

BEYOND THE ATLANTIC GAZE, OR, A MEXICAN VIEW ON ART, DEATH, TIME AND LAW

LUIS GÓMEZ ROMERO

School of Law
University of Wollongong
lgromero@uow.edu.au

ABSTRACT

This article builds on Desmond Manderson's visual jurisprudence to develop a Levinasian encounter with Rafael Cauduro's *7 Crímenes*, a series of murals in the building of the Supreme Court in Mexico City. The article seeks to impulse Manderson's methodology further into the horizons of empathy and intersubjectivity through a phenomenological approach to Mexico's colonial past and present across images, death, time and law.

KEYWORDS

Visual Jurisprudence; Manderson; Cauduro; Lévinas; Atlantic Gaze; Mexican Drug War.

[...] mon frère
que cherches-tu
à travers ces forêts
de cornes de sabots d'ailes de chevaux

toutes choses aiguës
toutes choses bisaiguës

mais avatars d'un dieu animé au saccage
envol de monstres
j'ai reconnu aux combats de justice
le rare rire de tes armes enchantées
le vertige de ton sang
et la loi de ton nom¹

Aimé Césaire (1983)

¹ “[...] my brother / what are you looking for / through these forests / of hoofs of horns of horses’ wings // all piercing things / all doublepiercing things // avatars nonetheless of a god enlivened in rampage / flight of monsters / I recognized in the battles of justice / the rare laughter of your enchanted weapons / the vertigo of your blood / and the law of your name” (All unattributed translations are mine).

INTRODUCTION: ON IMAGES, DEATH, TIME, LAW AND THE (AWKWARD) CANDOR OF ACADEMIC CORRESPONDENCE

Desmond Manderson's *Danse Macabre: Temporalities of Law in the Visual Arts* (2019) embodies a rare and unique academic feat. It is a scholarly *tour de force* on jurisprudence, political philosophy, cultural critique and the history of visual arts – yet its major virtues reside, beyond the mesmerizing erudition displayed across its pages, in how it reaches into our most intimate and transcendental human experiences. Manderson demands his readers to consider seriously the consequences of placing ourselves before time (5-15), before the image (10-19), and before the law (5-10 and 16-19) in an interdisciplinary *danse macabre* performed under the “shadow of death” (2-4). I could only oblige. As a member of the human species, I have few certainties in life. Death, time and law are three of them.

A famous brocard – inspired in Aristotle (1934, 1160a) – articulates a millennial platitude that, in terms of the managerial jargon that is so dear to neoliberal universities nowadays (Ordine 2013, 109 ff), has maintained law as a career with *high rates of employability* across centuries: *ubi societas, ibi jus*. Wherever there is society, there is law.² Law partakes equally in the magnificent ingenuity and the fragile integrity of the human beings who produce, interpret and conduct its paths. In this sense, Lon L. Fuller defines law as an “enterprise of subjecting human conduct to the governance of law” (1969, 106) whose purpose is to achieve “the fullest realization of human powers” (5 ff). H. L. A. Hart is not so optimistic: he warns lawmakers to always consider in their craft the frightful human traits of “limited altruism” and inadequate “understanding and strength of will” (2012, 196-197), in order to secure “the modest aim of survival” (191).

As the parabolic blind men who vainly attempted to conceptualize an elephant by touching a single part of its body, both Fuller and Hart provide partial accounts of law that neglect an essential element in the fabric of legal discourses. The *experience of time* shapes law's potentiality for excellence and failure alike. Jacques Derrida observes that time renders law simultaneously “violent and nonviolent, because it depends only on who is before it – and so prior to it –, on who produces it, founds it, authorizes it in an absolute performative whose presence always escapes him” (2002, 270). Derrida argues that all law must have a foundation “suspended in the void or over the abyss” of purely performative illegality or violence (270).³

² Among the classic formulations of this legal trope see, for example, Hugo Grotius (1913, Prolegomena VIII).

³ Hans Kelsen's *Grundnorm* – a presupposed norm that provides foundation to every law in a legal system, but is itself not referable to a prior law – is an attempt at overcoming this aporia (see 1992, 196 ff). Nonetheless, as Manderson points out (2003, 89), Kelsen believes the system basically self-functions once it is underway. The *Grundnorm* therefore does not solve the aporia raised by Derrida, who regards every act of legal interpretation as an occasion to decide if prior general norms are applicable to the unique circumstances and persons before the legal decision maker.

Every legal judgment or act of interpretation, in as much as it is not conclusively referable to some previous legal text – statute or case – is “an instance of non-law” whose legality can only be determined by its confirmation after the fact (269). The meaning of law is therefore always just beyond the grasp of the interpreter – just a second ahead, too far though for us to catch up with it.

Law relies on texts whose authority and authenticity are “already past”, yet “always to come, always promised” (270). Derrida maintains that the passage of time inevitably opens “an interminable *différance*” between the enunciation of a norm and its application (1992, 204)⁴. The “discourse of law”, caught in the abyss between then and now, is indefinitely “delayed, adjourned, deferred” (1992, 202). Legal interpretation is thus the realm of choice of the interpreter, who wanders across an unpredictable openness both inherent to law and essential to justice. In Derrida’s view, the intrinsic incalculability of legal discourses “is not bad news”, but actually “the political chance of all historical progress” (2002, 242). Justice is possible *precisely* because every legal judgement institutes and validates law anew.

Manderson similarly affirms that “[t]o be before the law is *always* to be before time – waiting for it, confronted by it, subject to it” (2019, 11).⁵ Yet there is a crucial difference between Manderson’s and Derrida’s respective accounts of legal judgment in relation to time. Manderson acknowledges that “[l]egal interpretation takes place in a field of pain and death” (4).⁶ He is not willing, however, to settle for Derrida’s pragmatic views on the “positing of the law” as “a violence without ground” (2002, 242). The myriad crises of legitimacy that arise from law’s temporal aporia are a constant concern in Manderson’s work (2000, 98 ff; 2003, 89 ff; 2012a, 75 ff). He has consistently resisted handing over the *moments* of legal judgement – and the ideals of justice that inform them – to “the hierarchical or hieratical process” (2012a, 159) by which they are announced. Manderson, for example, has tracked the grounding of legal judgement into the pedagogical and normative narratives of myth and children’s literature (2003, 91 ff). He has laid the foundations of the rule of law in the polarity of the processes through which legal agents expose and criticize the reasons that justify legal decisions (2012a, 179-180; 2012b). Manderson, in sum, is an Aristotelean in the deepest sense of term: he is a scholar (and, more important, a *citizen*) committed to public virtues who would rather live under the rule of law than subjecting himself to the passions and whims of even the best of men (Aristotle 1972, 1286a–1292a).

In *Danse Macabre*, Manderson takes a step further in substantiating the fleeting instant of legal judgement by excavating into visual representations of the complex

⁴ Derrida’s *différance* (1967, 37 ff) is a pun that characterizes the way in which meaning is created rather than given. In French, the word *différer* can mean either to differ or to defer, depending on context. Derrida claims that the meaning of a term (which depends on its *différance* in relation to other terms) is never fully *present* to us, but instead is *absent* and endlessly *deferred*.

⁵ Italics in the original.

⁶ An idea famously developed by Robert Cover (1986, 1601).

configurations of thought, action and feeling that frame “our thinking about structure and authority, governance, regulation, sovereignty, rights, control, and punishment” (2019, 17). Drawing from Mikhail Bakhtin’s notion of *chronotope* (1981, 84 ff) – a compound neologism derived from the Greek terms χρόνος and τόπος, that is, time and place –, Manderson’s visual jurisprudence aims at making evident the temporal and spatial relations in which legal judgement emerges, develops and expires (2019, 14-15). Manderson’s methodology consists in *bonding* – both contextually and anachronistically – with visual artworks that expose the absence and embody the presence of the evanescent temporal foundations of both legal discourses and human lives. The works discussed in *Danse Macabre* are quite specifically focused in this way: they are images of Justice (20-81)⁷, Jurisprudence (126-156)⁸, Proclamation (82-125)⁹, (Colonial) Law (157-194)¹⁰, and Crime (195-238)¹¹.

Danse Macabre is therefore a call to unleash our jurisprudential imagination and shake the temporal boundaries that, from Derrida’s perspective, indefinitely postpone legal meaning and entrust justice to the unrestrained hermeneutical inclinations of legal decision makers. Visual artworks, according to Manderson, provide us a solid point of departure for building cultural bridges between our experiences of time, on the one hand; and discourses on legal justification, on the other hand. To achieve this, writes Manderson, we must “go further than a mere semiotics of images or sculptures.” We must “inhabit them, engage with them: think and see the world *with* them both in their own time and ours.” This is the only way in which we will “really be taking these visual resources seriously” (17)¹².

