

**THE FREE EXERCISE OF RELIGION:
LUKUMI AND ANIMAL SACRIFICE**

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Early Life

Ernesto Pichardo was born in Havana to a middle-class family. His mother had been introduced to Osha (a religion known also as Lukumí or Santería) as a child through a first generation olorisha (priest) who was the family cook. The father's side of Ernesto's family, socially prominent with an economic history that included ownership of some sugar plantations, was active in both Catholic and Espiritismo groups. Pichardo recalls no conflict in these religious activities, except that the Espiritismo activities were kept private for social reasons. The gradual shift in the family to a complete reliance on Osha began for health reasons. His mother had toxicity problems during her second pregnancy that caused a miscarriage. The doctors could not control toxic reactions then and so they warned her that a third pregnancy would kill her.

The olorisha had moved out of the Pichardo home by the time of this warning and was marketing his skills to a number of families. He had also become a priest of Shangó, an Osha divinity believed to have been the fourth king of Yoruba, and commanded considerable respect on medical issues and problems. The young Pichardo woman who was to become Ernesto's mother began visiting this priest and complying with the rituals he recommended. He became an authoritative force in her religious life. He predicted well in advance of Ernesto's birth that she was going to have another child, a male child, and that in spite of what the doctors had said nobody was going to die and in fact everything was going to go well. He also predicted this child would become a priest in Osha and described a number of events and accomplishments that would occur in the child's life.

Ernesto was born without any complications and was raised in one of the affluent barrios in Havana. The family moved to the United States in the early 1960s and settled in the "Little Havana" area of Miami, a zone on and near Calle Ocho (S.W. 8th Street). They were extremely poor at first. Their home was a garage that they slowly converted to an efficiency apartment. By this time Ernesto's parents had divorced and his mother had remarried. His stepfather was a professional with five college degrees who could not find work because of his green card status. He would get up at 4:00 a.m. every day and start walking, looking for any kind of work. Finally he landed a job parking cars in the Eden Roc Hotel in Miami Beach. His mother went through a scary time in the hospital after accidentally poisoning herself while fumigating rats in their garage apartment. But she eventually recovered her health and found employment at one of the local garment manufacturers. Ernesto and his older brother Fernando were basically on their own during the day. They would get up in the morning, scratch up something for breakfast, and then leave for school. Resources were exceedingly scarce. The government assistance program for Cuban refugees would not be passed for years.

The economic status of the Pichardo family soon improved, however. In the late 1960s they located a relative in New York who had arrived earlier and been somewhat successful economically. The Pichardos convinced him to invest as a partner in a garment factory to be managed by Mrs. Pichardo. The factory did very well, at one point operating two shifts, one at night and the other during the day. The Pichardos became caught up in the American dream of economic independence and comfort. They bought their first automobile. They purchased a comfortable house in Hialeah, a municipality adjoining Miami. Ernesto and his big brother went to public schools in the city of

Hialeah. He became an altar boy in the Catholic Church during his years in elementary school.

At about that time Ernesto began to feel that it was time to "pay up" on what the Yoruba priest had outlined as his destiny. The Osha religion was growing very rapidly in Miami during these years, in part because of the increased immigration from Cuba but also because of the intrinsic practical appeal of the religion to the Cuban-American community. Ernesto explored its beliefs and rituals and felt that his tendencies, his instincts, were more inclined toward Osha than Catholicism. His mother was initiated into the religion in 1970. Ernesto's conversion to Osha followed three days later. His ordination was into the priesthood order of Shangó. Three years later his brother and grandmother became Osha priests, and then his grandfather followed him and his mother into the religion in recognition of what they had been told by the Yoruba priest in Cuba many years before.

The ordination destroyed Ernesto's chances for a degree from Hialeah high school. He was sixteen years old and in the middle of his junior year. He had to be out of school during the 7-day confinement period of the ordination ceremony, and for certain events during the first months after that week. The school required a doctor's letter attesting to an illness in order for a student absent for that length of time to be reinstated. Ernesto had no such letter. Moreover, he reported back to school after the confinement period with the signs of an Osha initiation still prominent on his person: his hair was completely shaved off, he was dressed entirely in white, and religious paraphernalia adorned his body. The principal went berserk on seeing him. He expelled Ernesto from school and even threatened to have him arrested if he was seen on the streets.

Pichardo recalls the experience as a complete transformation in his life. He had been very popular in the neighborhood and school. Suddenly he was this weird thing to be avoided at all costs. From best friends all the way down the line to social acquaintances, except for his girlfriend, he was shut out entirely. The displacement included both the everyday routine of school attendance and his social life. This abrupt isolation from friends and schoolmates was devastating. At the same time he had the extended family of a new religion. Suddenly he had new grandfathers, grandmothers, aunts, uncles, all absorbing him into the religion. His life changed from that of a typical American teenager to an ordained priest completely immersed in the social framework of Osha.

Pichardo's first priority was finding a job. It was difficult. He was young and he still looked bizarre from the perspective of secular employers. He convinced his elders in Osha to give him an exemption from religious attire for work purposes. He could go about with his head uncovered (and by this time his hair had grown in a bit, though it was still very short) and wear pastel colors instead of white. But this exemption applied only to work hours. As soon as he returned from his job he had to change back into religious attire. This dress code was in effect until the completion of the ordination (one year). He managed to get a job in a retail shoe store during the Christmas rush. They kept him on past the holiday season. He later became a manager in the shoe company and then a district trouble shooter for the whole Florida region. During this time he enrolled in an adult education program at the University of Miami and in two years had earned his high school degree. He also opened a botánica (an Osha shop for the sale of religious items) and operated that as well. In 1977 he left the shoe business and became a bill collector. The pay was much better but he found the work just as stressful. His life by then had

become completely defined by his job and his business, and the Osha religion that dominated his leisure time.

Eventually Pichardo was accepted for training in the higher priesthood of Osha. In 1977 he completed a period of study and was acknowledged as an *italero* in the religion, though he says that the study regimen never ends. He likens his efforts to going to college forever. His curriculum included extensive work in cultural anthropology, which he believes he used (without knowing at the time what it was called) in his investigative work as a bill collector. In the courses he took at local colleges he began engaging scholars who had extensive knowledge of Nigeria and Osha traditions. He became a kind of apprentice to some of those scholars, helping them with insights into the practicing world of Osha while learning the historical and anthropological bases of the religion. Soon Pichardo began organizing workshops with a foundation grant that brought academics and priests (both Catholic and Osha) together to discuss issues in the Osha movement. Public forums were held that included university professors, *olorishas*, and representatives of the Catholic Church. Pichardo continued to expand his economic interests in corporate America, accepting positions on the executive boards of a number of area businesses.

Original Models and Syncretism

Regla de Osha, in some ways a syncretic religion, originated in an odd and painful historical accommodation between Yoruba and Catholicism in the slave culture of Cuba. Yoruba is a culture that can be traced back at least 5,000 years in Africa. The Yoruba people lived in what is now the southwestern part of Nigeria and eastern Benin. It was one of the regions in Africa from which blacks were enslaved and transported to Spanish

colonies in the New World during the 16th, 17th, and (primarily) the late 18th and 19th centuries. The Africans taken to Cuba were sent to the sugar and tobacco plantations. The conditions of life there were as bad as one might expect in the practice of slavery. In this coercive and hostile setting the Africans encountered the Catholic Church and its message of eternal salvation through Christ and the sacraments. All of the slaves were routinely "converted" to Catholicism through mandatory baptism upon arrival in the colony. The result was a tense and radically incomplete *surface* fusion of Yoruba and Catholicism.

The encounter story, whatever its form, must be seen as coercive in all respects. The slaves arriving in Cuba had no knowledge of Christianity. The baptisms were administered to recipients who did not understand any part of the ceremony. Some priests did visit the plantations later to give informal instructions in Catholicism. But the obvious asymmetry in power between instructor and student invested these lessons with compulsion. Even those slaves who were freed entered a society dominated by Catholicism, and understandings of Catholic practices and symbolism were crucial to survival. This frame of reference helps explain why the coercive introduction of Catholicism to Yoruba culture never produced the contradictions of principle one might have expected in the forced joining of two discourses or practices. Slaves have always found it useful (in the deep sense of survival) to align in some way with the institutions, if not the beliefs, of their owners, and the incentive among slaves in Cuba for a pragmatic acceptance of Catholicism was predictably strong. Lydia Cabrera, a folklorist who did important early field work on Osha culture, saw the new religion as an instrument fashioned by slaves to avoid retaliation for pursuing heathen practices. Leavening this survival strategy was the fact that the two religions had much in common -- beliefs in a

single overriding God, an external reality, interventionist spirits, the sacredness of nature, blessed objects, miracles and the power of prayer, the importance of ritual, and the possibility of spiritual healing and divine protection from harm.

But the absence of strong contradictions may also be explained by the fact that no complete fusion or even an equitable balance of Yoruba and Catholicism has ever emerged from the acceptance. The incentives in Yoruba to maintain the beliefs and practices of the homeland during the diaspora must have been compelling. A collective memory of Africa, which most of the slaves never saw again, was embedded in the Yoruba religion. We know that the Ifa priests memorized and retained the Odu Corpus, the core content of Yoruba, and kept it secret from the slave owners. (One word for priest in Yoruba is *babalawo*, which also can be translated as Father of Secrets). Any fusion between the two religions was accordingly layered in crucial ways along the dimensions of surface accord and underground convictions. The result is an alignment that is little more than a surface wrapping of parallel structures from distinct cultures, or at best a re-expression of Yoruba with a Catholic veneer. Some members of Osha, and several scholars of the religion, maintain that the syncretism assigned to Yoruba is found *only* in the pragmatic responses of members to a dominant culture, not in the religion itself. Also, the coercive origins of Osha led to a hostility between the two religious groups, and cultures, that has kept the religious structures independent to some degree, a hostility which exists in various forms even today.

There is a case, and an impressive argument, for syncretism in Osha. In the work developed by Mercedes Sandoval, for example, we must understand Osha, and all religions, as a chamber, a generous and open vault containing many cultures. Sandoval reminds us that the Hispanic culture during the slave trade was itself heterogeneous,

consisting of a patchwork quilt of contributions by the Jews, Muslims and Catholics residing in Spain, as well as markings from the cultural regions of Catalonia, the Basque country, Galicia and other areas. The Catholicism taken to Cuba was definitely pluralistic and distinctly Mediterranean, and included the worship of saints and a fascination with mystical languages. Cuba itself was dense with beliefs in miracle healings and supernatural events in general, and was influenced by an Espiritismo movement that traded in magic and even witchcraft. The country presented a culture of ambiguity reinforced by the multiple and conflicting subcultures that stretched across the island. Catholic culture was a dominant force in Cuba, but never commanded a numerical majority of the population. It was commonplace for individuals to cross over from one religion to another with little difficulty, and certainly without reprisals. In telling this story Sandoval argues that it was impossible in a setting as heterogeneous as Cuba even to identify a pure African religion. Whatever came over in the slave trade was immediately thrown into a cultural mix so deep and compelling that a syncretic religion was an inevitable outcome.

The problem for all syncretic claims, however, is that any glance at the structure of Osha reveals Africa, not Spain or Cuba, or Catholicism. The dominance of African religious culture can be easily tracked in the parallels between Osha and Catholicism. Olodumare, the distant and absolute God of Osha, is incarnated in a life force known as ashé. This force roughly parallels the Catholic understanding of grace, but only roughly. Grace is a divine state of love that, when granted by God, transforms and sanctifies individuals. Ashé is a more active sacred current, a power that infuses the universe. Ashé is personified by orishas, who represent aspects of God and intervene actively in human affairs. They are worshipped by followers of the religion and occasionally possess

individuals in order to communicate with humans. Catholicism has saints and angels. Orishas, saints and angels are superficially similar. For example, Oshun is generally regarded as a correlate of the Catholic saint, Our Lady of Charity (the patron saint of Cuba), and Saint Barbara at one time was offered as a correlate for Shangó. But the first is weak, the second absurd when the features of saint and orisha are inspected and compared. The distinction is also one of sense in addition to signification. By definition, saints are deified humans. Orishas are holy beings, natural phenomena sometimes represented in human form but also *as* natural phenomena *simpliciter*. Also, on sheer numbers, orishas are both more numerous than saints (scholars count more than 50 in Cuba, and some students of the religion accept over a thousand orishas in various religions worldwide) and seem always to represent particular things and functions. Catholics have many patron saints, but they also pray to saints and other divine beings who have diffuse and general powers transferred to them by God. Also, most Catholics today do not worship saints (though Catholics did so in medieval, and sometimes early modern times), nor in the contemporary world are Catholics ever possessed by saints.

