of the Royal Anthropological Institute* 19(1): 113–33.
Good, Anthony. 2004b. "Expert Evidence in Asylum and Human Rights Appeals: An Expert's View." *International Journal of Refugee Law* 16(3): 358–80.
Good, Anthony. 2007. *Anthropology and Expertise in the Asylum Courts*. Abingdon; New York: Routledge-Cavendish.
Good, Anthony. 2009a. "Asylum Claims and the Politics of Truth: Witness Statements and Credibility Assessments in the British Asylum Courts." Keynote Lecture. Managing Migration Conference, National University of Ireland, Maynooth, 6 May.
Good, Anthony. 2009b. "Witness Statements and Credibility Assessments in the British Asylum Courts." Invited Paper. Workshop on South Asian Culture à la barre, École des hautes Études en sciences sociales, Paris, 20 November.
Good, Anthony. 2009c. "The Taking and Making of Asylum Claims: Credibility Assessments in the British Asylum Courts." Keynote Lecture. Seeking Refuge: Caught Between Bureaucracy, Lawyers, and Public Indifference. ESRC-Funded Conference, School of Oriental & African Studies, 17 April.
Good, Anthony. 2010a. "Anthropology and Expertise in the Asylum Courts." *Journal of Refugee Studies* 23(1): 109–10.
Good, Anthony. 2010b. "Anthropology and Expertise in the Asylum Courts." Seminar. Department of Social Anthropology, University of Cambridge, UK, 19 February.
Good, Anthony. 2010c. "Anthropology and Expertise in the Asylum Courts." Seminar. Department of Sociology, Anthropology & Applied Social Science, University of Glasgow, Glasgow, Scotland, UK, 20 January.
Gould, Stephen Jay. 1981. *The Mismeasure of Man*. New York: W.W. Norton & Company.
Gruzinski, Serge. 1993. *The Conquest of Mexico*. London: Polity Press.

Hale, M Jr. 1980. *Human Science and Social Order: Hugo Münsterberg and the Origins of Applied Psychology*. Philadelphia: Temple University Press.
Hamilton, AM, and L Godkin. 1894. *A System of Legal Medicine, Volumes I-II*. New York: Treat.
Handler, Jerome, and Kenneth M Bilby. 2001. "On the Early Use and Origin of the Term 'Obeah' in Barbados and the Anglophone Caribbean." *Slavery and Abolition* 22(2): 87–100.
Haraway, Donna. 2015. "Anthropocene, Capitalocene, Plantationocene, Chthulucene: Making Kin." *Environmental Humanities* 6(2015): 159–65.
Henry, Frances. 1983. "Religion and Ideology in Trinidad: The Resurgence of the Shango Religion." *Caribbean Quarterly* 29 (3/4): 63–9.
Henry, Frances. 2003. *Reclaiming African Religions in Trinidad: The Socio-Political Legitimation of the Orisha and Spiritual Baptist Faith*. Kingston: University of West Indies Press.
Herbart, J.F. 1891 [1824]. *A Textbook in Psychology*. Translated by M.K. Smith. New York: Appleton.
Herskovits, Melville. 1941. *The Myth of the Negro Past*. Boston: Beacon Press.
Ingold, Tim. 1996. "Anthropology is a Generalizing Science Or It Is Nothing." In *Key Debates in Anthropology*, edited by Tim Ingold, 30–6. London: Routledge.
Ingulli, Elaine D. 1985–1986. "Trial by Jury: Reflections on Witness Credibility, Expert, Testimony, and Recantation." *Valparaiso University Law Review* 20(2): 145–85.
Jackson, John L. 2013. *Thin Description: Ethnography and the African Hebrew Israelites of Jerusalem*. Cambridge: Harvard University Press.
Jackson, John P, and Nadine M Weidman, eds. 2004. *Race, Racism, and Science: Social Impact and Interaction*. Santa Barbara: ABC-CLIO Inc..
Johnson, David, and Jeff VanVonderen. 1991. *The Subtle Power of Spiritual Abuse*. Minneapolis: Bethany House Publishers.
Jones, Carol. 1994. *Expert Witnesses: Science, Medicine and the Practice of Law*. Oxford: Oxford University Press.
Khan, Aisha. 2003. "Isms and Schisms: Interpreting Religion in the Americas." *Anthropological Quarterly* 76(4): 761–74.
Khan, Aisha. 2004. *Callaloo Nation: Metaphors of Race and Religious Identity Among South Asians in Trinidad*. Durham: Duke University Press.