In this essay, I aim to respond in serious terms to Manderson’s call, as articulated in *Danse Macabre* and the rest of his vast and rich work. I follow his lead to inhabit in and bond with Rafael Cauduro’s *7 Crímenes* – a series of murals at the back stairs of the building of the Supreme Court of Justice in Mexico City, which Manderson acknowledges as “a masterpiece in both law and art” (2019, 237). Such an endeavour requires me to disclose my relationship to this artwork. Cauduro’s phantasmagorical *trompe l’œil* painfully embodies the historical circumstances that pushed me to become an immigrant and, eventually, a Mexican-Australian scholar. For Cauduro, law does not struggle against injustice at all. On the contrary, legal institutions aid and abet injustice. The murals find law guilty of the seven crimes (as the seven capital sins) of justice (Cossío 2009; Manderson 2019, 212): guilty of

⁷ Pieter Bruegel the Elder’s *Justicia* (1560) and Joshua Reynolds’s *Justice* (1777). Manderson has also discussed Bruegel’s work elsewhere (2018).

⁸ Gustav Klimt’s *Jurisprudenz* (1903-1907).

⁹ *Governor Arthur’s Proclamation to the Aboriginal People* (circa 1830) and J. M. W. Turner’s *The Slave Ship* (1840).

¹⁰ Gordon Bennet’s *Possession Island* (1991).

¹¹ Rafael Cauduro’s *7 Crímenes* (2007-2009).

¹² Italics in the original.

sacrificing innocent victims to futile imperial glories (*Tzompantli*), guilty of the denial of due process (*Procesos Viciados*), guilty of rape (*Violación*), homicide (*Homicidio*), torture (*Tortura*), kidnapping (*Secuestro*), pitiless imprisonment (*Cárcel*) and repression (*Represión*). Cauduro's political is my intimate personal. His murals demand me to place my life in connection to "legally inflicted violence" (239) and, more precisely, necropolitics - that is, the exercise of sovereign violence aimed at killing (Mbembe 2003, 39-40; 2016, 56 ff) - in Mexico, thus forcing me to examine the motives behind my Antipodean exile.

Manderson's visual jurisprudence, however, requests from us generosity to "open the possibility of transformation [of law and justice]" by engaging in "a connection to other lives and experiences that is at once aesthetic and ethical" (2019, 244). This is a two-way street: to touch others, one must accept tangibility; to see others, one must become visible. The essay therefore builds on my *experience* of images, death, time and law in Mexico. The raw material from which it has emerged begs for the outmoded genre of personal letters to express my dissent with a paragraph in Manderson's analysis on how Mexican aesthetic, ethic and legal practices and principles distinctly shape the nexus between these existential milestones in Cauduro's work. An unapologetic admiration for Manderson's jurisprudence, however, circumscribes my disagreement - and the letter, alas, will not follow the conventions of the genre, developing instead with the awkwardness of personal matters dressed in academic forms. A profusion of footnotes somehow shrouds even the most candid attempts at accounting for our love, our melancholy, our hopes, our despair and our fears. Life is larger than the most exhaustive literature review.

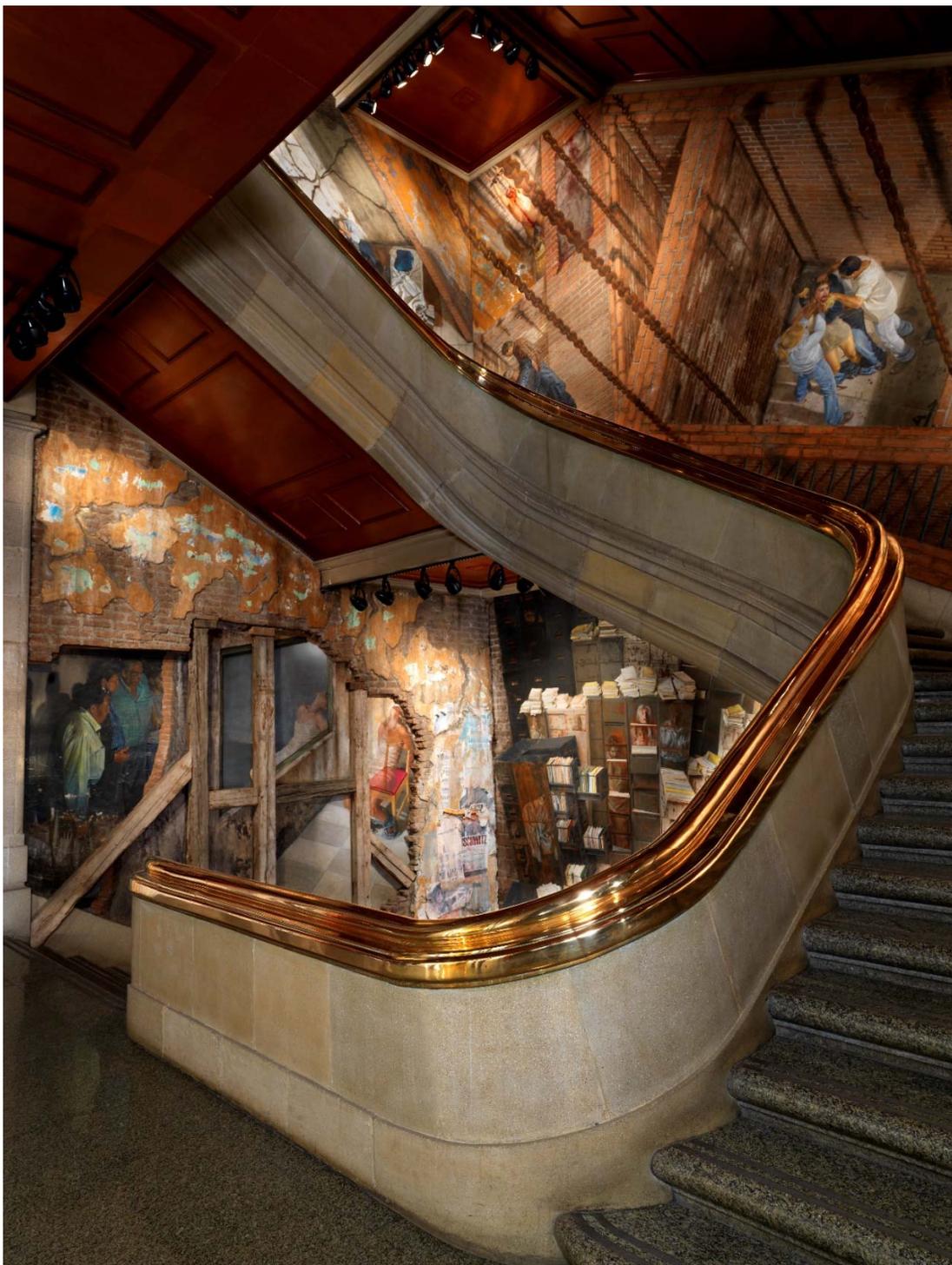


Image 1. Rafael Cauduro, *Procesos Viciados*, *Violación* and *Tortura*, from *7 Crímenes*, 2007-2009. Mural, various materials, Suprema Corte de Justicia de la Nación (SCJN), Mexico City (reproduced by kind permission of the SCJN)

The essay ultimately aims at casting light, using Manderson's methodological premises, on the political and jurisprudential dangers inscribed in Manderson's account of Cauduro's work in relation to the Mexican festival of the *Día de Muertos*

(Day of the Dead). Manderson's visual jurisprudence is fertile in critical and cross-cultural normative potentialities. His analysis of J. M. W. Turner's *The Slave Ship*, for example, effectively works as "a diagnosis" and "a prospectus" on the responsibilities that arise from colonialism - past and present. Manderson overcomes the blind spot of ideology by turning his scrutinizing gaze from Turner's past depiction of dismembered bodies drowning in the sea, to the critique of contemporary discourses on asylum seekers and refugees. In other words, Manderson indeed inhabits *The Slave Ship* by moving from the complacency of the spectator to the realization of the ways in which our choice and action are implicated today in the suffering of "bodies in the water" in Australia, Europe and elsewhere (2019, 117-125). When contextualizing Cauduro's work in relation to the Day of the Dead, however, Manderson inadvertently slips into what I call - drawing from J. G. A. Pocock's (1975; 1999; 2003), Richard M. Morse's (1954; 1964; 1988), and Michel-Rolph Trouillot's historiographies (2002; 2003) - an *Atlantic gaze* over Mexico. The menace of a deeply ingrained Atlantic hostility that has caused much suffering to Mexicans lurks in a single paragraph in the chapter Manderson dedicates to discuss *7 Crímenes*.