Osha is filled with divinations, spells, curses, and protections, not as powers of any individuals but as forms of divine intervention. Ifa, the path of divination, is mastered by those who would know the will of God. Three types of priests are recognized in the religion. They are, in ascending order of rank or importance, the awolorishas, italeros and babalawos. The most respected of the priests in Osha are the babalawos, for they are masters and interpreters of Ifa. This means that they have partial access to and can interpret the destiny of all beings (which is known in its entirety only by God). Those who petition these priests for oracular advice can gain entry into the divine order in sufficient scope to address practical problems. No comparable access to the divine plan is

found in Catholicism, which (on Aquinas's hierarchy of laws) allows only rare and incomplete glimpses of divine law. Osha also uses divination to solve (by defining and interpreting) the personal problems of those who seek counsel from babalorisha or iyalarisha (Osha priests). Catholic priests, by contrast, administer the sacrament of penance and reconciliation (also known as confession) and distribute communion, which are offered as God's instruments for human redemption. But no Catholic priest of any rank would claim privileged knowledge of the cosmic order to introduce to life's ordinary difficulties.

It is precisely in the relentless joining of the eternal with the practical that Osha exhibits its distinctive character. A practical union with higher beings is part of Catholicism, but the methods found in Osha mark in yet another way the differences between Christian and African influences in the Yoruba religion. The individual member of Osha tries to establish a close, binding relationship with the orishas, who are the spiritual figures instantiating the divine power of God. The believer does this through divination (where the orisha speaks to the human), sacrifice (involving offerings of food shared between human and orisha, sometimes including animals offered as sacrifice), possession (in which a human experiences a rapid trance followed by a physical state of possession by an orisha or ancestral spirit), and ordination into the priesthood of Osha. The last method commits the individual to full eventual union with the orishas or Ifa, and is regarded as the fusion of spirit and human in one person. Traces, and sometimes heavy marks, of each of these methods of contact with higher beings are part of Christianity's long history, but the Catholicism that evolved in the New World has little remaining of these rites. The religious forms and rituals of Osha are primarily expressions of African culture.

We must remember, however, that any comparisons among cultures, any exploration of syncretism, of fusion, dominance and independence, are filled with the intractable problems of identity and causal paths found in all cultural encounters. The easiest and certainly simplest way to proceed is to assume an original African model, identified mainly with the Yoruba culture, which is carried in the slave trade to countries in the New World, primarily Brazil, Haiti (with the Dahomian people) and Cuba, but also (in less significant ways) to the United States and other countries. Then its instantiations in each of the three major countries yield the variations we know as Candomblé, Vodoun, and Osha, variations produced by the indigenous cultures of the host countries acting on the African model in different (and disputable) ways. But this simple account is painfully inadequate. It is not clear at the outset that there is, or ever was, a structure in Yoruba (in the sense of a formal expression generalizable to all Yoruba practices) that could be transported to the New World from Africa. All non-Western societies tend toward a holistic sense of culture which absorbs religion, so that the term Yoruba refers more accurately to a way of life, not a distinct religion of the sort demarcated in the West from other practices. Without a distinctive practice or a written theology Yoruba may be just what individuals did in Africa when they worshiped orishas. It is indicative of the dominance of practice over belief that the sign of membership in Osha has never been an expression of faith but participation in the rituals of the religion. Also, one of the acknowledged features of Yoruba is its pragmatic openness to different beliefs and practices, suggesting variable rather than fixed structures. Among the expressions of this spiritual pragmatism are the sectarian variations that occur even within different cultural manifestations of Yoruba in the New World. (In this sense Yoruba is like Christianity and all other religions.)

The problems of identity are compounded when we realize that traditional ways of life are closely linked to a sense of place. What were the effects of a loss of African terrain and the introduction of a new geography to the Yoruba culture? Even if some type of structure was somehow taken to the West with the African slave trade it is still difficult to distinguish the Yoruba structure from the structures that are a product of Yoruba's encounter with Catholicism. An undefined and practical way of life, taken as background or as a seamless component within a culture, may become precise and visible *and different* when challenged by another way of life. Even the simple request for a description of a religion may elicit an answer that is an artifact of the question, the tacit made explicit and changed as a result of the interrogation. Or, the dependence of position on observation at the level of particle physics is alive and well in the macro world of human communities whenever structure is the product of one culture encountering the gaze of another. It is probably safer (and better) to say that there is an expressible structure in Osha that is African, but whether it was carried intact in this form from an original African model cannot be known. Also, even if we concede that the central model is African, without important syncretic influences at the systemic level, the syncretism of Osha practices (not rituals), beliefs and progenitor (within families) is legion and impossible to deny.

We do know that Osha, originally a religion of slaves, was adopted eventually by portions of the white population in Cuba. Membership rolls were kept only in memory, however, since Osha continued to be a loosely organized religion practiced in private homes rather than in churches or public institutions of any kind. Even today the religion has no final written code or theology in the sense of a Koran or New Testament, though *ifa* exists in a written text that is still evolving. Its origins and traditions, including its

core ideas and practices, have passed from generation to generation mainly as oral history. Osha was brought to the United States mainly in the late 1950s and 60s by Cubans fleeing the Castro regime. The first wave of Cuban immigration was in the years immediately after 1959, an influx to South Florida of mainly the professional classes in Cuba. In 1980, approximately 125,000 Cubans came to South Florida in the Mariel boatlift. This second wave of immigrants brought Cubans from all classes in Cuban life, and included substantial numbers of Osha practitioners (and, to the faithful, the orishas who followed the priests).

Reliable demographic data on the religion do not exist. The best estimates on membership in the United States vary widely. The regional figures mentioned most frequently today are that 300,000 members of Osha reside in New York, many from Puerto Rico and the Dominican Republic as well as Cuba, and at least 100,000 are in South Florida, mainly from Cuba, though many of these practitioners may also call themselves Catholics. (Census figures for the year 2000 put the number of Hispanics in Dade County as 1,284,416 in a population of 2, 253, 362 million residents.) The lowest estimate on the larger picture from scholars and members, partly drawn from an informal survey in 1985-6 of the written records of elders in Osha and from sales of animals and other paraphernalia in stores, is that the core of *just* Osha members in the United States is roughly 1 million currently. Some scholars, for example Migene Gonzalez-Whippler, set the figure of practitioners (not just members) as large as 5 million (a figure regarded as too high by most other scholars).

Data from and on Cuba are even more speculative. But we do know some things with reasonable certainty, among these that Osha is part of three revivals on the island. One is the increase in non-Catholic churches that has followed the measured and official

tolerance of religions in the 1990s by the Castro regime. The number of Protestant churches has grown by more than half since 1992, to nearly 1,700. Osha has been part of this non-Catholic expansion. Second, the Catholic Church has expanded its influence on the island since 1995, and is considered by some outside Cuba to be the only reliable opposition to the Cuban government (a standing publicly resisted by many of the bishops in Cuba for obvious political reasons). There is some indication that the Cuban Government has encouraged the growth and increased visibility of Osha as a counter to the Catholic church. The third is an increasing reliance on natural medicine in Cuba. The most direct explanation for the resurgence of natural healing has been the economic crisis in Cuba, acknowledged as a result of the collapse of the Soviet Union (and with it the bulk of trade and support flowing to Cuba from Russia), the United States trade embargo, and the failures of the Cuban Government's organization of the economy. A part of this crisis has been a cutback in the Government's health care expenditures to roughly half of its 1979 allocation. One consequence has been a revival of interest in health care that is economical. Natural healing meets this requirement since its medicinal costs are almost nothing. The number of patients treated with natural therapies was 3,000 in 1998, more than double the number in 1996, according to Leoncia Padron, director of traditional and natural medicine for the Cuban Ministry of Public Health. Osha, with its traditional emphasis on natural cures and spiritual healing, has flourished modestly within this public sanctioning of natural healing.

But perhaps the most important influence of Osha is invisible, which is traditionally the deepest effect of all religious movements. The ontology of any religion informs its members on how to evaluate and interpret events. Phrased more directly, religions provide meaning for the ordinary and extraordinary in human experience. This

evaluative and interpretive calculus sometimes is evident only in times of crisis, and may be as mixed and uncertain, and as prone to manipulation by adversarial movements, as any interpretive schema. The most dramatic and complex event in recent Cuban-American relationships is arguably the case of Elián González. The repatriation of this shipwrecked boy became an acrimonious and very public issue between the Cuban-American community in South Florida and the Cuban Government. It was also an issue of attribution and blame between Yoruba and members of the Catholic church in the area, represented in one vivid instance by a much-discussed note.

At the height of the crisis an anonymous letter was circulated in Miami speculating that Fidel Castro had received a reading from a babalawo in Cuba attesting that Elián was an incarnation of Elegua (an important orisha who is the guardian of the gates). Victor Betancourt, a babalawo of the oracle Ifa who lives in Havana, was quoted as citing the boy as “the chosen one.” This identification was rejected by Cuban-American members of Osha as one more attempt to denigrate their religion by linking it to the Castro regime. We do know that the Catholic community protected Elián as a child of light in opposition to the demoniac Cuban government. One of the principal advisors to the family was a Catholic priest, and all of the visible prayers on behalf of the child were Catholic prayers. After agents of the Justice Department broke into the Miami home of the Gonzalez family to acquire custody of Elián, the adult cousin caring for the child took journalists on a tearful walk-through of the house. Her first complaint was that the agents had knocked over the statue of a Catholic saint in the front living area. But trace rumors of a Yoruba influence circulated in Miami long after the case was resolved. The hostility and distrust between Osha and Catholicism had insinuated itself into the meaning of experiences during a time of crisis as it has in more routine times.

Religious Practices

Osha, like many religions, appeals to those who have problems that need to be addressed by a third party, and also to those whose lives are unusually hazardous and want protection of some sort. For eminently pragmatic reasons the religion is the choice of those in high-risk professions: deep sea divers, boxers, certain gamblers, smugglers, artists, drug dealers in particular. Entertainers, curiously enough, are also found in these ranks. Practitioners fondly remember Desi Arnaz and at least his surface homage to Osha by opening his act with the chant of “Babalu” culminating with the full name “Babalúaiyé” (the orisha of disease and health). The practical reliance on Osha may be a celebration of use, as in the maxim, whatever works in any world: the prayer, the amulet, the incantation, the money bribe for border patrols, favors for the agent to get a movie role. But the ordinary, risk-averse person also turns to the religion for help. An individual might have a health problem, for example. He goes to an olorisha for assistance. Suddenly his problem is not his alone. It now also belongs to the olorisha. The olorisha will usually begin by trying to determine the cause of the problem, whether the client has a natural illness, for example, or if the origin of the health problem is supernatural, say the result of someone working magic on him. Or maybe the olorisha will conclude that a deity wants something from the client. Then he may take the person to a babalawo. The method of divination, ifa, is conducted by the babalawo. In one method, the babalawo speaks to the oracle, ikin, by ritualistically tossing and interpreting the patterns of sixteen consecrated kola palm nuts to find the odu, or particular sign of the client. In all versions of divination the babalawo is trying to ascend in order to get the orisha to descend and reveal the cause of the problem and a possible remedy.

Solutions vary according to problems. The illness may be part of the man's fate, and must be allowed to run its course. Or it may be an item in his destiny for which a remedy is available, something that can be modified by human interventions. If the illness is a spell conjured up by others, then the olorisha will identify a ritual to cancel the spell. Perhaps the illness can be passed on to an animal. One of the oldest African rites is an exchange ritual that transfers illness from one body to another, usually from humans to some power animal like a ram or goat. Then the animal has the illness, or evil spirit causing the illness, and so of course must be sacrificed rather than left sick and perhaps dying. Or it may be that the client must offer food and gifts to an orisha, perhaps Babalúaiyé. On many occasions the olorisha will send an ill client to a regular physician for treatment after the Osha rituals are complete. It is the established view of Osha that illness must be treated holistically, as both a physical and spiritual manifestation. No hostility to modern clinical medicine is found in Osha, though in fact psychological conflicts in individuals do occur as they try to avail themselves of both spiritual and conventional healing techniques.