Khan, Aisha. 2008. "Dark Arts and Diaspora." *Diaspora: A Journal of Transnational Studies* 17(1): 40–63.
Knott, GH. 1923. *Trial of William Palmer*, 2nd edn. Toronto: Canada Law Book Co..
Ladd, George Trumbell. 1894. *Psychology: Descriptive and Explanatory. A Treatise of the Phenomena, Laws, and Development of Human Mental Life*. New York: Charles Scribner's Sons.
Landsman, Stephan. 1995. "Of Witches, Madmen, and Products Liability: An Historical Survey of the Use of Expert Testimony." *Behavioral Sciences and the Law* 13(2): 131–57.
Latour, Bruno. 2009. *The Making of Law: An Ethnography of the Conseil D'Etat*. Cambridge: Polity Press.
Latour, Bruno. 2010. *On the Modern Cult of the Factish Gods*. Durham: Duke University Press.
Latour, Bruno, and Steve Woolgar. 1979. *Laboratory Life: The Social Construction of Scientific Facts*, 2nd ed. Princeton: Princeton University Press.
Levidow, Los, and Susan Carr. 2007. "Europeanising Advisory Expertise: The Role of Independent Object and Transparent Scientific Advice in Agri-Biotech Regulation." *Environmental and Planning C: Government and Policy* 26(6): 880–95.
Luckhurst, Roger. 2006. "Bruno Latour's Scientifiction: Networks, Assemblages, and Tangled Objects." *Science Fiction Studies* 33 (1): 4–17.
Mahmood, Saba. 2015. *Religious Difference in a Secular Age: A Minority Report*. Princeton: Princeton University Press.
Matory, Lorand. 2009. *Black Atlantic Religion: Tradition, Transnationalism, and Matriarchy in the Afro-Brazilian Candomble*. Princeton, NJ: Princeton University Press.
Mertz, Elizabeth, William K Ford, and Gregory Matoesian (eds.). 2016. *Translating the Social World for Law. Linguistic Tools for a New Legal Realism*. New York and London: Oxford University Press.
Mintz, Sidney, and Richard Price. 1976. *An Anthropological Approach to the Afro-American Past: A Caribbean Perspective*. Philadelphia: Institute for the Study of Human Issues.
Mosse, David. 2011. *Adventures in Aidland: The Anthropology of Professionals in International Development*. Oxford/New York: Berghan Books.
Ochoa, Todd. 2010. *Society of the Dead: Quita Manaquita and Palo Praise in Cuba*. Berkeley and Los Angeles: University of California Press.
Olupona, Jacob. 2007. "Communities of Believers: Exploring African Immigrant Religion in the United States." In *African Immigrant Religions in America*, edited by Jacob Olupona, and Regina Gemignani, 27–46. New York and London: New York University Press.
Olupona, Jacob K. 2014. *African Religions: A Very Short Introduction*. New York: Oxford University Press.
Olupona, Jacob K, and Regina Gemignani, eds. 2007. *African Immigrant Religions in America*. New York: New York University Press.
Ortiz, Fernando. 1995 [1947]. *Cuban Counterpoint*. Durham: Duke University Press.
Paton, Diana. 2009. "Obeah Acts: Producing and Policing the Boundaries of Religion in the Caribbean." *Small Axe* 13(1): 1–18.
Paton, Diana. 2015. *The Cultural Politics of Obeah. Religion, Colonialism and Modernity in the Caribbean World*. Cambridge: Cambridge University Press.
Paton, Diana, and Maarit Forde, eds. 2012. *Obeah and Other Powers. The Politics of Caribbean Religion and Healing*. Durham: Duke University Press.
Peak, Thomas. 1801. *Compendium of Law on Evidence*. London: Brook and Rider.
Povinelli, Elizabeth. 2002. *The Cunning of Recognition: Indigenous Alterities and the Making of Australian Multiculturalism*. Durham: Duke University Press.
Price, Richard. 2001. "The Miracle of Creolization: A Retrospective." *New West Indian Guide* 75(1 & 2): 35–64.
Pulis, John W. 2003. "'Word-Sound-Power': Language, Social Identity, and the Worldview of Rastafari." In *Language and Social Identity*, edited by Richard K. Blot, 243–60. Westport: Bergin & Garvey.
Ramsey, Kate. 2011. *The Spirits and the Law: Vodou and Power in Haiti*. Chicago: University of Chicago Press.