The following pages therefore seek to impulse Manderson's methodology further into the horizons of empathy and intersubjectivity through a phenomenological approach to Mexico's colonial past and present across images, death, time and law. I use the term *phenomenology* in its broadest sense, that is, as a method that privileges experience from a first-person point of view to explain objects, time, self and others in their proper contexts. The essay is therefore structured in three sections that relate Manderson's visual jurisprudence to experiences of legal violence in Mexico and, broadly speaking, Latin America. The first section situates *Danse Macabre* in the context of Manderson's broader work, in order to establish the ethical principles of intersubjective responsibility that should inform, in my view, Mandersonian jurisprudential analyses of visual artworks. The second section highlights the dangers inscribed in Manderson's account of the Day of the Dead in relation to his analysis of Cauduro's *7 Crímenes*, as what I call the *Atlantic gaze* broadly assumes that Mexican *mestizo* heritage - manifested, for example, in the idiosyncratic Mexican familiarity with death - amounts to a form of cultural deviancy that welcomes and normalizes violence. The third section compares and differentiates Diego Rivera's *Día de Muertos* and Cauduro's *7 Crímenes*, in order to clarify their respective jurisprudential components in relation to death and the critique of law. This will set the grounds to conclude affirming the pertinence of contemporary radical Mexican aesthetics to transcend the temporalities of injustice and establish new jurisprudences that truthfully respond to the suffering caused by any form of colonialism.

ON THE (VISUAL) ENCOUNTER(S) WITH THE OTHER

Sin entender comprendo: también soy escritura y en este mismo instante alguien
me deletrea¹³
Paz (1987a, 37)

Manderson provokes us to engage personally with visual artworks as a means to comprehend the fragility of each moment that devises a legal judgement - and to take seriously its consequences. In this sense, we can fruitfully categorize Manderson's methodology as a *jurisprudential practice of visual phenomenology*. There are, *mutatis mutandis*, echoes of Maurice Merleau-Ponty's phenomenology of perception in Manderson's visual jurisprudence. In order to experience visual artworks (and legal temporalities) in the way Manderson does, we require sensing (*sentir*) the world - that is, a "living communication" that "makes it present to us as the familiar place of our life" (Merleau-Ponty 2001b, 64-65). Merleau-Ponty regards our body (*le corps propre*) as the primary *locus* for acquiring and building our knowledge of the world (2001b, 81 ff). Manderson similarly conceives sight as a privileged experience to open ourselves to individuals, cultures and peoples with whom we share a world in common (2019, 179-182). Manderson's visual jurisprudence overlaps in this way with Merleau-Ponty's approach to sight not as a "certain mode of thought or presence to self", but rather as the means given to each of us to be "absent" from ourselves (2011, 81), to "lend" our "body to the world" (16) and therefore reach out to other human beings.

Merleau-Ponty claims that "true philosophy consists in relearning to look at [*voir*] the world" (2001b, xvi). This re-education of our sight involves recognizing that the seer and the visible reciprocate one another (2001a, 181 ff). We cannot "possess the visible", unless we are at the same time "possessed by it" (175-176). Merleau-Ponty asserts the necessity of intertwining our lives with "the lives of others", by intersecting our "perceptual field with that of others" (72-73). The mirroring of our gaze in the "flesh of the world" (*chair du monde*) entails a radical subversion of self-absorption and egotism, even though Merleau-Ponty equivocally characterizes it as a form of "narcissism" (181, 297-299). The reciprocity between the seer and the visible is actually the source of an ethical imperative cancelling sight as an exercise of domination and violence. It is true that, on the one hand, I am able to see myself in the world around me (specifically, in the eyes of others); but, on the other hand, this passage of reflection exposes me as *another to others*. Held in the beholding of eyes different from mine I am obliged to acknowledge, first, that I am not the center the world and, second, that I am exposed (and therefore vulnerable) to different perspectives on myself and everything related to me (Levin 1999, 228-232).

¹³ "Without understanding, I realize: I too am written, and at this very moment someone spells me out."

Manderson indeed structures his visual jurisprudence on analogous – yet more demanding – ethical standards. Building on Emmanuel Lévinas’ account of the ethical experience embodied in the event of encountering other person (1990; 2012), Manderson admits that, in life as in law, we are “always late” for “the rendezvous with the neighbor” (2019, 1). I previously categorized Manderson as an Aristotelian – his intellectual profile is confessedly Levinasian though (2005a; b; 2006a; b; c; 2009). For Lévinas, ethics speaks about interpersonal relationships, and not about abstract principles or systems of rules. All ethics derive from the face-to-face encounter with one-another. The “other” (*l’autrui*, capitalized in some instances) is someone different from oneself, whose countenance we experience, one at a time, every day. “The true essence of man,” writes Lévinas, “is presented in his face” (2012, 323). By “face” (*visage*), Lévinas means “*the idea of the Other in me*” (43).¹⁴ We experience the arrival of the face as an “epiphany” (43, 73, 76, 171 and *passim*) or sudden realization, undergone rather than requested, of the “living presence” (*présence vivante*) (61) of another person – namely, anyone exposed to me, who expresses her or himself simply through her or his undeniable existence, which I cannot reduce to conceptual abstractions. This impossibility of capturing the other conceptually or otherwise indicates her or his “infinity” (Lévinas 2012, 42-45 and *passim*; 2010, 439; 1990, 206 ff) or, in other words, her or his irreducibility to a bounded entity over which my Ego – labelled by Lévinas as “the same” (*le même*) – could exercise power. For Lévinas, the central conflict between justice and injustice involves the opposed conceptions of totality and infinity (24 ff). Totality (injustice) involves the same reducing all difference to itself, while infinity (justice) expresses the acceptance of an irreducible difference between the same and the other.

Lévinas claims that ethics “is not a branch of philosophy, but first philosophy” (340). This means that the traditional philosophical pursuit of knowledge is secondary to the duties that arise from our encounter with the other. Our ethical response to the other provides the foundations and the ultimate perspective for our understanding of the world. It is therefore crucial to pursue justice authentically by honoring the infinity of the face. In Lévinas view, the face is essentially defenceless when standing in front of the natural aggression of our gaze. Its nakedness (*nudité*) expresses an “essential poverty” (*pauvreté essentielle*) (1982, 79; 2012, 234). Recognizing the other therefore amounts to welcoming “a hunger” or a form of fundamental human “indigence” (*misère*)¹⁵, because the face “extends into the nakedness of the body that is cold and is ashamed of its nakedness” (2012, 73). The “epiphany of the face” reveals, in this sense, “the destitution of the wretch [*pauvre*] and the stranger [*étranger*]”, while asserting our unavoidable responsibility to their

¹⁴ Italics in the original.

¹⁵ Lévinas also uses the term *dénuement* (denuement) to express the inherent fragility and vulnerability of the other that reveals her or himself through the face.

needs – grounded in the equality that arises from our common destituteness (234-235).

Lévinas claims the face ultimately stands for an elementary commandment – *thou shall not kill* (1982, 79-81; 2012, 217-218) – invested with the authority “of the whole of humanity which looks at us” (2012, 234). Society – or, as Lévinas says, *humankind* – embodies a third party (*le tiers*) that projects the ethical imperative towards the other into the realm of politics. The third party is the neighbor of my neighbor who plays the grammatical function of *they*, that is, people who are different from *you* (the other) and *I* (the self). According to Lévinas, the third party gives birth to a question of consciousness – “What do I have to do with justice?” –, whose answer lies in the necessity of “order, thematization [...] the intelligibility of a system and [...] a co-presence on an equal footing as before a court of justice” (1990, 245). In other words, the third party demands both justice and law. The prohibition of murder, therefore, exhausts neither the duties that arise from the encounter with the other, nor the horizons of justice. In Levinasian ethics, a non-chosen responsibility for the other – from which we cannot escape – shapes and haunts freedom. “The face of a neighbor” (*le visage du prochain*), affirms Lévinas, “signifies for me an irrecusable responsibility that precedes every free agreement, every pact, every contract” (141). The exposure to my neighbor affects me with an immediate closeness that Lévinas calls “proximity” (*proximité*) (16-17 and *passim*). Proximity is “approach, neighborhood, contact” (129); an “immediacy” that enables us “to enjoy and to suffer by the other” (144). Proximity to the neighbor hence grounds our ethical responsibility for others: it is “an extremely urgent obligation, *anachronously* prior to any commitment” (1990, 159).¹⁶

In his earlier work, Manderson translates Levinasian ethics into a jurisprudence that, first, accepts the responsibility of one person to another that emerges prior to law (2006b, 19, 51-72, 166) and, second, affirms that legal institutions (the third) (73-97, 180-191) must recognize such a responsibility through the openness and responsiveness of proximity (98-145). Manderson argues, fully embracing Lévinas against Thomas Hobbes (1996), that “our personal responsibility to other *is* our state of nature”,¹⁷ so it is “a mistake to believe that law has invented this responsibility and finds itself at liberty to withhold such recognition at will” (89-90). Even though Manderson’s Levinasian insights into law focus on the duty of care and the tort of negligence as case studies (2006a; c), the consequences of acknowledging that “[r]esponsibility is not a judicial auto-da-fé”, but “an influential story as to who we are” (2006b, 11), reach far beyond these legal institutions. “Proximity”, writes Manderson, “institutionalizes a kind of permanent revolution in the law, and a refusal to be satisfied with the present order. It institutionalizes a constant doubt and questioning that makes justice possible” (16).