The practical effects of consulting with an olorisha are some combination of distraction and renewed confidence in oneself. One measure of these effects is the widely acknowledged success that olorishas have in solving problems of love, where the heart is broken figuratively rather than literally. A woman comes to an olorisha with a common story. Her husband is leaving her for another woman. The olorisha immediately sympathizes. He bonds with the woman emotionally. He may tell her that the other woman has cast a spell on her husband, that the loss is not her fault but rather the result of black magic. He may even say that she will get her husband back if she follows his directions. In the meantime he keeps her very busy with instructions to light candles, put

honey on some of the orisha's favorite food (maybe squash), take a bath with consecrated herbal water, get someone working on her hair, take this specially blessed perfume, buy a new dress, and so on, all leavened with the decisive promise that the olorisha will solve the problem. The woman may return home with a different, more positive attitude. This result alone is a kind of magic performed by the olorisha. It is a hybrid between the Homeric ontology that assigns responsibility for problems to the gods and the Christian reassignment of blame to the individual sinner. The individual in Osha accepts responsibility for modifying her behavior while understanding that the remedy has a higher or supernatural origin with dynamics that she can only partially comprehend. At the end of the day the intervention may bring the husband back, or -- more likely -- reconcile the woman to the loss and lead her to see that she can succeed in life without her husband.

This holistic strategy is obviously a form of practical therapy. It is also used to heal a variety of illnesses that respond to changes in attitude, including drug habits. The more intractable problems of daily life may yield only if an individual is initiated into Osha, either as a priest or through some other rite of passage. One does not choose ordination into the priesthood. It is offered to worthy individuals, those destined to be priests, and costs from eight to twelve thousand dollars and sometimes more. (Olorisha counseling fees are much more affordable, usually in the ten to hundred dollar range.) The impact of ordination on the iyawo (novice) is thorough, and typically described as a rebirth. The entire ordination takes twelve months to complete, and is broken into a preliminary period followed by different activities in intervals lasting several months. The first stage of the ordination take place over a seven day period of confinement, in the house of the initiate's godparent, and is open to friends and family. The initiate's hair is

sometimes completely shaven and certain ritual symbols, understood primarily by the clerical community, are painted on his head. During the confinement the iyawó (novice) bathes with consecrated omiero (a liquid extract made from herbs). A divination ritual known as itá occurs on the third day. At this time the iyawó will be given the prescriptions and prohibitions s/he is to follow for a lifetime in order to secure the material and spiritual benefits that render existence meaningful. As the week progresses the initiate will go through complicated rituals that extend and strengthen the mental and spiritual faculties needed to fulfill the requirements of a spiritual life. The entire process requires considerable physical stamina and psychological strength

The result of ordination is a kind of abandonment and commitment. The individual gives up a range of freedoms to accept the guidance provided in Osha. The italero priest tells the newly ordained priest what is allowed and forbidden for the rest of his life, a program that comes directly from the divination ceremony. In return the priest joins an extended family consisting of all those individuals who are members of Osha. This support network helps the individual in making a range of decisions, primarily through interpretation and instruction, while providing a spiritual and practical framework of love and assistance. The success in redeeming individuals from destructive practices like alcohol and drug abuse is reported to be very high, for members are part of a spiritual community that -- like Alcoholics Anonymous -- redefines the self. But Osha is a religion, not simply a secular support group. It offers a detailed ontology that explains reality and human experience. No promise of salvation in an afterlife is held out to members, though Osha does contain beliefs in reincarnation. The problems of this life are resolved in Osha by transforming understandings of the ordinary world through the introduction of a transcendent world.

Empirical experiences are regarded as derivative in Osha, drawn from ashé. Orisha consciousness is true consciousness, conventional truth only a reflection of a higher timeless reality. Like Plato's allegory of the cave, humans in Osha must be shown another reality, one set forth by ashé as the design of an ultimate God. In divining that higher reality one can come to see where one's own life and its problems fit into the pattern of fate. Stories that illustrate the higher reality communicate both timeless truths and practical lessons to the member or priest. These stories (apataki) form the order (or destiny) of a particular individual and are provided as answers to practical problems. But they are not simply pragmatic solutions. They introduce spiritual dimensions to ordinary concerns.

Percussion, singing, dancing, chanting are very important expressions in Osha. One of the more dramatic devices used in the religion to gain access to orisha reality are the batá drums, played in drum celebrations known as wemilere (the orthodox Lukumí term for a drum celebration), a toqué, or just a tambor honoring one or more orishas. These celebrations are usually held in a private home (remember that there are virtually no churches or public facilities in Osha, though sometimes Osha people rent banquet halls). The ceremony typically begins with the oru igbodu, a phase where the drummers play before the orisha's trono (altar) without chanting. This event is followed by a ritual meal for the drummers. Then, and finally, there is the oru iyará nlá, the public ceremony where the apuón (singer) will chant traditional verses in Yoruba to traditional rhythms played by a team of drummers (omó añá) on three sacred drums with dancers responding. The sounds produced from the trio of double-headed hourglass shaped drums, the batá, and the movements of the dancers easily fuse to conjure a mood that affects both participants and spectators. One function of the batá is to present the recently ordained

iyawó (technically the spouse of the orisha, but in practice a term that refers to the novice being inducted into the priesthood) before Añá (the deity of music and drumming) and the batá drums in a ritual of movement and chanting, after which the individual olosha is authorized to dance in future ceremonies in front of the batá. During this phase of the bembé many iyawós may be presented in sequence. Once this phase is concluded the celebration continues with general dancing that is still performed according to learned movements representative of the individual deities (spontaneity is in low regard in these ceremonies).

The bembé, a term which refers to a specific drum ensemble, is typically a celebration where the ensemble (agbé) of one or two conga-type drums, two or three shekeres-gourdrattles, and a gong is contracted to play in a dance that is less structured than the wemilere, and more social than ceremonial. Oloshas gather (again in a private home) and dance both planned and spontaneous movements to the drums (both sets of movements deriving from Africa). The ceremonial forms and styles vary within an acceptable range. The event can include yesá ensembles, various styles of bembé, and unconsecrated batá known as aberikolá and cajones. The range is set by African and Spanish traditions, and the quality one expects of any artistic expression (“as long as the ensemble is good,” one participant told me). The initial goal of the bembé is to call forth Elegua, the orisha who is the guardian of the path, the one who can open doors to higher planes of existence. He occupies a very high standing in Yoruba and is usually propitiated first in ceremonies. In the bembé he is the first orisha summoned, and the one who closes the evening. In this context he is viewed as a spirit of the random and unpredictable, the trickster who introduces spontaneity and creativity to an orderly universe.

As bembé progresses different individuals come forward to dance, with different orishas represented in various dances. Oshun, the river patron (cool power), may be represented. Another dance may represent Oshosi, the hunter, or Ogun, the patron of smiths (who stands for hot power). But the patron saint of the batá, and owner of Aña, the deity of dance, is Shangó. As the evening progresses more and more people dance to the drums with a frantic energy that seems to sweep across the room. At random moments in the dance various individuals may be possessed by one or more of the orishas. The orishas are said to "mount" the human, using him or her as an instrument to harangue, predict, warn, and in general utter truths to the human assemblage. Possessions occur in both the batá and the bembé, though oloshas say that they are more frequent in bembé in part because it is less controlled by ritual. Those who are truly possessed remember nothing of the experience, though they feel the physical effects of whatever they do during the possession. In bembé several people may experience flash trances, and are thought to be radiated momentarily with the energy of the orishas. Only a few of the trance experiences continue to possession.

Some of the moments in the bembé are terrifying if, for example, an enraged orisha verbally castigates some individual. Other events are amusing. Purists believe that the darker or wilder ceremonies sometimes described in the bembé are not genuine expressions of Osha, and are more accurately classified with the types of ceremonies conducted in palo mayombe, the black magic rituals brought over from the Congo, and more particularly with Vodoun in Haiti. In these ceremonies lower level spirits or deceased ancestors possess the individuals. At one irregular session a deaf mute from arurun (dead ancestors, or "people of heaven") mounted an individual and began communicating with sign language. The crowd, in frustration, finally shouted "mata este

perro otra vez!" (kill that dog again). On another occasion a possessed man began eating candles. After the second candle the group took pity on him (realizing how sick he was going to feel afterwards) and brought him down from the trance. In general the group will not allow individuals to do anything dangerous or harmful during the spells, though embarrassing moments are usually allowed to occur on the grounds that it is really the spirit who is responsible, not the human.

In one memorable palo mayombe session a Marxist economist was possessed by a dead ancestor who did seem (really) to have the power of clairvoyance. The spirit (via the individual) was able to describe exactly the interior of a woman's house and the light blue car that had recently been brought to her yard by her nephew. (The "mount" had never met the woman or her family.) The woman's husband remained skeptical (and even lied about the house's contents when asked to confirm the accuracy of the description). So the spirit turned to the husband and said "I will be in the blue car with you the next time you drive it." To which the husband responded, "Then be careful, because I carry a large gun with me whenever I drive." The woman was overcome at the spontaneous absurdity of the response. She fell on the sofa laughing at the prospect of her husband "killing" the spirit of a dead ancestor.

The trances and possessions in the Osha bembé, by contrast, seem to be genuine mystical experiences that unite the human and spiritual worlds. They are brought on by music, primarily drum rhythms, without drugs of any sort. Individuals get so intensely into the movements and sounds that they are "occupied" by an external entity. The orisha is accepted in Osha as the incarnate power of the higher reality. Its presence in a human body is proof to participants in the ceremony of the possible union of human sensibilities with a reality beyond sensory experiences.

The Legal Dispute

A narrative of initial rejection and ultimate redemption began for Ernesto Pichardo with what he calls his 1987 nightmare. That was the year that his church entered a protracted legal and political conflict with the city of Hialeah, a municipality adjoining the north side of Miami. In 1974 Pichardo incorporated his church as a prelude to making it the first public institution in the Osha religion. Again he was guided by intuitions or what he calls "supernatural indications" that this public institutionalization of Osha was part of the family mission described by the Yoruba priest in Cuba. Pichardo wanted to provide an institution that could express the consciousness of Osha in a public manner. He knew that the members of Osha felt for the most part that it was a legitimate religion, a view supported by the scholars he had worked with in his studies. Why, he asked himself, was Osha practiced then in the privacy of homes instead of public centers in the American tradition of religious practices?

In the spring of 1987 Pichardo and his associates located a piece of property in Hialeah that they thought might serve as the initial stage for a church. The owners wanted 1.2 million dollars for the lot and store. Pichardo and his group liked the setting, even though it was in a depressed economic area and the store was in bad repair. But they had no history of the land. All they knew was that an auto dealership had occupied the premises until about three months previously. More accurately, the site had been a used car lot. So they decided to protect themselves a bit. They signed a lease for the property with an option to buy at the agreed price. The understanding they thought they had with the owner was that they would first use the site to recruit members and raise funds. Then, if these campaigns went well, they would exercise the purchase option and build a church on the property. They signed a contract and put down a substantial deposit in April 1987.

This commitment, they thought, was the beginning of a movement to give public expression to a religion that had remained underground throughout its history.

The Pichardo group became aware of the community's resistance to their efforts almost immediately after their plans became public. It was only later, however, that the group discovered some vital facts about the history of the particular site they had chosen for their church. The most crucial fact, which they did not know when they leased the land, was that the Mayor of Hialeah had a personal interest in the land. Four years prior he had tried to get the owner to sell him the property for 400 thousand dollars, roughly twice its market value at the time. The owner had refused. A second fact was that the Mayor had included the site within the new Hialeah redevelopment program, meaning the land value could be expected to have increased to something like a million dollars an acre when redeveloped. In fact the owner of the land, himself a developer, had been locked in a bitter feud with the Mayor over rezoning of the site for development purposes. The owner wanted to develop the land himself. The Mayor preferred to do it on his own and would not rezone the site. The owner decided to offer the lease and a buy option to the Osha group in order to oppose the Mayor.