Richardson, Don. 1981. *Eternity in Their Hearts. Startling Evidence of Belief in One True God in Hundreds of Cultures Throughout the World*. Bloomington: Bethany House Publishers.
Richardson, James T. 2015. "Managing Religion and the Judicialization of Religious Freedom." *Journal for the Scientific Study of Religion* 54(1): 1–19.
Ridler, Victoria. 2010. *Justice as Sentiment and the Argument for an Asymmetric Legality. Critical Legal Conference Utrecht, "Great Expectations" Multiple Modernities of Law*. Utrecht: Utrech University. 11 September.
Robinson, B.A. 2009. Santeria, a syncretistic Caribbean religion: Conflicts concerning Santeria Sacrifices. ReligiousTolerance.org. Retrieved August 15, 2017 from http://www.religioustolerance.org/santeril.htm
Santo, Diana Espirito. 2015. *Developing the Dead: Mediumship and Selfhood in Cuban Espiritismo*. Gainesville, FL: University Press of Florida.
Scott, James. 1990. *Domination and the Arts of Resistance: Hidden Transcripts*. New Haven: Yale University Press.
Smart, Peter. 2012. Police Officer Breached Religious Rights by Posing as Obeah Man, Court Hears. *The Toronto Star*. December 17. Accessed July 6, 2016. https://www.thestar.com/news/crime/2012/12/17/police_officer_breached_religious_rights_by_posing_as_obeah_man_court_hears.html

Smedley, Audrey. 2007. *Race in North America: Origin and Evolution of a Worldview*, 3rd ed. Boulder: Westview Press.
Sookraj, Radhica. 2014. Suspects in Obeah Killing Freed By Cops. *Trinidad and Tobago Guardian*. October 6. Accessed July 7, 2016. http://www.guardian.co.tt/crime-and-court/2014-10-06/suspects-obeah-killing-freed-cops
St. John, Spencer. 1884. *Hayti or the Black Republic*. London: Smith, Elder and Company.
Stephen, James Fitzjames. 1883. *A History of Criminal Law of England*. Cambridge: Cambridge University Press.
Stewart, Charles, and Rosalind Shaw. 1994. "Introduction." In *Syncretism/Anti-Syncretism: The Politics of Religious Synthesis*, edited by Charles Stewart, and Rosalind Shaw, 1–26. London: Routledge.
Sullivan, Winnifred Fallers. 2005. *The Impossibility of Religious Freedom*. Princeton: Princeton University Press.
Sullivan, Winnifred Fallers. 2016. "Being Human: Negotiating Religion, Law and Science in the Classroom and the Courtroom." In *Translating the Social World for Law: Linguistic Tools for a New Realism*, edited by Elizabeth Mertz, William K. Ford, and Gregory Matoesian, 169–96. New York: Oxford University Press.
Taylor, Charles. 2007. *A Secular Age*. Cambridge, MA: Harvard University Press.
Thompson, Robert Farris. 1984. *Flash of the Spirit. African & Afro-American Art & Philosophy*. New York: Random House Inc.
Trouillot, Michel-Rolph. 1998. "Culture on the Edges: Creolization in the Plantation Context." *Plantation Society in the Americas* 5(1): 8–28.
Udal, JS. 1915. "Obeah in the West Indies." *Folklore* 26(3): 255–95.
Weber, Max. 1992 [1930]. *The Protestant Ethic and the Spirit of Capitalism*. New York: Routledge Classics.
Whitten, Norman E, and John F Szwed. 1970. "Introduction." In *Afro-American Anthropology: Contemporary Perspectives*, edited by Norman E Whitten, and John F Szwed, 23–60. New York: Free Press.
Williams, Joseph. 1932. *Voodoos and Obeahs: Phases of West India Witchcraft*. New York: Vail-Ballou Press Inc.
Wilson, Richard. 2016. "Expert Evidence on Trial: Social Researchers in the International Criminal Courtroom." *American Ethnologist* 43(4): 1–15, ISSN 0094-0496, online ISSN 1548-1425.
Wynter, Sylvia. 2003. "Unsettling the Coloniality of Being/Power/Truth/Freedom: Towards the Human, After Man, Its Overrepresentation—An Argument." *The New Centennial Review* 3 (3): 257–337.
Zenker, Olaf. 2016. "Anthropology on Trial: Exploring the Laws of Anthropological Expertise." *International Journal of Law in Context* 12: 293–311. https://doi.org/10.1017/S174455231600015X.