¹⁶ Italics in the original.

¹⁷ Ibid

Danse Macabre continues and expands the project of adopting proximity as the ethical component of law by accepting visual arts “to establish, on an affective level, a connection between our legal practices and the manifold other ways by which we come to comprehend and to develop – to value and to critique – our societies” (2006b, 20; 2019, 239-245). In this sense, Manderson characterizes the blindfold covering the eyes of classic visual representations of justice as an invitation to see “more truly how blind we are” (2018, 43; 2019, 48). The blindness of Pieter Bruegel’s (the Elder) *Justicia*, according to Manderson, is “in fact central to her ability to be used or manipulated in the discourse of others” (2018, 41). The blindfold points to *Justicia*’s weakness but it also suggests, in a Levinasian turn, that her vulnerability is actually “a cry for help, a silent appeal that truly constitutes – inaugurates and brings to life – our legal subjectivity, imposing on us a duty that we cannot evade, to bring her to the point of action” (2018, 42). It is up to us to overcome *Justicia*’s blindness toward “violence and cruelty and fear and self-interest and power” (2019, 49). Manderson’s visual jurisprudence is, in sum, the call of a Levinasian humanist to *see* the embodied experience of law in “the flesh that gives rise and gives meaning to its texts and its institutions” (2018, 43).

THE ATLANTIC STARES AT THE DAY OF THE DEAD

“¡Ay, infeliz México mío! [...] del lado opuesto de tu río, te está mirando, hostil y frío, el claro ojo del sajón”¹⁸
Nervo (1972, 1656)

Yet the paragraph in which Manderson discusses the Day of the Dead in relation to Cauduro’s *7 Crímenes* opens a fissure in the Levinasian ideals that inspire his jurisprudence. In any other hands, Manderson’s account of this Mexican festival could develop into a hostile negation of (Mexican) otherness via a self-absorbed complacency on (Atlantic) sameness. Lévinas indeed warns his readers against “the complacency of the Same” and “misunderstanding of the Other” that sustain “[p]hilosophy’s itinerary” through “the path of Ulysses whose adventure in the world was but a return to his native island” (1994, 43). Ulysses undertakes tantalizing adventures, but ultimately builds his understanding of everything that can be experienced upon “the unalterable character” of the same (see Lévinas 2012, 132). The prow of Ulysses’ ship always points to Ithaca; his project is finding out whether or not his wife has been faithful; his ultimate goal is νόστος (*nostos*) – that is, homecoming. Proximity, however, is not an aesthetic or ethical inquiry into the other as an alternative version of our own selves. The most painstaking analysis of

¹⁸ “Oh, my unfortunate Mexico! [...] from the opposite side of your river, the clear eye of the Saxon, hostile and cold, stares at you.”

my neighbor within the boundaries of circular thought does not preclude my fundamental responsibility for her or him. Against the monotony of Ulysses' journey, whose return is granted even before departure, Lévinas vindicates Abraham as the mythical model for truthfully greeting and welcoming the other. "To the myth of Ulysses returning to Ithaca", Lévinas writes, "we would prefer to oppose the story of Abraham leaving his country forever for a yet unknown land, and forbidding his servant to take back even his son to the point of departure" (1963, 610).

In jurisprudential terms, to become Abrahamic means realizing that I only honor justice by avoiding to reduce the other to the categories of the same. A Levinasian jurist must surrender, in the pursuit of justice, to the risk of experiencing a radical transformation of his or her self after responding to the appeal of the other. "I am necessary for justice", asserts Lévinas, "[...] beyond every limit fixed by an objective law" (Lévinas 2012, 274). My responsibility for justice therefore demands going "beyond the straight line of justice" and "behind the straight line of law", into "the land of goodness [...] infinite and unexplored" (ibid). Manderson certainly accompanies Cauduro in a jurisprudential journey into the vast territories of Mexican - and, more broadly, Latin American - simultaneously wrathful and melancholic pleas for justice. Manderson's description of the Day of the Dead, however, could progress into the forms of aggression that characterize the *Atlantic gaze*, that is, a way of looking at Mexico (and Latin America) informed by a worldview that situates the center of the world in the nations, cultures and conceptions of justice that emerged from the colonial ventures undertaken by the Atlantic imperial power embodied in the British Isles (Pocock 1975, 606-607).

As Haitian anthropologist and historian Michel-Rolph Trouillot points out, the "westward move that made the Atlantic the center of the first planetary empires" resulted in "a first moment of 'globality' [...] culminating in U. S. hegemony after World War II" (2002, 839; 2003, 29). Trouillot points out that North Atlantic political concepts such as *modernity* or *globalization* are "convenient fictions" (2002, 839) that "do not describe the world", but rather "offer visions of the world" (847). These fictions are usually "projected as universals" that "deny their localization, the sensibilities and the history from which they spring" (848). Current dominant North Atlantic (political) fictions reflect "the world domination of the English language, the expansion of Protestantism as a variant of Christianity, and the spread of Anglo-Saxon and Teutonic sensibilities", while reducing "the crucial role of Portugal and Spain in the creation of the West" (2003, 44-45).¹⁹ Trouillot observes that a "related emphasis on the Enlightenment and the nineteenth century, and the downplay of the Renaissance as a founding moment [of European cultures],

¹⁹ Argentine-Mexican philosopher Enrique Dussel similarly affirms that "the concept of modernity occludes the role of Europe's own Iberian periphery, and in particular Spain, in its formation" (1993, 67).

also lead to the neglect of the role of the Caribbean and Latin America in the production of the earliest tropes associated with modernity” (2002, 855; 2003, 45).

The distinction between Atlantic and Spanish models of just politics predates and must be differentiated from contemporary debates on identity politics. Richard M. Morse – an American historian of Latin America²⁰ – clearly identifies the key features of the Atlantic and Iberian early modern *schools* of political thought. Morse defines Atlantic justice as the outcome of the tension between Thomas Hobbes’ apology for the absolutist state and John Locke’s atomistic conception of the sovereign individual (1954, 91-93; 1988, 59-66). Morse argues that, from an Atlantic perspective, the state is merely “a passive guarantor of private claims” to the “ample wealth” found in the colonies (1954, 71).

The model of political justice implemented in the Spanish America results from a radically different tension between the political ideals pursued by the Catholic Monarchs. On the one hand, Isabella of Castile embodied the Thomist conception of societal and religious human beings who have mutual obligations – determinable by principles of Christian justice – toward their fellow humans. On the other hand, Ferdinand of Aragon embodied the Machiavellian standards of republican liberties enjoyed under the leadership of amoral princes who are committed to the maintenance and expansion of their respective domains (Morse 1954, 72-73; 1964, 151-159; 1988, 53-59). “Spanish conquistadors, colonizers and catechizers”, writes Morse, “carried with them to American shores this dual heritage: medieval and Renaissance, Thomistic and Machiavellian” (1954, 73). In the sixteenth and seventeenth centuries, the distinct Atlantic and Spanish models of political justice emerged as competing paradigms of modernity. The Atlantic model, as Trouillot points out, eventually trumped over the Spanish conception of political justice, which declined into what Peter Goodrich calls a “minor jurisprudence”, that is, a collection of “discarded or failed laws, of jurisdictions denied, repressed or absorbed” by an hegemonic and all-powerful “legal tradition” (1996, 3).

The Atlantic gaze hence sustains and reproduces the (Lockean-and-Hobbesian) vision on the otherness of the land now called Latin America and its inhabitants held by the English Pilgrims and Puritans who set foot in New England in the seventeenth century. From their point of view, as Greg Grandin notes, “the Spanish Crown’s rule [...] represented the most pernicious of what they had left behind, Catholic in its superstitions, languid in its aristocratic pretensions” (2007, 15-16). The abhorrence of the mixture of Iberian and Amerindian cultures in Latin America “was a goad” to the Anglo settlers, “who believed that the New World [...] did indeed represent a chance to realize God’s will on Earth” (16). The combined perception of “bountifulness in which dreams could run unchecked”, “corruption that demands reform and imagined innocence that begs for guidance” has ever since

²⁰ Morse’s work is highly appreciated by Latin American intellectuals (see, for example, Paz 1998b, 23-54; Barboza Filho *et al* 2010; Krauze 2018, 27-111)

been wielded by “successive generations” of North Atlantic “Christians, capitalists, and politicians” as a justification for their imperial exploits in the region (ibid).