Two weeks after signing the contract Fernando opened the Miami Herald and began reading an article on a Hialeah councilman who had been indicted (and would later serve time in prison) for extorting \$15,000 to rezone a piece of property. The address was the store and lot the Pichardo group had just leased. Ernesto had been involved some years earlier in the construction business in Hialeah and knew how the city councilmen and building inspectors worked. A charitable observation would be that the system is a Byzantine structure of conflicting interests and economic opportunities. More to the

point would be to say that it is hopelessly corrupt. Ernesto's only comment to his brother when he read the article was, "Get ready because the fire is coming."

The Pichardos were in no hurry to register the church with the city. The property was in bad condition. They started clearing up the broken glass which seemed to be everywhere, painting the building, making needed repairs. They figured it would be two to three months before they could even begin operating. The only church function they held during this time was a pre-opening ceremony in mid-May. In the meantime one of the Mayor's employees in his real estate firm was appointed to the Hialeah city council seat vacated by the removal from office of the indicted councilman. One afternoon in late May, while Ernesto was getting ready for a trip with his children to Disney World early the next morning, he received a crisis call from an associate. A Miami Herald reporter had called the Osha center that afternoon. The new council member was going to bring up the issue of an Osha church in Hialeah and present a number of legal violations by the Osha group. The reporter wanted to know the Osha side of the story and how the religious organization was planning to address these issues. Ernesto recalls that he was in "total shock," even though he had expected trouble. That evening the council meeting was canceled due to the lack of a quorum. But the dispute with the city of Hialeah was obviously imminent.

The Pichardo group had arranged for power to their building, a phone line was in and operating, and the water and sewer systems were connected and functioning. But then they noticed that their garbage was not being taken away by the city trucks, a neglect that continued for four months. Then Florida Power and Light shut down their power even though they were current on the account. Phone calls to the city and the power company produced only vague references to code violations. Pamphlets began circulating

through the neighborhood warning that a satanic church was going to open. Various churches in the area, including Baptist, evangelical, Jehovah's Witnesses, began opposing the installation of the church. (The Catholic Church remained silent throughout the entire episode.) The Humane Society was especially virulent in its opposition. It charged that Osha members drank both animal and human blood during ceremonies, tortured and sacrificed cats, dogs, snakes, other exotic and protected animals, and occasionally humans, and ritualistically abused children as well. They blamed Osha for the spreading of AIDS (because of blood drinking) and for every animal carcass found on the city streets. Animal Rights groups joined the opposition. By the time of the first city council meeting on the issues, held June 9th of 1987, the Osha group faced one of the oddest coalitions in American politics: a heterogeneous collection of organized Christian churches, the Humane Society and Animal Rights League, various economic interests, the majority of the area politicians and their natural constituencies, and the Hialeah police chaplain.

On May 28th the code enforcement director for the city visited the site and warned Pichardo that he had a number of violations in the building. He did, however, walk Ernesto through the city hall procedures for an occupant license. Churches are not licensed. But they must file for an occupant license for the use of a building, which is then inspected for safety. Within one working day of his call for an inspection, Ernesto was greeting all three city inspectors appearing one after another. Each found a violation. The electrical inspector found two violations: a piece of wire on a nonoperating central air conditioner that he said had to be insulated and a safety switch to the air conditioner on the outside of the building that he judged to be inadequately attached to the wall. Pichardo decided to follow the inspector's demand that he have the whole building

rewired, believing that the inspector would begin coming back and finding additional wires or switches requiring work. The only problem was that no licensed electrician would touch the job. Finally Pichardo found an Osha member who was a licensed electrician. He did the work. Another member of the faith with a plumbing license corrected all of the plumbing deficiencies.

One problem was that all of the seed money and early donations earmarked for church programs had to go into these major repairs. Even the building structure was affected. A room that Pichardo had designated as a food bank for the poor had to be converted into a second rest room to comply with one of the inspector's requirements. The result was a rest room suite and a cancellation of the food bank. Still, all of these alleged code violations were only buying time for the city of Hialeah. Pichardo knew that the effective opposition would have to be political and legal.

The political opposition coalesced in public in a June 9th city council meeting. From Pichardo's point of view it was an exercise in oblique power. Since the city could not deny a religion its church without violating First Amendment rights, the council charged that Osha was not really a religion but a cult, and that it violated hygiene laws and laws preventing cruelty to animals. Pichardo went into the June 9th meeting feeling that every strip of his body had been shredded by these people on the council. He told the council that this kind of public meeting, with all the intense pressures generated by the campaign to discredit Osha, was not the proper forum to discuss religious beliefs and issues. He invited the councilmen to meet with him privately so that he could present in detail the purpose and function of the church. They declined.

At the end of the June 9th meeting the council passed the first of Hialeah's resolutions opposing animal sacrifice. It was an emergency stipulation that declared it

city policy to oppose ritual sacrifice and prosecute violators of state and local law. The resolution adopted the language of the state's anti-cruelty statute and applied the statute's provisions to the city of Hialeah. The Florida law specifies the terms and conditions for the humane slaughter of animals, primarily in the slaughter of livestock for food, as set forth in the Federal Humane Slaughter Act of 1958. These terms and conditions prohibit unnecessary and cruel killing of animals, though the Florida law does exempt "ritual slaughter."

The debate and public condemnation continued through the summer. Occasionally Pichardo and his colleagues found themselves dodging cars trying to run them over. Cassettes containing Christian sermons were tossed onto the property. Once a wooden plaque with a crucifix was thrown in like a frisbee. Crank calls, death threats, letters addressed to Dr. Satan were common. Pichardo was bemused by two anomalies in the situation. One was that the city of Hialeah had been so indifferent to the welfare of animals before the dispute that they didn't even have in their charter a section allowing for registration of any animal rights groups. Even the Humane Society was not licensed in the city of Hialeah. The second was that many of the most vociferous opponents on the council had strong Osha ties. The majority of the council were Cubans. They were suddenly professing their Christianity. Yet one member who proposed two out of the three later ordinances against Osha had a wife who was a member of the religion. The Mayor's father was a member of Osha. The research Pichardo's group did on the council members showed that all of the group were linked to Osha in some way through family ties, business associates, close friends. Pichardo understood. An election was coming up in November.

The city council enacted three ordinances in September 1987. One, passed on September 8, prohibited the possession of animals intended for sacrifice or slaughter except where zoned. Since the proposed site for the Lukumi (the spelling used by the church founders) church was outside areas zoned for slaughterhouses, the ordinance would effectively prevent the church from storing animals for sacrifice. Another ordinance, passed on September 22, authorized registered groups to investigate animal cruelty complaints. A final ordinance, passed at the same meeting, filled the hole left by the September 8th regulation. It prohibited the slaughter of any animals on premises not properly zoned for that purpose.

By September the Lukumi attorneys had straightened out the certificate of occupancy issue. The city conceded that legally they had to issue the certificate. But they were determined not to permit animal sacrifices. On September 24 the Lukumi church filed a suit in U.S. District Court against the mayor, the city council, and the city of Hialeah alleging that their constitutional rights to religious freedom had been violated. Pichardo labels this period as the start of the chicken wars. The city, in his view, had arranged to reduce all of the complex issues of religious belief and church-state relations to the morality of animal sacrifices.

Both plaintiffs and defendants in the suit knew that animal sacrifice had always been a vital part of Osha's practices, including birth, marriage and death rites, and its healing rituals and initiation ceremonies. The difference now was the prospect of an Osha *church*. Because the religion had remained culturally underground even in the more open communities found in Miami, most of its practices had been shielded from public scrutiny or even knowledge. These practices, including animal sacrifice, had never been the target of a legislative action, or even part of any public controversy. It was clear to

everyone involved in the issues that the Hialeah city council had passed its animal-sacrifice prohibitions as part of the political and legal opposition with the Pichardo group and its efforts to open an Osha church, not with the religion as such.

The ordinances were phrased mainly in secular terms. They did not explicitly target Osha or any other religion in any of their provisions (though the church in the law suit brought against Hialeah and its city officials argued that some of the language used in the law was religious). The effects of the ordinances, however, were felt most directly by the Osha religion in the area. The church could not legally carry out its religious practices, and members of Osha who practiced animal sacrifice in private religious ceremonies now risked criminal penalties.

Animal Sacrifice

Animal sacrifice, the explosive issue for much of the opposition to Osha in the United States, is a ritual deeply embedded in most religious practices. The Book of Leviticus provides detailed instructions for the Israelites on the slaughter of animals, including the statement that “The priests shall dash the blood against the altars of the Lord at the entrance of the tent of meeting, and turn the fat into smoke as a pleasing under the Lord.” (17-6) Not all writers of the Bible endorsed sacrifices but “burnt offerings” were very much a part of Hebrew traditions. Christianity did not conduct animal sacrifices but the influence of Dionysian rites is evident in the communion ritual, which is described as the eating of Christ’s body and the drinking of his blood. In Christianity Jesus assumes all sacrifices by offering himself as the ultimate sacrifice, the “lamb of God” in the Catholic Eucharistic Liturgy. Pre-Western cultures in the Americas, including especially the Aztec and Mayan, practiced sacrifices that included both animal

and human victims. In all of these rituals blood is regarded as sacred, and the spilling of blood from a live animal an offering that placates the gods. More precisely, sacrifice is a conciliatory gesture that intends reciprocity between human and deity. The ritual offers the sacrificed animal as propitiation to spare the life of the human disciple.

Seen in this historical context, the reliance on animal sacrifice as a central and even defining ritual in Osha is continuous with virtually all religious practices in the past. Put in crude metaphorical terms, sacrificial rituals are to religion as apple pie is to American popular culture. But there are two important breaks with religious traditions in the Osha ritual. First, modern religions have largely substituted virtual sacrifice for actual sacrifice, relying on tokens and symbols instead of the real thing. Osha continues to do the real thing. Second, Osha is a religion that appears to be entering the contemporary world (the Lukumi Church has its own web site) while yet maintaining its core primitive rite of animal sacrifice. The conditions of this new world are shaped in part by influential and unprecedented animal rights movements unalterably opposed to any abuse of animals. Here are found the contours of a struggle.

One signature statement of the contemporary West is the extension of rights vocabularies to forms of life traditionally regarded as chattel, embryonic, or fair game: children, fetuses, nonhuman animals. Animal rights groups protect nonhuman animals from harm primarily with rights driven tactics, meaning that they assign rights to life and freedom from harm to non-human animals. But these groups also sometimes develop utilitarian themes, for example that a brutal attitude toward all forms of life will be an inevitable consequence for human communities if the torture and killing of animals continues. Animal rights groups currently restrict experimentation on animals, join ecologists to block developments of land that threaten endangered or rare species,

demand and receive assurances from American film companies that no animals are harmed in films, and present no fewer than 25 Web sites for different organizations intent on preventing a robust inventory of harms to animals. The Lukumi Church, by default, enlists the virulent opposition of all animal rights organizations with its practice of animal sacrifice. An *Amici Curiae* brief supporting the city of Hialeah was presented to the U.S. Supreme Court in the *Lukumi* case by a group consisting of People for the Ethical Treatment of Animals, New Jersey Animal Rights Alliance, and the Foundation for Animal Rights Advocacy.

The opposition between Santería and animal rights groups is more than a standard political confrontation. It is a textbook type of intractable dispute. The dispute is visceral, and framed in terms of foundational principles. The differences extend even to descriptions of the sacrifice ritual, creating a Rashomon effect of vivid dimensions. Here is a description of the ritual by Gary Francione, one of the lawyers representing the American Society for the Prevention of Cruelty to Animals (published in *The Houston Chronicle*, July 24, 1993, immediately after the U.S. Supreme Court decision):

“...Santería practitioners often completely saw the heads off larger animals, such as goats and sheep, and place the heads of birds and smaller animals under foot and then pull the animals until dismemberment occurs. Animals are allowed to bleed to death very slowly and do not lose consciousness for extended periods of time. They are often kept in filthy and inhumane conditions, and are deprived of food or water, for several days before the ceremony. Decomposing animal bodies are disposed of in public places.”