Manderson unintentionally lets the Atlantic gaze taint an otherwise groundbreaking analysis of Cauduro’s *7 Crímenes*. In quite an enlightening approach to Cauduro’s artwork, Manderson identifies in *7 Crímenes* the visual development of “a wholly new temporal imagery” (2019, 224) that bonds together past and present in a unique jurisprudential critique of the relations between violence, law and justice. Manderson contrasts Cauduro’s representation of human bodies – which “have a corporeality about them which is fresh, but at the same time evanescent” – against the decaying settings in which they are placed, which consist in “crumbling bricks and plaster, peeling paint, [and] rotten wood” (ibid). The figures in Cauduro’s Supreme Court murals, Manderson argues, are *ghosts* who connect the memories of those once wronged by law and justice to our present responsibility for their past suffering, which urgently demands recognition and atonement.



Figure 2. Rafael Cauduro, *Violación*, from *7 Crímenes*, 2007-2009. Mural, various materials, SCJN, Mexico City (reproduced by kind permission of the SCJN).

Manderson explains that the ghost is “the persistent after-image of an earlier physical event” that “is trapped in the place it died, destined to replay over and over again the traumatic events that took place there” (2019, 225). According to Manderson, Cauduro - as the protagonist in M. Night Shymalan’s film *The Sixth Sense* - “sees dead people”. The danger therefore “is not that we might see ghosts but that we might not” - because the “half-life” of Cauduro’s specters “brings

together the obligations of memory and of legal change into a single framework” (226) by making visible the “violence that haunts our legal institutions” (228). Manderson persuasively argues that we *need* to see ghosts to exorcise legal violence, which is neither a concluded history nor an eternal myth, but an *event* – in Mexico and elsewhere – whose occurrence in the past continues to have relevance in the present.



Figure 3. Rafael Cauduro, *Cárcel* (detail) from *7 Crímenes*, 2007-2009. Mural, various materials, SCJN, Mexico City (reproduced by kind permission of the SCJN).

There is a second and distinct danger, however, inscribed in the *gaze* looking at the ghosts – a hazard to which not even a scholar equipped with Manderson’s erudition is immune. The ghosts that Manderson and Cauduro respectively see are quite different. Manderson relates Cauduro’s ghosts to the Mexican Day of the Dead festivities in the following terms:

Cauduro has painted a series of gruesome ghost stories. Rape, murder, torture, violence, blood, despair – scenes from a horror movie play on the walls of the Supreme Court. These images, and their pain, and maybe even the voyeuristic pleasure I took in them, haunt me still. It was as if I had been co-opted to join in the Day of the Dead – *Día de Muertos*, that macabre Mexican festival of excessive skeletons and ghoulish violence. Diego Rivera also painted the Day of the Dead, in the Fiesta courtyard of the SEP [Ministry of Education] series. But for him it is a benign celebration of Mexican cultural traditions, the wellspring of social life and the incubator of revolutionary fraternity. Cauduro deploys the cult for horrific purposes.

His ghosts describe events, trapped in the past, that haunt the present, reliving over and over again the same traumatic experiences (2019, 226).

Diego Rivera and Rafael Cauduro, however, address unrelated themes in their respective murals. Rivera is indeed representing the *Día de Muertos* as “a benign celebration of Mexican cultural traditions.” Cauduro’s concerns are radically different. He does not “deploy the cult for horrific purposes.” The Day of the Dead does not appear anywhere in Cauduro’s *7 Crímenes*. The Day of the Dead (celebrated on November 1st and 2nd each year) is, as Manderson notes, rich in skeletons; but its tradition and narratives are not permeated with “rape, murder,” or “torture.” The Day of the Dead is an icon of Mexican identity – a visit to any Mexican popular handicraft market bears witness to this – that is extraneous to violent crimes tainted in “blood” and “despair.” Its mortuary images – the decorated breads, paper cutouts, *cempasúchil* marigolds or sculpted candies in the form of skulls (*calaveras*) – are not morbid. The Day of the Dead, in sum, is not Halloween: it is a melancholic yet defiant response to successive and relentless forms of colonial violence in Mexico. The festival arose from two separate cultural developments, the first deriving from religious and demographic imperatives around death experienced by Indians in colonial times; the second from the politics of Mexican identity shaped in the aftermath of the Mexican Revolution (Brandes 1997; 2006, 17 ff).

In relation to the original colonial circumstances from which the Day of the Dead emerged, Mexican-Chilean anthropologist Claudio Lomnitz describes the process of the Spanish conquest of Mexico as one of simultaneous and frenetic desecration and consecration of death (2005, 63). In the first years of colonization, a demographic catastrophe of unprecedented proportions resulted, first, from the unique biological isolation of the Americas in relation to the Old World (which facilitated the spread of diseases such as smallpox, measles, typhus, and typhoid); and, second, from the rudimentary technology that late-medieval Spain had at its disposal for undertaking a massive transformation of the economy in its colonies. Estimates on the size of Mexico’s population on the eve of the Spanish conquest range from 4.5 million to 30 million (67-72). A relentless string of epidemics and famine, which were in part caused by the violence of conquest wars and the reorganization of labor, left by the early years of the seventeenth century a population of only about one million Indians. The sixteenth century was a veritable holocaust that desecrated the death of Amerindians.

Nonetheless, at the same time, on a religious plane the Catholic Church consecrated the bodies and souls of Indians with baptismal waters. Priests also administered agony and death through the sacraments of confession and extreme unction (Lomnitz 2005, 84 ff). Moreover, in Mexico the clergy was concerned with providing Spaniards and Amerindians alike a viable Christian story line that might offer a blueprint for action in the midst of the horrific events of the century.

Dominican friar Bartolomé de las Casas (1484-1566), for example, developed a scathing critique on the violence the Spaniards displayed in the Americas. Las Casas' accusations - which eventually became one of the foundations of the Black Legend - are an example of how the clerics' missionary fervor reviled the "destruction of the Indies" (1997) and attempted to provide some minimal sense of security to Amerindians in the context of early colonization.

The Day of the Dead became ritualistically elaborate in Mexico as a by-product of the massive loss of life combined with religious attempts at preventing or tempering the violence of colonization in the sixteenth century. Early eyewitnesses of these historical events, such as the Franciscan friar Toribio de Benavente "Motolinía" (1482-1568) or the Dominican Diego Durán (1537-1588) reported in their chronicles that All Souls' Day was lavishly observed in Indian villages at the time. Motolinía celebrates the festivity as evidence of the Indians' successful conversion to Catholicism, and approvingly deems the "many offerings that Indian towns give for their dead" as an expression of their natural modesty, humility and generosity, which he contrasted with the gross greed of Spaniards (2014, 78). Less optimistic, Durán looks upon the festival as a lingering pagan custom in which offerings were made separately for the infant dead (*muertecitos*) and for adults (1867, 268-270).

In any case, since its origins the Day of the Dead stood, in the face of the somber realities of colonization, as a process of curating in community the living memories of loved ones who departed too soon. Mexicans celebrating the Day of the Dead usually build private altars (known as *ofrendas*), which display the favorite foods and beverages of their deceased loved ones, either in their homes or the cemeteries where the departed rest. The intent is to encourage the souls of the departed to join the living in a banquet once a year, so both the living and the dead can participate in the celebration of bonds, affects and loving memories that transcend the frontier between life and death. Manderson therefore inaccurately portrays the Day of the Dead as a "macabre" festival of "ghoulish violence" related to the gruesome scenes presented in Cauduro's *7 Crímenes*. This misconception is a minor flaw - articulated in a single paragraph - in the context of Manderson's discussion of Cauduro's series of murals. If I have taken issue with such a paragraph - to the extent of writing a large and complex academic argument around and about it - is because of the nefarious implications that linking a *mestizo* celebration such as the Day of the Dead could have, and actually have had, for Mexicans constantly subject to the scrutiny of the Atlantic gaze.

The Atlantic gaze characterizes Mexicans as carriers of an inbred cultural flaw that came straight down from combining the (assumed) depravity of the Aztecs with the (alleged) Catholic indolence and intolerance of the Spaniards. Joel Robert Poinsett - the first United States Plenipotentiary Minister to Mexico -, for example,

eloquently expressed this viewpoint in a letter addressed to Secretary of State Martin Van Buren in 1829:

The emigrants from Spain who alone were permitted to settle in the Country [Mexico] were among the most ignorant and vicious of that people, who are notoriously a century behind the rest of Christian Europe [...] The want of means of acquiring knowledge, the absence of all excitement to exertion, the facility of procuring the means of subsistence almost without labor, a mild and enervating climate and their constant intercourse with the aborigines, who were and still are degraded to the very lowest class of human beings, all contributed to render the Mexicans a more ignorant and debauched people than their ancestors had been [...] When therefore we examine the actual condition of this people, we ought always to bear in mind the point from which they set out. They were in every respect, far behind the mother Country which is notoriously very inferior in moral improvement to all other Nations (2002).

From its very origins, the Atlantic gaze defined itself by affirming its self-righteousness in relation to a series of detrimental traits (for example, savagery or cruelty) attributed respectively to the Indians and the Spaniards. Between these two similar, yet distinct others – one considered inhuman and one a degraded human – the Anglo settlers carved out for themselves a series of Atlantic fictions that marked a narrow path toward virtue, piety, mercy, justice and, ultimately, civilization itself (Fernández Retamar 1977; Lepore 1999, xvi). One of the most damaging implications of the Atlantic gaze is that Mexicans are essentially indifferent or even hostile to the core humanist value of the sanctity of life (Lomnitz 2005, 57). In recent years, the idea of the inherent wickedness of Mexicans has fueled, for example, the infamous chants of “Build that Wall” frequently heard in Donald J. Trump’s rallies across the United States. The wall symbolizes a (physical) means of containment of the moral degeneracy that supposedly infects Mexicans (Brown 2010, 90-105).

Manderson, of course, would never endorse such prejudices on Mexicans. The distorted conception of Mexicans I described above would be deeply incoherent with the Levinasian ethical groundings of Manderson’s jurisprudence, or his Aristotelian commitments to community and justice. There is a significant theoretical problem, however, in connecting the dreadful social and legal violence denounced by Cauduro to Mexican ideas and practices around death, as manifested in the Day of the Dead annual festivities. This theoretical issue has had serious political consequences in the history of Mexico. Americans such as Poinsett or Trump have drawn on this sort of Atlantic misrepresentations of Mexican culture to structure discourses on deviancy aimed at justifying unyielding belligerence against Mexico and Mexicans. In order to prevent the vicious closure of Atlantic stereotypes on death-obsessed Mexicans, the peculiar structural role that the Mexican Revolution allocated to death in Mexican *mestizo* culture requires a nuanced explanation – which I will undertake in the following section – that

evidences its absolute disconnection to the context in which Cauduro's *7 Crímenes* was conceived and developed.

ON DYING AND LIVING (IN MEXICO AND BEYOND)

“Matamos lo que amamos. Lo demás no ha estado vivo nunca.”²¹
Castellanos (1972, 171)

The mortality of our being haunts us perpetually. “Death makes law *matter*”, notes Manderson (2019, 4).²² Indeed. Death makes *life* matter – law is nothing but a minimal sphere of life. Martin Heidegger famously defined the human condition as being-toward-death (*Sein zum Tode*) (1967, 235 ff). The basic idea behind Heidegger’s complex phenomenology is, paradoxically, quite simple: human beings exist temporally in the interval between birth and death. As soon as we are born, we are at once old enough to die (245). Being is time and, for human beings, time is finite because it ends with our demise. To live an authentic human life thus consists in grasping this finitude and trying to make a meaning out of the fact of our death. Law cannot escape this feature of the human condition.

My potential passing indicates that I am a mortal animal, subject to myriad contingencies in the world around me. I may die right now, as I write these lines, or I may die in fifty years. The day in which I will die is still uncertain, though my death is a certainty that (as Jean-Paul Sartre observes) will come from the outside – for example, in the glaring blow of an accident, in the massive anonymity of a pandemic, or the slow decline of old age – and will hence transform me from the outside (1999, 590-591). Sartre embraces this perspective on death, which he conceives as the perennial possibility of nihilation (*néantisation*) of my possibilities that is nonetheless *beyond* my possibilities (581). Manderson partially agrees with Sartre, as he claims that death determines our entire existence as if we were before “the light that streams from an open doorway”, which we are “barred from ever entering” and yet “bathed in it, all at once” (2019, 19).

Manderson, however, does not go as far as Sartre, who conceives both death and birth as “pure fact” (590). Heidegger is more persuasive in framing death beyond a purely biological phenomenon. For Heidegger, my finitude makes my life unique, because my death cannot be transferred to anyone else (1967, 240). I agree. I foresee dying as a deeply intimate moment. Nobody will replace me when I face my own death: I will slip into the unknown, in solitude, away from the social world of affects and signification that frames my life.

Nonetheless, as Byung-Chul Han notes, Heidegger’s views on the non-transferrable nature of death are ultimately banal. Life is non-transferrable – this is

²¹ “We kill what we love. Anything else has never been alive.”

²² Italics in the original.

what really matters (Han 2012, 87). Nobody can take my place to live my life. Death is a mirror of life, and life is a mirror of death. Technology, social organization, and collective representations – including law – mobilize life in preparations for death and for the dead, in Mexico and elsewhere.

The Mexican Revolution (1910-1924) ultimately shaped the distinctive Mexican traditions around death. Francisco I. Madero, an aristocratic landowner, launched the Revolution in October 1910 by drawing up the ‘Plan de San Luis Potosí’, a naïve manifesto that called for the institution of democracy through direct violent action against the dictatorship of Porfirio Díaz.²³ In May 1911, Díaz fled to France and Francisco León de la Barra, who was appointed as interim president, called for elections. Madero became president in November 1911 after a landslide victory. In February 1913, a group of disaffected army officers overthrew and murdered Madero with the blessing and complicity of Henry Lane Wilson, United States ambassador to Mexico (Márquez Sterling 1975, 255-314; Silva Herzog 2010a, 370-385). Wilson was a key actor in bringing to power military dictator Victoriano Huerta, who would eventually fall from grace of American President Woodrow Wilson. In 1914, Wilson dispatched the United States Navy to occupy the Mexican city of Veracruz, forcing Huerta to leave office (Silva Herzog 2010b, 81-117). The bloodbath that followed these successive American interventions in the course of the Revolution left a permanent scar on Mexican cultural imaginaries. Whereas the 1910 census counted 15 million people in Mexico, the 1921 census counted only 14 million (Aguilar Camín and Meyer 1991, 87). In other words, one out of eight Mexicans had been killed between 1910 and 1921 (Zoraida Vázquez 1989, 700-701).

The Revolution renewed the prominence of the elaborated Mexican rituals around death inherited from colonial times. The Day of the Dead gradually became a source of Mexican national pride. In the aftermath of the Mexican Revolution, Diego Rivera (and many other post-revolutionary intellectuals like him) regarded the popular embellishment of death in the celebrations around the Day of the Dead, with its resonance in both Indigenous and Catholic traditions, as a perfect exemplar of Mexican *mestizo* culture and its revolutionary potential. Rivera himself once stated that what made him deeply “Mexican” was his playful familiarity with “the death that awaits all men” (Rivera and Suárez 1962, 185). Octavio Paz similarly claimed, in his 1950 seminal essay titled *El Laberinto de la Soledad*, that “[t]he word death is not pronounced in New York, in Paris, in London, because it burns the lips” (1998a, 63). For Paz, any Mexican, in contrast, “is familiar with death, jokes about it, caresses it, sleeps with it, celebrates it; it is one of his toys and his most enduring love” (ibid). Paz, in other words, believes that living easily in death’s presence is a distinctive feature of Mexicans – a cultural trait that Europeans and Anglo-Americans do not share.

²³ This document is reprinted in Silva Herzog (2010a, 173-186).

It is therefore in the post-revolutionary context that, according to Claudio Lomnitz, Death (capitalized in this case) was adopted as a Mexican totem (*i. e.*, as a figure of collective filiation) (2005, 41-52). From the 1920s onward, after the Mexican Revolution, the symbolic valence on Mexico's intimacy with death emerged as the utmost expression of the cultural fusion between Pre-Columbian Indigenous cultures and Early Modern Spain that Mexican intellectuals considered the very source of Mexican national identity. Mexican familiarity with death also stood up, resulting from this, as an emblem of resistance against the violence of North Atlantic colonialism and imperialism. Rivera, for example, included in the influential frescoes he painted for the Ministry of Education (1923-1924) an area known as *El Patio de las Fiestas*, in which two tableaux (succinctly commented by Manderson) are dedicated to the Day of the Dead: one to the indigenous rite, the other to the urban *fiesta*.

The first tableau shows Indigenous Mexicans celebrating a solemn commemoration of the dead. In the second, we see an explosion of drink, food and flirtation displayed in a bustling popular carnival. A musical band of marionette skeletons presides over the crowd (which includes Rivera himself). Each skeleton is dressed in the attire of a social class: the larger figures playing guitars are a peasant, a revolutionary fighter (who resembles Emiliano Zapata, the quintessential hero of the Mexican Revolution), and a worker; behind them, in the backdrop, are a priest, a soldier (who resembles Victoriano Huerta, the prototypical revolutionary villain), a student, and a capitalist. As Claudio Lomnitz observes, Rivera's urban *Día de Muertos* depicts a *mestizo* society that "comes together and celebrates to the tune of its dead, whose differences are both made eternal and harmonized in death" (2005, 46). The reconciliation in death between opposed classes acknowledges, to some extent, the viability of the social pact stemming from the Mexican Revolution. Mexican contemporary celebrations of the Day of the Dead therefore recognize "an achieved *modus vivendi* between the descendants of mortal enemies" and "a tactical and provisional collective reconciliation in the knowledge that no one escapes death" (50).