Presentations by the faithful surround and even bury these descriptions with elaborate religious procedures. Listen to the words of Julio Garcia Cortez on animal sacrifice:

“A young goat is the first offering, a piece of coconut is put inside his mouth, and tied with a rope. Two assistants will hold him while the Oriate (a senior olorisha) peels a bit of hair from the goat’s neck and starts chanting. (Here Cortez lists the chants in Yoruba between the Oriate and a Choir). While chanting these phrases (the Oriate) will introduce the knife through the side of the goat’s neck. (More chants.) With the knife still inside the animal’s neck, the Oriate will continue to do the next chant. (More chants.) These chants will be repeated until the goat is left without blood...” (from *The Osha*, pp. 317-18)

Cortez goes on to describe the sacrifice of fowl and other animals. These accounts differ from the horrific descriptions provided by opponents primarily in the setting. It is clear from the texts of the faithful that the sacrifice ritual occurs as part of an established practice with fairly precise rules and criteria for correct performance. These ceremonial trappings are not to be underestimated. The Catholic Church is known for its lush pageantry (exactly what occasioned Luther’s scorn and Reformation sparseness in Protestant churches). The processions, statuary, colorful garments, stained glass, religious medals and rosary beads, holy water and holy pictures, clusters of brightly lit votive candles, the smells of incense, and the layered ceremonies at Mass are forms of religious art, expressions of an interior spirituality in terms of transcendent symbols. These sources transform human meanings by suffusing them with an eternal perspective. The controlling thought is that an event in human terms can be quite another in God’s terms. To the Osha believer it is exactly the thick religious dimension represented in ceremony that leavens and justifies the sacrificial ritual. The ritual, as an offering to God, must be evaluated from God’s point of view.

Augusta Del Zotto is a graduate student in political science who took part in the Osha sacrifice ritual just before beginning her work for a PhD. It was in 1998 and she was living in California. She recalls that she was working through a lot of emotional and physical problems at the time, what she now calls “a string of bad luck” that lasted for three years. Her husband had left her and their son, and she was facing terrible and unanticipated financial problems as a single mother. She sustained a number of serious injuries when three thugs assaulted her near her home. Much later a lump was discovered on one of her breasts and had to be removed. She remembers being very, very tired from these and other events, to the point where she believed that if there were a God she was being tested by this supreme being at extreme levels. She wanted to find a way to be more balanced, to bring love and stability back into her life. A colleague at San Francisco State college, Maria, had a godfather named Nilo Tandon who was a well-known santero in Santería. Maria suggested to her that she might want to start seeing him.

Augusta began visiting this very elderly man (he was in his nineties) in his apartment in the mission district of San Francisco. The fee was whatever she could afford, Tandon told her, and sometimes she and Maria would simply bring the olorisha some lunch. Tandon’s methods began with a general reading using cowrie shells. Then he would give the client a blessing and some oils for ritual baths. In subsequent visits, if he developed confidence in the client, believed that the person was serious and not just playing in the spiritual marketplace, he would invite this individual to participate in an animal sacrifice ritual. He did invite Augusta, and she immediately discovered that, like all olorishas, Tandon used different animals for different purposes. For Augusta the animal was to be a dove, the animal designated to heal people with a sick body or spirit. The first requirement of the ritual was that Augusta had to bathe for two weeks in water

that had special oils and flowers. She did this. Then, a week before the ritual, she and Maria were asked by Tandon to purchase the dove. They both knew that the Chinese community had been granted licenses to sell live animals in their butcher stores. They went to a butcher on Grand Avenue in the Chinatown district of San Francisco who immediately took them to a back room when they mentioned Tandon's name. There they picked out a white dove from one of many kept in a box with little holes in it. They took the dove to Tandon's house where it was fed special foods for a week.

On the day scheduled for the ritual Augusta was taken into a small room at Tandon's apartment. She remembers that the room was completely white with a multi-layered altar, dozens of smaller altars, and statues of different saints. In a corner, encased in plastic, was the white suit that Tandon had worn when he was ordained an olorisha back in the 1940s in Cuba. In other parts of the room were different offerings from clients, money and food, occasionally photographs of a sick relative, all part of separate packages requesting certain things from certain gods. Tandon arranged a space for Augusta in one part of this room, setting out a white cloth in front of an image of Shangó and placing on it collares beads and some flowers Augusta had brought. Tandon seemed very frail, a diminutive and thin man, and he could barely stand up. Maria, his niece, and her husband, Robert, assisted him. But when the ritual began Tandon seemed to be energized, transformed, and was able to conduct the prolonged chanting in Yoruba with no difficulty. Augusta felt herself shifting into an altered state of consciousness as the chanting continued. The room seemed to be getting brighter and brighter. Tandon passed beads around her body. He put fire water (pure rum) in his mouth and blew the liquid around her. Then he asked her to move several times in a tight circle, telling her to keep

her eyes open, that she had to be brave. The invitation was clear. She was to witness the sacrifice of the dove.

She remembers the ritual in vivid detail. At the critical moment in the ceremony Tandon took a very small ritual knife that is moon-shaped and slit the throat of the animal. (The use of a knife on an animal as small as a bird is very unusual since the sacrifice is almost always conducted with the hands in these instances. Tandon may have used a knife because of his age and frailty. Also unusual is the knife that he selected since it is rarely used, and then only to skin and carve larger animals already offered in preparing them for cooking and consumption.) Augusta remembers that the death of the animal was slow and painful. The dove was screeching in pain, dying bit by bit, and Augusta could see the desperation in its eyes, a wildness as it struggled to breathe. Tandon told her that she had to watch this, that she was not to close her eyes. The Yoruba chants continued and at some point the bird's head came off. She estimates that the death of the dove took several minutes, not seconds, and she admits that it was very hard to watch. She believes that she saw the spirit of a sentient being "snuffed out" in great agony. Immediately after the death, with the dove's body still moving, Tandon and his assistants poured a little bit of the animal's blood on the scarf she was wearing on her head. The chanting continued until the dove's headless body stopped moving. Augusta recalls that at that point everything seemed to go still, all movement halted. She was asked to go to another room to meditate. Tandon's assistants cleaned up the room in some ritualistic way and placed the remains of the dove inside a white ceremonial cloth. They then placed the head back on the body and wrapped the carcass with the cloth, but without the flowers that are sometimes placed at this moment inside the wrapping. Later they disposed of the remains. Augusta understood that on the West coast the animal

carcasses are placed on rocks on the edges of the Pacific Ocean, sometimes with candles and food alongside, a kind of second altar that people occasionally encounter before the setting is absorbed by nature.

Did the ritual help Augusta? She maintains that it did. The logic of the ceremony was to transfer the agony inside of her into the animal and when the animal is sacrificed the human agony dies also. To this day she says that she feels tremendous guilt over the animal's death. She had asked before the ceremony whether it was necessary to actually kill an animal. Couldn't a symbolic ritual suffice? The answer was no. So she went through with it. The sacrifice seemed to her to be a kind of sad duty, a reminder of mortality and the inevitability of death. She did feel a real connection to the animal. She believes that it was not treated as an object but as a being which had to serve this somber purpose. The immediate aftermaths were simple. She was to keep taking her ritual bath for a week and talk with no one about the experience. Not talking was important. The belief conveyed to her by the olorisha was that the power given to her by the experience would be diminished if she spoke about it. Silence was imperative.

Augusta considers herself a member of the urban classes in Western culture. Yet she transferred something in herself to an animal, and in doing so felt that she was taken to a different level of consciousness. That sensing of a change in consciousness remained with her in strong terms for five or six months. The therapeutic effects were permanent. Her spirit was no longer afflicted. Today, when she feels weak and ineffectual in front of other people, she meditates on the experience. The meditation renews her strength.

One might argue that the beginning of moral sensibility is found in extended sympathy, which means a seeing of the world from the point of view of the other. This extension of vision, this entering the head and skin of others, is at the center of Golden

Rule morality and the mercy that allows justice to be tolerable. Extended sympathy is a large phrase for empathy, and an umbrella for a family of moral terms like compassion. What is intriguing and agonizing about animal sacrifice in Osha is that it is presented as a transference that carries some sense of the human self to the animal. Not, thank you, the tired liberal notion of “I feel your pain” but a crueler and more demanding invitation to the subject to experience the animal’s death, and by this empathetic experience to be cleansed of human pain and illness as the animal dies. It is harder to imagine a stronger and stranger passage to death as transfigured and vicarious release.

The District Court: Victory for the City

The Lukumi church pursued its suit against the city of Hialeah and its officials in two directions and at two levels. One direction was against the city itself and the ordinances passed by the city council that prohibited animal sacrifice. This direction set the course for the later constitutional test of church-state relations since it pitted a religious institution against representatives of the state and, primarily, local ordinances advanced as the expression of secular interests. But a second direction, more private and even primal, suggests the intensity of the dispute. Ernesto Pichardo and the church also brought suit against the city, and the mayor and city councilmen in their individual capacities, on charges of harassment and discrimination.

The two levels at which the first suit was pressed illuminate the distinct constitutional issues. At one level, less complicated and more proximate, the church argued that the city ordinances were not consistent with Florida's slaughter laws, specifically the exemption for ritual slaughter. Even on a generous interpretation one is compelled to see this contest as primarily technical, not advancing or clarifying the

relationships between church and state in liberal societies. At the second and more profound level, the constitutional test, the main issues were addressed. The church claimed in its suit that the city ordinances banning animal sacrifice violated the free exercise clause of the First Amendment and deprived its members of their constitutional rights under the First, Fourth and Fourteenth Amendments. The church sought to recover damages for this alleged deprivation and for what the Pichardo group regarded as a process of attempted intimidation, including harassment and threats, by the city. Mainly, the church was seeking with the lawsuit to secure "the right of the Church to perform animal sacrifices on Church premises, and for the right of Church members to perform sacrifices in their own homes."

District Judge Eugene P. Spellman, who presided over the non-jury trial held in late July and early August 1989, was quick (as legal matters go) to dismiss the suit against the mayor and city councilmen in their individual capacities. On the defendants' summary judgment motion, Judge Spellman ruled that the city officials could not be sued as individuals. They were protected by absolute legislative immunity and so could not be held personally liable for monetary damages. It was apparent at that point that the lawsuit was to proceed as a contest between rival institutions and practices, not as a personal dispute between the Pichardos and Hialeah city officials.

The judge also granted the defendants summary judgment on the issue of harassment, finding that the plaintiffs' allegations of discrimination were not supported by the facts. Here it is instructive to compare the court's findings of fact with Ernesto Pichardo's narrative of events leading up to his lawsuit. The judge noted and accepted the facts that Pichardo related to support harassment charges. Waste service was not provided even though a deposit was accepted and a bill was sent to the church for the

service. The Florida Power & Light company shut off existing power to the church *after* a deposit was made, and would not reconnect the power until after the city issued a Certificate of Occupancy. This certificate was delayed for three days while the city checked the church's tax free status and its original certificate of occupancy from the state as well as certain zoning regulations. The court also accepted the fact that a cluster of three inspectors suddenly appeared at the church on the Monday following a Friday submission of complete documentation *and* that the church was found to be deficient in some way by each of the inspectors.

But, in contrast to Pichardo's interpretation, the court regarded all of this activity as benign and procedurally correct. A three-day delay in processing a registration application did not strike the judge as unusual in any way. Nor was he impressed with the failures of the church to pass the fire, electrical and plumbing inspections. The judge viewed the violations as genuine. He noted that faulty wiring in an air conditioner, a faulty disconnect switch outside the building, and an inappropriate electrical meter (the city's descriptions of events) were real problems. He also pointed out that a single bathroom for both men and women violated the South Florida code. Finally, the judge reminded the plaintiffs that the city did issue a certificate of occupancy when these problems were corrected, on August 7, 1987, one day after the final inspection. The court was simply not impressed by events that Pichardo viewed as examples of harassment.

Nor was the court inclined to accept Pichardo's accounts of council influence on the various licensing, zoning and building departments of the city, or the waste service, Florida Power & Light, and Southern Bell (the telephone company). Judge Spellman saw no conspiracy, no coalition of individuals using the powers of the city to intimidate and impede Pichardo's efforts. He even found the charges of undue police activity around the

church unconvincing. The judge found insufficient basis for the harassment charges, and dismissed this part of the suit even while accepting the narratives that Pichardo presented to the court.