Figure 4. Diego Rivera, *Día de Muertos*, 1923-1924. Fresco, 4.22x3.78 m, Secretaría de Educación Pública (SEP), Mexico City (© SEP)

Mexican cultural familiarity with death, however, involves an acceptance of the final stage in the cycle of life – not a normalization of violence. The convulsed historical context from which *7 Crímenes* developed, in this sense, has no connection at all with the Day of the Dead. To commemorate the 200th anniversary of the Mexican Independence and the 100th anniversary of the Mexican Revolution in 2010, the Supreme Court called for proposals on a series of murals addressing “the history of justice in Mexico” (Resnik and Curtis 2011, 362 ff). The sketches Cauduro submitted were, in a remarkable exercise of self-criticism, supported by the majority of justices (García 2006; Manderson 2019, 201). Cauduro began working on the Supreme Court murals around the time President Felipe Calderón

Hinojosa launched, on December 11, 2006, the law enforcement scheme called *Operativo Conjunto Michoacán*. Calderón sent some 6,500 soldiers and federal police officers into the heart of the Mexican central state of Michoacán, where the rival drug cartels of *Los Zetas* and *La Familia* were locked in murderous combat – thus commencing the ongoing hecatomb known as Mexican Drug War (Astorga 2015, 21-23; Boullosa and Wallace 2015, 95-141).

Unlike Rivera, Cauduro is not concerned with defining or acclaiming Mexican identities. *7 Crímenes* is an attempt at understanding, first, the roots of legal violence in Mexico – as promoted and sponsored by the Mexican state and its powerful northern neighbor, the United States – and, second, its bewildering development into progressive anomie.²⁴ Manderson correctly observes that Cauduro “unambiguously turned his back” on the celebration of the Mexican Revolution brandished in the tradition of Mexican post-revolutionary muralism (2019, 201), as epitomized in the work of *los tres grandes* – Diego Rivera, David Alfaro Siqueiros and José Clemente Orozco (Coffey 2012; Jaimes 2012; Paz 1987b). Manderson, however, misinterprets the reasons that moved Cauduro to break up with his egregious predecessors in the school of Mexican muralism. The display of the cult of the dead is not among his creative incentives, which are culturally simpler and, at the same time, more historically complex than Manderson acknowledges. In 2000, the Institutional Revolutionary Party (*Partido Revolucionario Institucional*, PRI) lost, after 71 years of authoritarian ruling, a presidential election to Vicente Fox of the center-right opposition National Action Party (*Partido Acción Nacional*, PAN). Cauduro, like many other Mexicans, was involved in the political processes and electoral struggles that defeated the PRI, one of the most enduring autocratic regimes of the 20th century. Cauduro, like many other Mexicans, has mourned then and now the setbacks that have plagued Mexico since Fox’s electoral victory, including the untrammelled violence unleashed by the involvement of the military in persecuting the crimes associated to drug trafficking (a matter that Manderson only succinctly addresses) (2019, 233). Cauduro actually explained the historical motivations behind *7 Crímenes* in an interview published in the Mexican newspaper *Reforma* a few days before the official take-off of the *Operativo Conjunto Michoacán*:

I struggle understanding justice in this painful moment in Mexico’s history. This country has always been violent, untamed; it has a nihilistic character. A dictatorial process that lasted seventy odd years has just finished; in this moment, we are laying new foundations, a painful birthing. As an artist, I am interested in using this forum [the Supreme Court building]. My job is to give strength to my images, to make them powerful. This is again the pursuit of sign and symbol; the building itself is a symbol. How could I strengthen it? How could I make the viewer invigorate the figures in the mural? Such is the brutal task I have ahead (García 2006)

²⁴ On current anomie in Mexico, see, for example, Rea and Ferri (2019).

Cauduro characterizes Mexican *history* – not a Mexican *cultural icon* such as the Day of the Dead – as marked by the scourge of violence. Cauduro’s grieving specters thus express the profound *historical* despair that arose among Mexicans, at the dawn of the 21st century, from the betrayed hopes in a failed transition to democracy (see, for example, Bartra 2012; Meyer 2017). Realizing that formal democracy is insufficient to guarantee justice is a heartbreaking discovery. I know this because I have been there. When I first encountered Cauduro’s murals back in 2011, I caressed the scar a grenadier left in my head when, in 1992 (under PRI’s authoritarian rule), I rallied against the constitutional amendments that subverted the protections on agrarian collective property – the *ejido* – originally enshrined in article 27 of the 1917 Constitution.²⁵ I evoked how, while studying my law degree, the teachers affiliated to the PRI constantly ridiculed my human rights activism as a symptom of a deranged *mysticism of democracy*. I regretted the ineffectiveness and inconsistencies of my personal crusade for a democratic model of public security founded not on fear, but on “taking rights seriously” (Dworkin 1978). My soul throbbed with the memory of the consecutive PAN administrations (2000-2012) that deepened the authoritarian legal and political structures inherited from the PRI regime (Meyer 2013), therefore shattering the incipient confidence Mexicans had on the promises of democracy. I shivered thinking about how the social inequalities that permeate Mexican society (Elizondo Mayer-Serra 2017) intimately materialized in my life when guerrilla fighters of the Popular Revolutionary Army (*Ejército Popular Revolucionario*, EPR) held Macarena, my wife, at gunpoint. I thought anxiously about the uncertain Mexican future of my then newborn daughter, Mariana. I felt the shame of the “egotistical calculus” that, according to Guatemalan writer Alexander Sequén-Mónchez, determines the life of every immigrant: the terrible moment in which Macarena and I decided that Mexico was the place where we grew up, but would not be the place where we were meant to die (2010, 165). I thought about my mother and Macarena’s grandmother, and the rest of our loved ones who would be left behind if we ever succeeded in migrating to another country.

I held back my tears.

A truly Levinasian (or Abrahamic) approach to *7 Crímenes* demands from us to contextualize Cauduro’s work in its proper historical horizon, without forcing on it harmful Atlantic fictions that hurt Mexicans. Manderson acknowledges that *7 Crímenes* does not simply provide “snippets of information about the failings of Mexican law and justice”, but actually “turns us into active participants in its operations and development” (2019, 217). This is the first step into Abraham’s path. By looking at *7 Crímenes* through Abraham’s eyes, we can see the Supreme Court building in the context of a country, Mexico, which belongs to a world-system built on structural differences between imperialist powers and their colonial or postcolonial preys or clients. Mexico occupies a special position in the intersection

²⁵ The amendments are reproduced in Tena Ramírez (1999, 1075-1079)

between these coordinates. Lomnitz points out that the country has “the deepest and earliest world-historical experience of itself as a postcolonial and postimperial nation” (2005, 30). As the wealthiest and largest Spanish colony, Mexico at independence had real imperial aspirations. As the United States’ neighbor, however, Mexico has ruthlessly been bullied, invaded, occupied, mutilated, and extorted by North Atlantic colonizers. Mexican nationalism (*malgré* Rivera and his ilk) is a testimony to hard survival rather than an anthem to triumphal devotion. Cauduro’s ghosts accordingly show us the suffering faces of those crushed under the postimperial and postcolonial realities of the Mexican legal system.

One cannot understand the entrapment of Cauduro’s specters in the walls of the Mexican Supreme Court without heeding the historical context that produced them. The Mexican War on Drugs has been one of the bloodiest North Atlantic projects in Mexico. The United States has been consistently involved in the conflict, from blocking and thwarting attempts at legalizing drugs in Mexico in the first half of the twentieth century (Astorga 2016, 54-58; Enciso 2015, 77-90; Walker III 1989, 119-126); to funding the Mexican military directly in recent years, regardless its dismal human rights record (see, for example, Human Rights Watch 2011; Comisión Interamericana de Derechos Humanos 2015; Human Rights Committee 2019), through joint security agreements such as the Mérida Initiative (Boullosa and Wallace 2015, 88, 113; Brewer 2009). Cauduro’s ghosts exist because the transgressive pleasures and puritan obsessions of the Atlantic North are decanted into Mexico (and the Global South) in a vicious circle of prohibition, addiction, accumulation, poverty, hatred and repression. The ghosts will continue haunting the Mexican legal system as long as the interlocking histories of Mexico and the United States continue generating, in their mutual obsession for controlling the narcotics trade, the conditions of possibility of the seven crimes of justice.