The court also regarded the city ordinances as consistent with state law. The plaintiffs in the suit, the church of the Lukumí Babalu Aye and Ernesto Pichardo, argued that, since the state law protects the ritual slaughter of animals and provides for civil penalties for violators, the city's prohibition of animal sacrifice with criminal penalties assigned to violators conflicts with state law both as to law and penalty. The judge ruled otherwise. He first cited the State Attorney General's interpretation that the "ritual slaughter" exemption "applies only to religious slaughtering of animals for food" (as in the production of Kosher food). In the opinion of the court, the city ordinances "only prohibit sacrificing animals where the primary purpose is not food consumption." So there is no conflict. Also, the Hialeah ordinances were deemed zoning regulations that at once clarify the exclusion of ritual sacrifice from the State Humane Slaughter Act and specify that *all* slaughter must be performed in areas zoned for that purpose. The apparent inconsistency on penalties is dismissed with this zoning interpretation of the ordinances. The state law aims at animal control and cruelty. Penalties may differ between zoning laws and animal control and cruelty laws. In addition, a provision of the state law "authorizes municipalities to enact an ordinance identical to the state law 'except as to penalty'." The judge concluded that no inconsistency had been demonstrated between the Hialeah ordinances and the Florida state law regulating animal slaughter.

Judge Spellman then turned to the constitutional issue raised by the suit. At the time of the District Court decision, announced on October 5, 1989, the controlling framework for ruling on a conflict between the free exercise of religion and governmental

action consisted of three tests. First, does the law aim at regulating conduct, not belief? Second, does the law have both a secular purpose and effect? Third, do the secular interests expressed in the law outweigh the burdens that the law places on the religion? The last test was often accompanied by the provision that the regulation be the least onerous action to achieve the state's interests. Judge Spellman used the first two threshold tests in his initial reasoning. The ordinances emerged intact from the application of the tests.

The easier test for the judge was the first. The laws clearly aimed at regulating conduct, not belief, since the *practice* of animal sacrifice was prohibited, not beliefs in the practice's efficacy or importance. The harder test was the second. Did the ordinances have a secular purpose and effect? Even the defendants admitted that the ordinances were written and passed as a response to the opening of the Lukumi church in the city. But they argued that their sole motivation was to control a practice of animal sacrifice that was becoming an increasingly serious problem in the community. The proposed church was simply the trigger for legislative action. They maintained that the ordinances were intended as neutral laws to prohibit any killing of animals except in slaughterhouses. Judge Spellman accepted these arguments. He allowed that the prohibition of animal sacrifice "was not meant to single out persons engaged in ritual sacrifice, but to put those persons on notice that the state exemption for ritual slaughter only applied to commercial ritual slaughter, done in slaughterhouses."

The controversial terms were the references to "sacrifice," "ritual," and "ceremony" in the prohibitions, which the plaintiffs claimed were indications that the ordinances discriminated against religion by targeting practices that could only be religious, not secular, and thus were unconstitutional on their face. Judge Spellman

disagreed. He regarded the terms as generalizable to nonreligious groups that do not enjoy First Amendment protections, like satanic cults. But, also, the judge observed that the First Amendment allows communities to target religious practices when needed to ensure public health and welfare. The question is whether the regulation serves a secular purpose, not whether it is facially neutral. Judge Spellman ruled that the Hialeah ordinances had only an incidental effect on religious practices. Their main purpose and effect were secular.

The third test used by Judge Spellman - whether the governmental interests expressed in the ordinances outweighed the burdens placed on the religious community by these same ordinances - also yielded a positive answer. The judge accepted the real burdens placed on Osha by the city's prohibitions of animal sacrifice. The practice is not a casual or peripheral activity, but one that is integral to the religion. Nevertheless, the court was impressed by three secular community interests served by the ordinances. One was to safeguard the health, welfare and safety of the community. The court's findings of fact included ample documentation of the health hazards of animal carcasses left in public places. Though the defendants offered no evidence of any infectious diseases originating from discarded animal remains, experts testified on the health risks created by the presence of rats, flies and other animals attracted to the carcasses. The spread of disease was judged to be more likely in a setting where animals which had never been inspected by health authorities were killed and left in public areas. This setting did in fact describe Osha practices.

A second interest was guaranteeing the welfare of children. The court heard testimony that children exposed to animal sacrifice, even when part of a religious ceremony, could be psychologically damaged from the experience. An expert witness for

the defense testified that observing animal sacrifice would likely increase the probability that a child would behave violently, both to animals and humans. The judge was not persuaded by plaintiff's witnesses who regarded the causal chains between animal sacrifice and violent behavior as more complex or tenuous. He observed that "the city has shown that the risk to children justifies the absolute ban on animal sacrifice."

The third interest was the protection of animals from cruelty and unnecessary killing. A great deal of vivid and dramatic testimony was provided by expert witnesses for the defense on the suffering of animals who are killed in Osha rites. The conditions in which the animals were held were described as filthy, overcrowded, and sometimes lacking adequate food and water. Defense witnesses described the fear and pain experienced by the animals, including a death prolonged by inadequate and even incompetent techniques of killing. The court found less persuasive the testimony for the plaintiffs by Charles Wetli, an MD who at the time was the Dade County Medical Examiner, that the actual sacrifice is medically humane. Judge Spellman used these findings of fact to support a widely acknowledged responsibility of government to prohibit cruelty to animals.

The court refused to allow an exception to these government interests for the Osha religion. To do so, the judge argued, would be to allow all religions such an exception, with the result that "the exception would, in effect, swallow the rule." Nor would the judge permit the church to practice animal sacrifice openly in conjunction with its own efforts to monitor and control the practice. In this way, the plaintiffs had argued, they could meet the government's interests in less restrictive ways. But the judge was unconvinced that all Osha practitioners would follow any single set of guidelines. Judge Spellman admitted in his decision that the city ordinances were "not religiously neutral

but were intended to stop the practice of animal sacrifice in the city of Hialeah." But he added that "the ordinances were not passed to interfere with religious beliefs, but rather to regulate conduct." He saw the ordinances as governed by secular purposes.

The balance of interests was decided in the government's favor. The decision of the District Court was that the ordinances were constitutional. The absolute ban on animal sacrifice enacted by the city of Hialeah was allowed to stand in its entirety.

The District Court Ruling: Reactions

Ernesto Pichardo was remarkably sanguine about the District Court ruling. He remembers that the first reporters to interview him asked their questions with a kind of sad, grieving tone, the underlying theme being that the city had been entirely victorious, the church entirely routed. But Pichardo, courting judgments of madness from his friends and associates, thought the ruling was to the church's advantage. His reasoning was that Osha had been given a first-time historical opportunity to present itself in a court of law. So while the city of Hialeah had (there is no other way to characterize the legal ruling) demolished the church in the District Court, Pichardo was content that the church had established that it was a genuine religion, a faith with ancient origins, and that animal sacrifice was a core ritual in its practices. Of course each time Pichardo tried to explain to reporters his take on the ruling they were more baffled, and remained fixated on whether animal sacrifice was really necessary in this day and age.

Pichardo's main discomfort at this point was with the American Civil Liberties Union. They had been in the case from the beginning, after some tough negotiations, and he had the distinct impression that they were taking over. This troubled him because the people they brought on board had strong personal agendas. Many were vegetarians, had

strong views on animal rights, and found it difficult to embrace the church's case as a true First Amendment issue. He believes to this day that many of the ACLU attorneys regarded the issues as frivolous in a larger legal context. Also, Pichardo was convinced at this stage that lawyers in general know very little about religion. This meant for him that he was being represented by people who were ignorant or indifferent about what it was they were defending. Since he felt strongly that he and other church officials had to be sitting at the table with the lawyers arguing the case with them, it meant that both the legal and church teams had to educate one another. Finally, there were from Pichardo's perspective a number of conflicts or near conflicts of interests among his attorneys. The father of Richard Garrett, the head lawyer for the city, was a strong financial supporter of the same ACLU from which some of his legal team came. Also, one of the church's attorneys was personally close to the District Court Judge.

An important re-shuffling of the team of lawyers for the legal appeal of the case was the hiring of Douglas Laycock as chief attorney. Laycock, a distinguished authority on church-state, came from Texas, meaning that he joined the legal team without the interlocking and overlapping networks of local ties that the Miami attorneys brought to the case. He was an outsider, with no binding Florida connections, meaning no favors owed to anyone, and he was and is acknowledged as brilliant. He also had concerns. The main one was the conservative composition of the U.S. Supreme Court. Shouldn't they wait for a more liberal Supreme Court before appealing the ruling? At this point Pichardo prepared a check list of for-and-against points in the case and sat down with the legal team to go over them. He had compiled the points in part from a check-form issued by the Internal Revenue Service for churches seeking tax-exempt status. One of the lawyers had suggested that this form might represent a pragmatic guide for distinguishing a

religion from a cult given that the Court had not provided such criteria in previous cases. Pichardo remembers getting to the 21st point against them with only 3 points going for them. He sat back at that point and conceded that the legal case was against them. But he felt that God had started this business and they had to go with God.

The District Court ruling on the *Lukumi* case had been affirmed by the United States Court of Appeals for the Eleventh Circuit. The United States Supreme Court accepted the case for review, and Pichardo and his brother flew up to Washington on a Friday to attend the oral arguments before the Court scheduled for November 4, 1992. The church was broke by this time, and Pichardo's main concern was not with the case but with scrounging up the money to pay travel expenses. Also, death threats from animal rights supporters had increased in volume and intensity as the day of the hearing drew near. At the hotel, as Pichardo and his brother walked through the lobby to have dinner with their Miami attorney, he glanced at a news stand and saw that his photograph was on the front page of the weekend edition of USA Today, full color, for a story announcing that the hearing on the case was scheduled for the U.S. Supreme Court the following week. Great, he remembers thinking. Any number of people have threatened to kill me if I appear in Washington, DC, and here is a public reminder of my presence. It was at this point that he visited a contact at the FBI. The Bureau quickly checked out the death threats. The District Metro Intelligence also intervened by identifying the animal rights groups who were active in the area and ensuring that their demonstrations were peaceful. It was the Metro unit that arranged for him to enter the Supreme Court building in a secure way. As it turned out, Pichardo and his brother were protected but there were no violent incidents at any point in the legal proceedings. Pichardo remembers one final irony. As he and his brother walked into the U.S. Supreme Court building a friend

noticed that the halls were filled with statues of past justices and notables from ancient Greece. Ah, thought Pichardo, ancestor worship and homages to pagan life.

The U.S. Supreme Court: Lukumi v. Hialeah

The decision by the U.S. Supreme Court, presented on June 11, 1993, reversed the lower court rulings along what might be seen as predictable lines. The legal background consisted of the two familiar interpretations of the free exercise clause in the First Amendment. One is that the state ensures religious freedom if it recognizes the compelling nature of religious conscience by granting some exemptions from the law for religious beliefs and practices. In this first interpretation the state may restrict religious practices only where a compelling state interest is at stake, and the least restrictive means is selected for the regulation. The other interpretation is that the state fulfills the free exercise clause if it treats religious and secular institutions in the same way with laws that are neutral across both sets of institutions.

The first interpretation governed in the District and Appeals court rulings on *Lukumi*. Pending the appeal to the U.S. Supreme Court, however, the case of *Employment Division v. Smith* (1990) was decided by the Court. In this case the Court refused to grant an exemption from a criminal ban on peyote to two members of a Native American religion who used the drug in religious ceremonies. The Court ruled that the right of free exercise does not release an individual from compliance with a "valid and neutral law of general applicability on the ground that the law proscribes (or prescribes) conduct that his religion prescribes (or proscribes)." The rules had changed with a reliance on the second interpretation of free exercise. Hialeah city attorneys, who had

argued compelling interest in the lower courts, claimed progenitor with *Smith* in the U.S. Supreme Court on the generality of the animal sacrifice prohibition.