CONCLUSION: THE TEMPORALITIES OF RADICAL AESTHETICS IN MEXICO

“Nadie sabe el número exacto de los muertos, ni siquiera los asesinos, ni siquiera el criminal.”²⁶
Sabines (1997, 229)

By bringing the inevitability of death to the forefront of our thinking about law and visual arts, Manderson pushes us to transcend the ordinary conception of time as “something external and objective” which is measured by the clock, and to think about *temporality* instead – that is, our *experience* of time (2019, 7). Cauduro’s temporalities – which are also mine – are marked by a generalized instrumentalization of human existence and a massive destruction of human bodies

²⁶ “Nobody knows the exact number of victims, not even the murderers, not even the criminal.”

and populations in Mexico. In other words, Cauduro's temporalities are not concerned with the festive melancholy of the Day of the Dead, but with the necropolitics of *death-worlds* wrought by the Mexican Drug War, which have reduced thousands of Mexicans to the status of *living dead* (Mbembe 2003, 40). *7 Crímenes* reflects temporalities in which legal violence reveals itself in transparent and obscene ways. Cauduro's work, in this sense, is closer to the radical aesthetics of contemporary Mexican artists such as Teresa Margolles than to the naïve hopes on the world-shattering horizons of the Mexican Revolution that once inspired the muralism of *los tres grandes*.

In 2009, the Mexican Pavilion at the Biennale di Venezia hosted a solo exhibition by Margolles, titled *¿De Qué Otra Cosa Podríamos Hablar?* ("What Else Could We Talk About?"). Margolles sought to confront her audience with the violence generated in Mexico by the war against drugs using forensic materials as artistic resources – for example, blood-impregnated fabrics or the remains of car windows smashed in drive-by shootings (see Medina 2009). Two months before the official opening of the Biennale, Margolles closed the windows of the United States pavilion with draperies tainted in blood of murdered persons who lost their lives along the Mexico-United States border.

Cauduro and Margolles spell out a painful time in the history of a place – Mexico – and its people. Their artwork shows how free entrepreneurship fosters economic and political inequalities; the voracious demand for illicit substances meets an endless supply of violence and fear (tolerated or sponsored by the Mexican and the American states); and the killings that cut down the members of lower social classes become normalized, contained and removed from the everyday lives of the elites. The work of these artists hence illuminates the three colonial temporalities that Manderson describes in the work of Australian Indigenous artist Gordon Bennet. First, the "mystical foundation of authority" (the promise of the rule of law and the social and economic wellbeing it supposedly protects); second, the "deferral of the rule of law" (evident in the corrosive effect that brutal law enforcement practices have on any legal system); and, finally, "the experience of law as a repetitive trauma" (2019, 157). The (colonial) temporalities that oppress Indigenous Australia and Mexico might be geographically distant, but are conspicuously close from a jurisprudential perspective.

Today, almost a decade after Cauduro finished *7 Crímenes* and Margolles shocked the Biennale with her morbid installations, Mexican temporalities remain seemingly stagnant in a murderous Groundhog Day. On 11th May, 2020, incumbent Mexican President Andrés Manuel López Obrador signed a decree that officially deployed the armed forces for civilian law enforcement until 2024. The executive order is, of course, a mere formality. The military has been deployed for law enforcement in Mexico for 14 years as part of a disastrous American-driven public security strategy that has led to 150,000 murders related to organized crime and

73,000 Mexicans considered to be missing or disappeared (Beittel 2020, 6). We, Mexicans, continue focused on death – not because we loathe life, but simply because we are still been killed.

Artists such as Cauduro and Margolles have played their part in denouncing the fateful progress of Mexico's (post)colonial subjection. It is now the turn of jurisprudence for bravely going down Abraham's path to encounter the dead and the mournful specters in Mexico (and Latin America) that North Atlantic fictions have left behind. Jurisprudence may not ever return the same from such a journey – but this risk is, precisely, the promise inherent to Manderson's visual jurisprudence.

CODA: IN MEMORIAM LAETITIA

Jacques Derrida stresses the importance of speaking from the *margins* of philosophy (1972), thus conferring distinctive dignity to the digressions, parentheses, prefaces, notes, annexes and bibliographies with which academics uphold the validity of their work. The preliminary pages of *Danse Macabre* prove the Derridean centrality of the marginal in our understanding of the focal aspects of any intellectual endeavor.

Academics rarely dare to show emotional depth in their scholarly work, but Manderson actually reveals the intimate motivations behind the writing of *Danse Macabre*. In December 2011, Manderson moved back to Australia from Canada “not only to take up the fellowship” which led to the book, but to spend time with his mother, Mardi Manderson, “who was in her late eighties” (2019, xvii). While working on *Danse Macabre*, Manderson had a cup of coffee with her mother almost every morning until her death, in June 2015. “I miss her company still”, writes Manderson, “especially on Canberra mornings when the air is crisp and clear and the sky is bright and loud with the screeching birds” (ibid).

I lost my own mother, Leticia Romero, in June 2020, while I was working on this article. Leticia passed away in Mexico, unexpectedly and far away from me. I have had my last cup of coffee with her several months before, in January. The shackles of Covid-19 travel restrictions prevented me from attending her funeral. The pandemic, however, could not stop my family from placing Leticia at the center of the *ofrenda* we prepared for the Day of the Dead this atrocious year.

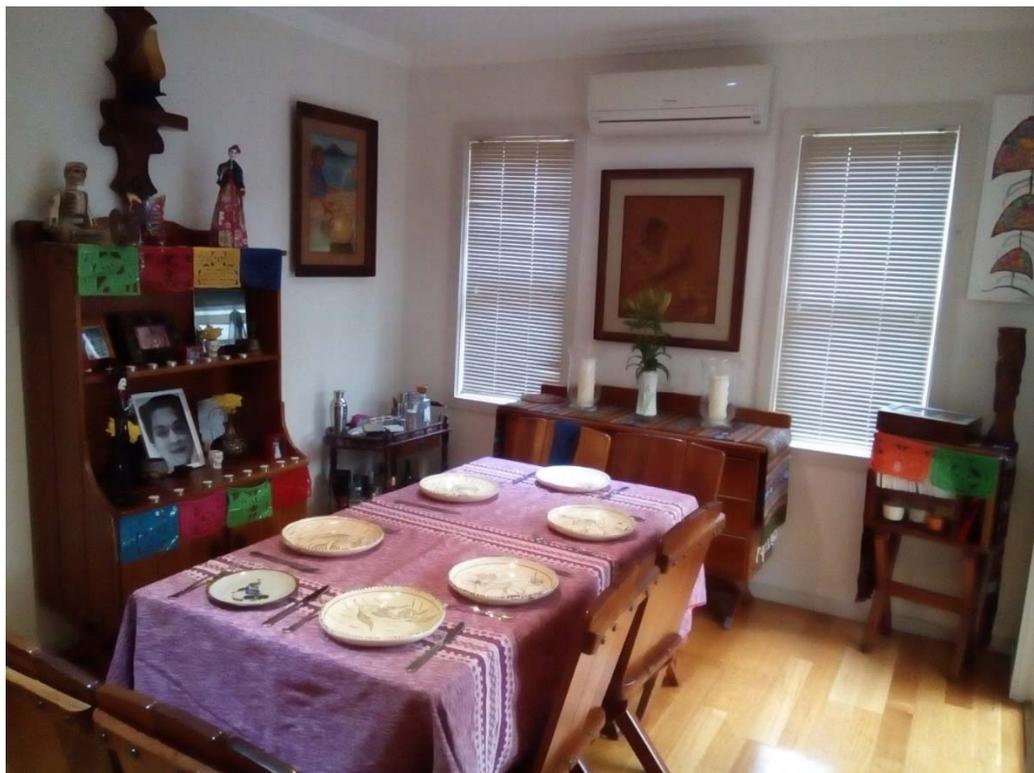


Figure 5. Luis Gómez Romero, Macarena Iribarne and Mariana Romero-Iribarne, *Ofrenda de Muertos*, November 2020. Keiraville, New South Wales, Australia.



Figure 6. Luis Gómez Romero, Macarena Iribarne and Mariana Romero-Iribarne, *Ofrenda de Muertos* (detail), November 2020. Keiraville, New South Wales, Australia.

When I was a teenager, Leticia used to tell me that a song by Cuban composer Silvio Rodríguez reminded her of me and my sister. *Te amaré si estoy muerta, te amaré al día siguiente además*. I will love you if I am dead; I will love you the next day as well. From 2020 onward, Leticia will have a privileged place in the *ofrendas* with which my family will continue celebrating the Day of the Dead each year. This is testimony to a love that, as long as I live, has really transcended Leticia's death. Such is the truth that I speak from the margins: the Day of the Dead belongs to my memories of Leticia and those who I loved and have preceded me in the transit to death, which are alien to any form of violence.

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