Attorneys for the church of the Lukumí Babalu Aye argued to the Court that the absolute prohibition of animal sacrifice targets certain religions and mainly burdens the Lukumí church. Even *Smith*, they pointed out, requires that the state treat religions no worse than secular institutions and practices. Yet this rudimentary neutrality is violated, they argued, with city acceptance of a wide range of animal killing, such as euthanasia of pets, hunting, slaughter of animals for food, pest control. In the oral arguments before the Supreme Court, the Lukumí attorney suggested that exemptions had been reversed, with secular practices allowed broad exemptions that effectively targeted an unpopular religion for regulation.

It is not a strange thing for secular authorities to underestimate the differences between secular and religious beliefs. The error in *Lukumí* originated with the assumption that the city could judge the necessity or appropriateness of religious practices. In a language that breaks every rule of legal prudence the Hialeah city ordinances defined "sacrifice" as the *unnecessary* killing of an animal in a ritual or ceremony not for the primary purpose of food consumption. The Lukumí attorney, no doubt grateful for the well-meaning zeal of the city fathers, pointed out to the Court that this judgment requires the city to prove that the Osha belief in the necessity of animal sacrifice is false, which is a heresy trial. The city obviously forgot that religious beliefs are drawn from an alternative reality that is not subject to secular corrections.

The Court had several options in deciding *Lukumí*. One was to allow the ordinances to stand, which would have sent a strong message that the Court wants legislatures, not the legal system, to craft whatever exemptions are granted to religions.

Another was to strike down the ordinances, perhaps on the grounds that the use of religious terms in the ordinances (like "sacrifice") and the blanket restriction of all animal sacrifice in the face of widespread animal killing in the community exceed even the generous regulatory guidelines of *Smith*.

On June 11, 1993, the Court ruled the ordinances unconstitutional, though the ruling did not directly affect the standing of *Smith*. All nine justices agreed that the city ordinances violated the free exercise clause of the First Amendment. In the majority opinion written by Justice Kennedy, the Court found that the ordinances intended to suppress the Osha religion even though they did not state such a goal. The use of the words "sacrifice" and "ritual" was not decisive for the Court since Kennedy admitted in his opinion that current usage of these terms also admits secular interpretations. But the Court did rule that the ordinances, by intending to prohibit animal sacrifice conducted by the Lukumí church, failed both the neutrality and general applicability tests of *Smith*. The problem was that the clear objective of the regulation was the suppression of the main ritual of the Osha religion, which effectively targeted religious beliefs for regulation. This "is never permissible," according to Judge Kennedy.

The U.S. Supreme Court Ruling: Reactions

Pichardo was at his mother's house early one morning with friends and family sitting at the dinner table waiting for some Cuban coffee to be made when the phone rang. It was a reporter in Washington saying that he had just read the decision, offered his congratulations, and wondered if he could get a statement. Pichardo replied, well, great, you are really on the ball, but please, sir, we will be glad to give a statement if you could first fax us a copy of the ruling right now because even our lawyers do not know what has

happened. The reporter did fax a copy, and then Pichardo called the attorneys and said, wake up, people, get on it and tell us exactly what it is we won because we do not know what has happened. The Miami attorneys called their associates in Washington, had them run over to the Supreme Court to get a copy of the ruling, read it, fax it down to Miami. Pichardo remembers that he and his brother quickly swallowed their Cuban coffee and started sending faxes, getting faxes, then started racing to set up a news conference. Pichardo went home to change his jeans and t-shirt for a suit, canceled his afternoon appointments, then decided to have the press and everyone to his home for a press conference, thinking that it would be better to react to the ruling spontaneously, nothing rehearsed, respond to the information as it came in, call the shots for the media then and there as he and his associates discovered as the morning progressed that they had won decisively in the highest court in the land.

Is it appropriate to offer general observations on political and spiritual domains? We might say here that the maintenance and practice of spiritual beliefs inevitably risk conflict with secular powers. Beliefs in a reality that exceeds the natural world, as this world is drawn up in materialist theories, are by definition antagonistic to secular practices. There is intellectual discord, and often mutually incompatible actions drawn from the moral principles that alternative realities support. These patterns of conflict are found throughout history. Political leaders have persecuted religious groups on the basis of these differences, and, conversely, religious leaders in authoritative positions have often seized on the differences to inflict sanctions on skeptics. The deep issue in the *Lukumi* dispute is how spiritual and secular communities can live together successfully in liberal democracies, especially those that stress the materialism of Western economic life. It is not at all clear that satisfactory arrangements can be found for beliefs that differ on

the scope and content of reality. But the *Lukumí* case does clarify the social practices that might yield a compatible arrangement extending across the two types of communities.

One practice is the identification of areas of agreement between church and state when they are in a dispute. This was a third way of addressing the *Lukumí* case. It was not chosen by the city. The city of Hialeah had argued that the health, hygiene and cruelty problems they were concerned to solve are particular to animal sacrifice, and that the only way to solve such problems was through the prohibition of the entire practice. This argument had two strange implications. One was an exclusion. It disallowed the possibility that at least some of the problems the city identified with animal sacrifice could have been attributable to other practices and resolvable independent of the religion. The reasons for the ordinances defined the problems as inherent to the religion. A second was that the city had to maintain that it is easier to regulate an entire practice, conducted largely in the privacy of homes, than it is to monitor and enforce a prohibition on the undesirable side effects and techniques of the practice. If these two implications had been stricken from the city's reasoning the religious practice of animal sacrifice might have been allowed within a reform of its side effects *and* the undesirable effects of the slaughter of animals in secular practices.

A political solution appeared to be possible from the start. The city could have drafted a law regulating the manner of animal sacrifice, including a total ban on the discarding of animal carcasses in public areas and the introduction of humane standards for animal sacrifice that would apply to veterinarians, pet owners and pest control techniques, as well as to the *Lukumí* priests. In this way the "compelling interest" of the community could have been more accurately directed at the genuine concerns the city has with the *Lukumí* church rather than at the religion itself.

Would the Lukumi church have accepted the arrangement? At the eleventh hour, on the eve of the District Court trial, the church hastily applied for a license to be able to conduct animal sacrifice as a slaughterhouse in the church, subject to the state regulations governing slaughterhouses. The church attorney, in the oral arguments before the Court, said that his clients were willing to comply with disposal regulations and accept reasonable zoning conditions. These concessions were not surprising. If the prohibition of animal sacrifice had been upheld, then the central ritual of the religion would have been illegal and the religion itself would have been outside the law. This strategy required that *Lukumi* not receive a constitutional ruling on the thought that mending the edges rather than the centers of issues is sometimes best. The more difficult question - who is right? - could then have been avoided. A political settlement of a religious issue would have been exactly what the *Smith* Court most desired.

The Court's ruling took a different direction. In shielding Osha from the city ordinances the Court recognized the traditional wall between church and state. The free exercise clause "commits government itself to religious tolerance," Kennedy observed in the majority opinion, "and upon even slight suspicion that proposals for state intervention stem from animosity to religion or distrust of its practices, all officials must pause to remember their own high duty to the Constitution and to the rights it secures." Justice Souter pointed out in his concurring opinion, however, that *Smith* allows prohibitions of religious exercise as an "incidental effect" of neutral laws. The problem with the Hialeah ordinances was that they targeted the religion, and so failed any definition of neutrality and any test of state nonintrusiveness.

Pichardo had forfeited economic issues at the beginning of the case. He and his colleagues did not want money from the dispute. Pichardo estimates that the city of

Hialeah did have to spend about \$500,000 in legal fees that were paid directly to the ACLU. But the church sought no damages. Pichardo reports that he took readings throughout the legal dispute and the message from God was always to keep money out of the proceedings. When the dispute began Pichardo had told the acting mayor, Julio Martinez, that it was a moral dispute, and that if the church won he wanted nothing from the mayor's pocket but a signed dollar bill when it was over. At the end the mayor said, come on, the trial's over, what more do you want out of me. Pichardo replied that it was not over until he got his dollar. The mayor said, I know you're not going to let me live in peace until you get your dollar, so here, and at this point he pulled a dollar bill out of his pocket and said, you won. Oh, no, Pichardo said, you're forgetting the rule. You've got to sign the dollar. Remember, he told the mayor, where we came from things were done this way. We didn't go to trial. Things were settled on a handshake. Sign the dollar bill and give it to me. The mayor signed it and Pichardo said, now it's over.

The Lukumi Church Today

In the early years of the legal battle with the city of Hialeah Pichardo seemed puzzled by the secular demands for information made on the church by the legal system. Listening to him at that time on the meanings and uses of evidence in practical reasoning was an instruction on the considerable differences between secular and religious approaches to experience.

"It seems that your American logic is based on statistics, and it's - hey, if you cannot give me percentages of how many priests are in Hialeah, how many are female, how many are white, give me the ethnic composition of the priesthood, then if you are going to sit here in the court and tell me you are the president of the church of Lukumí,

you must be a liar, or you're trying to hide something. Because you should know this information. It is perceived in a whole different way. We in religion have never seen the need to deal in percentages or population demographics. That issue has never been intellectually addressed in religious practice and beliefs. There's no need for it. We say, people are people. Period. We don't need to put them in categories or break them down like that."

But in the years after the U.S. Supreme Court ruling the Lukumí church concentrated on what might be called secular organization theory. The Pichardos established a records center with documentation on priests, certifications and ID cards for both clerics and staff, and in general tried to codify standards for professional affiliation with the church. They also proposed an educational program for selected priests to become teachers, and they offered periodic workshops for the general public. They have a website. Pichardo reports that in the years after the Court decision membership in the church increased dramatically, going up 125% in the years 1997-98 alone. He is trying to organize the religion in terms of the evangelical movements he sees in today's world, basically by retrieving the African model of the religion and crafting it to the modern age. In these efforts he is doing what all founders and reformers do, which is develop a structure that sets out the boundaries for the legitimate forms of a religion. These established forms then permit judgments of legitimacy, with the usual identification and expulsion of the false and fraudulent. Pichardo sees the future and legitimate church as neither exclusively African nor Cuban, but some amalgam of the two cultures within the global community. In this effort he is reaching out to contemporary Cuba in his evolving missionary efforts. Pichardo at one time anticipated an increase in the number of church

charters. He still sees his work as a complex learning experience in which Osha will be transformed into a major religion.

In spite of Pichardo's efforts, however, he had to close the Lukumí church in 2000. The public education programs, including monthly workshops for non-members, and all public activities were shut down (until further notice). The web page continues and in June of 2001 Pichardo posted a Miami network for "responsible discourse," a public forum on the net for the exchange of information. But the legendary Church at 345 Palm Avenue that launched a legal dispute resolved finally by the U.S. Supreme Court no longer exists as an active organization. The reasons offered by supporters and skeptics vary, but a few themes persist. The main one is that the attempt of Pichardo to model the church on a Yoruba model was and is bound to fail. Many of Pichardo's critics say that, at the end of the day, Osha is an eminently pragmatic religion with tendencies to devolve to local and informal practices in the *preferred* privacy of homes, and to generate multiple centers of authority. They report that a large number (some estimate as many as half) of the Cuban-American members of Osha are also more-or-less practicing Catholics who celebrate the main feast days of Easter and Christmas by going to mass while still worshipping their orishas in home ceremonies. It is not uncommon, for example, for the main orisha of an individual to be called his/her guardian angel (a definitely Catholic expression), or for the group of Osha members conducting an initiation to offer themselves to a local Catholic church on the last day of the first week of ceremonies, or for participants in a batá to dip their fingers in the sacred healing water (representing the orisha of health, Babalúaiyé) placed on the floor in front of the drummers, touch their forehead with it as expected in the rites, and then complete the orisha gesture with the sign of the cross. The critics report that the prospect of violating some pure model of

Osha with these joint celebrations is a matter of indifference to most practitioners, who just want to continue doing what they have learned in the popular merger of Yoruba and Catholicism in Cuba. The identification of an original model of Yoruba, with the strict definitions of African practices that seem to follow this unearthing, are just niceties to many that they can do without and cannot afford on any terms. This mindset is not a subscription to syncretism but seems rather like the triumph of the practical over the theological. There are also some members of the religion who want to reform any model, and a few reformers have even suggested abandoning animal sacrifice, relying instead on the symbolic sacrifices found in modern religions. In a climate of reform no model, however original, is shielded from modifications.

Another theme is money. “Afford” has both religious and monetary implications in these matters. Pichardo charges \$250 fee for a baptism when he is the godparent, \$350 if the person requires the presence of a warrior orisha (Elegba, Ogun, Oshosi, Osun). Voluntary sponsorship of the Lukumi Church is \$20 per month for life (more if the donor wishes). A fee of \$250 is required for a life certification for the priesthood and \$20 per month to remain as an active member of the clergy. Priests over 35 years of age and those who are disadvantaged economically or handicapped are exempt from all fees. Osha, however, is in the main a religion of those with little money at any age or condition. The reluctance of individuals to pay for what the severest critics see as an unnecessary validation or certification was one reason the Lukumí church closed. The evangelical efforts in Cuba also have provided alternatives to the accreditation program in South Florida. Many individuals are now going to Cuba to conduct initiation rites because of the reduced costs on the island. The \$6-9,000 required in the United States to buy the animals that are to be sacrificed, purchase in botánicas the needed religious paraphernalia,

buy and prepare food and beverages for the people who attend the event (sometimes as many as one hundred) and for the orishas (who must eat and drink as well), and pay the priests for their role in the rites, can be cut to much more economical sums in the leaner Cuba economy. Priests report that the entire trip can be financed with the cost differential and much money is still left over. Not much remains to convince believers that they must pay out sums for accreditation in an American church when they can be initiated in the home island of the religion. Pichardo is said to be helping organize some of these trips now, joining and sometimes leading the practical cooperation of Cuban and American organizations of Osha. But it is not clear how these journeys back to the geographical origins (or not) of Osha will restore the solvency of the Lukumí church in Hialeah. For these and other reasons many students of the religion believe that the court of public opinion within and surrounding Osha may be more resistant to Pichardo's efforts than the American legal system was in the court case on animal sacrifice.

Pichardo has not given up, however. He is seeking leaders in various cities in the United States to appoint as vice presidents of the Church. His goal at the moment is to promote community empowerment, to make the Church more of a presence in areas other than Miami. One plan is to develop an internet mailing system of businesses with interests in the Church. Not to put too fine a point on it, but Pichardo seems to be trying to take Osha into the economic and religious centers of communities across the main regions of North America.

All of these efforts are extensions of the evolutionary model that Pichardo has employed to guide both the Church and the religion. He has always regarded Osha as a cultural singularity that unified diversity among African tribes under pressure from the slave trade. On this reading of history the religion is a coping mechanism that maintained

Yoruba culture by organizing its defining practices. But Pichardo believes that a mechanism efficient in cultural survival has been inefficient in the maintenance and development of the religion. He is pleased with the movement of Osha from an underground practice constrained by fear of legal authorities to a religion publicly shielded by First Amendment guarantees. He wants to help foster respect and esteem within Osha, and increase toleration from the secular community. The Church model he presses is a public and universal structure that defines the religion while allowing variation within local communities. Pichardo reminds us that the religion currently includes thirty-two nationalities, meaning that Osha is effectively multi-cultural and neither exclusively African nor Cuban. The religion to Pichardo is not an institution with some papal figure as its head, but rather a transition from an informal tribal system to a more formal tribal order.

But since Osha is a religion originating in Africa (remember that the Orishas are black) critics see any effort to extend any definition of Osha across the heterogeneity of the world's cultures as analogous to squaring the circle. They see the religion as more acceptable to the degree that it abandons *all* origins and doctrinal matters, and regard a global appeal as synonymous with the absence of structure. But a sympathetic interpreter might invoke the familiar arrangement of general theory informed by variations in regional content. In this sense Pichardo's model is a conceptual hierarchy designed to accommodate both the organizational requirements of an established religion while respecting the needs of particular communities. In all of the activities in and surrounding the religion *evolution* seems to be the dominant currency. To Pichardo historical time is the great ally and final adjudicator. He reads both his Church and Osha as evolutionary projects responding to changes in the modern world. On this long range view events like

church closings can only have meaning in retrospect, in this case from the perspective of future generations.

Sacred Rituals

Pichardo can still be eloquent and scornful on the issue of animal sacrifices. The Hialeah councilmen, he observed at the height of the legal dispute, had no problems with hunting or fishing, and with wearing alligator shoes. Most of their wives wore mink, he said, and they all consumed animal meat at meals. He was especially irritated at the charge (constantly made in public at that time by the opposition) that animal sacrifice is primitive. He pointed out that Osha, like most Western religions, has accepted modern technology and urban life. But followers of Osha also believe that God requires them to sacrifice certain animals at moments in their ceremonies, and they cannot abandon this practice without disobeying God. Pichardo has always believed that civil law cannot contravene this practice because God's command is a higher law. He also asks us to remember that the Catholic communion ceremony is a reenactment of a primitive cannibalistic rite.

The animals used in Osha's sacrificial rites are goats, lambs, pigeons, roosters, hens, guinea fowl, quail, ducks. Pichardo notes that these are animals one can buy (with the exception of goats, and maybe pigeons and roosters) in the frozen food section of most supermarkets. He cannot fathom what he sees as the hypocrisy of animal rights groups in opposing a religious mandate to sacrifice largely the same animals that are slaughtered and butchered for a domestic consumption that has been regarded as optional, and even harmful, by experts in nutrition. He says he will begin taking his opponents seriously when they oppose hunting licenses, slaughterhouses, and the use of animal skin

for clothes. He believes that these activities are far more harmful to the sensitivities of children learning about morality than animal sacrifices occurring within the practice of an established religion like Osha.

Animal sacrifice in Osha is closely bound to healing rituals and initiation ceremonies. Pichardo breaks healing down into three categories: natural, prenatal, and supernatural. The olorishas address the particular health problems of an individual through odu, which allows a divination of both the problem and a solution. The animal will sometimes be the instrument of cleansing and simply must be sacrificed. Or a sacrifice may be a kind of appeasement of the force causing the illness in the human. Sometimes the animal is released unharmed. But the fate of the animal, Pichardo stresses, must be determined from within the needs of the ceremony, not by the civil authorities. For an initiation ceremony animals are sacrificed at the altar and then prepared within specific culinary guidelines. These animals then become the holy meal throughout the week. The table rituals are elaborate and require eating of the meat, which is regarded as sacred.

Pichardo believes with all other members of Osha that healing is part of the creation myth, that God distributed knowledge in such divine ways that all religions are equally valid (because they all have a piece of the truth) and that science too has a legitimate place in this diversity. The result is a pluralistic approach to health and healing. Different systems of knowledge might all contribute in some way to the healing effort. It is inconceivable in Osha that the type of rigid protestation maintained by Jehovah's Witnesses against blood transfusions could ever be justified. Taboos in Osha are always tailored for the particular individual and determined by the odu used for the individual.

The negotiation of differences between the physician and the olorisha on particular cases of health and healing is an object lesson in dispute avoidance. The doctor attempts a diagnosis on the basis of symptoms filtered through clinical theory. The olorisha also attempts a diagnosis, but through divination. Since divination for the faithful is a higher authority than secular reasoning, the olorisha cannot grant the doctor empirical authority over a diagnosis. In point of fact, though, most people who come to an olorisha for health problems have already been to a doctor and are not happy with the medical diagnosis and/or treatment. Many of the individuals who seek the alternative therapy of Osha may even be hopeless cases, beyond medical redemption. So a direct conflict between doctor and olorisha is unusual given the fact that consultations across the two practices often occur in isolated sequences. Also, simultaneous medical and Osha consultations are often divided along medical lines. The doctor will be treating the physical illness with the techniques of medical science while the olorisha will be addressing the mental or metaphysical causes of the illness. Rarely will the patient inform the doctor that an olorisha is also in on the case, for the communication possibilities between doctor and olorisha are not the best. But the conflict is still usually avoided by partitioning the functions of the two different health authorities.

But these conflict-avoidance methods of sequential practice and functional partitioning could not work in the *Lukumi* dispute with the city of Hialeah. At one point in the District Court proceedings Judge Spellman asked Ernesto Pichardo this question: If the law forbids animal sacrifice, what was he going to do about the practice of his religion? Pichardo responded, "Obviously then we have a contradiction. The ultimate judgment displayed in history is that man does not have the right to tell God that he cannot be offered an animal." Pichardo is a man whose movements are graceful and

deliberate. He seems very relaxed, with a kind of controlled energy. But it is clear that he is driven by destiny, and like all who believe that their life's path is received from God, not chosen, he is solemn and unbending on his understanding of his religion. On this point, the supremacy of God's work, he is adamant. "It is an integral part of our philosophy that we cannot tell God how we're going to worship. God has already established that. If we can tell God what He can do, then He is not a God to begin with."

Note carefully the ways in which beliefs in a higher reality define the legal dispute the church entered with and against secular powers. *Lukumi v. Hialeah* is a dispute extending to a variety of compatible and contradictory interests, including that most influential of incentives, the possibility of economic gain. But the dispute is not just a conflict of interests defined in material terms. Animal sacrifice for Pichardo is mandated by God, thus outside the mediating forces of political adjustment and compromise. The church cannot concede anything on this point. The methods of reasoning in *Osha*, and the conclusions drawn from them, are controlled by background beliefs in God and the commands He has given to the faithful. This seamless external reality, which provides a guidance for human decisions that must be honored, cannot be introduced to the normal partitions of a secular liberal state without compromising and ultimately contravening the authority of God.

Religion and Politics as Cultural Encounters

The complexity of the relationship between religion and the democratic state suggested in Pichardo's acceptance of God's authority is familiar but still hard to exaggerate. A range of intimate and quite natural connections between religion and politics is standard from antiquity to the present, even in primarily secular communities.

The shaping effects of religion on politics in the United States, for example, are legion. The abolitionist and civil rights movements come readily to mind. Each of these movements introduced a different and more robust understanding of the *person* to contemporary politics that upset racist categories. The favors are returned. Legal privileging of religion occurs even on an acceptance of First Amendment walls between church and state. The occasional exemption from the burdens of law granted to religions by the United States Supreme Court pays homage to the special standing of religious beliefs and practices, and especially to the compelling force of religious conscience. But it would be a mistake to conclude that the religious and secular are either similar or complementary on these welcome coordinations.

The modern narratives of religion and politics in the United States are forged behind walls between church and state. The key to the narrative of the liberal state is that it be rendered in terms sufficiently vague or ambivalent that diverse groups can appropriate it as their own on their own terms. Its regulatory powers are properly shaped by different communities. Liberal democracies represent the secular ecumenism that accompanies a toleration stretched to foundational levels. The religion narrative, by contrast, is influenced by the terms of a reality not completely enclosed by human experience. Ambivalence is a part of religious practices in the negotiation of meanings that connect human and divine experience. But the invitation of the religion narrative is framed by a summons, a set of commands issued from a reality not completely enclosed by human experience.

Pichardo believes that secular law cannot prohibit offering an animal to God without contravening God's command, which would be unintelligible from his point of view. Even though the final legal ruling was in the Church's favor, Pichardo's reasons

for supporting animal sacrifice, and his explanation of the dispute and its outcome, are outside secular frameworks. He accepts a higher order of being that is not entirely accessible to the human mind or soul, and believes that this higher level of existence must dominate human experience.

The introduction of ultimate matters invites us to consider the counterfactual: what would have happened if the final Court decision had gone against the Church? Two contrary traditions provide accounts of consensus and conflict in human communities. One is the model of harmony emphasized in democratic theories. Its defining feature is the belief that an absence of overt conflict is evidence for consensual accords. Another is the model suggested by Marx. Here the presence of tranquility might mask a deeper conflict that is prefigured in the background distributions of power and interest represented in institutional arrangements. If we use the first model then we are inclined to devalue conflict between religion and the state when disputes are settled agreeably, and we might view any particular settlement as indicating a general harmony between the two practices. On this model the counterfactual of a state victory over the Lukumi Church in the U.S. Supreme Court would still have produced an outcome agreeable in some terms to the contending parties. Supporters of this model believe that the Church would have abided by a negative Court decision on the more compelling need to maintain an apparent democratic consensus. The second model, however, takes us in a different direction. In this model a shift in outcomes could easily lead to a continuation of a dispute if the underlying interests are mutually incompatible. The peremptory nature of God's commands in Osha suggests that the second model is the more adequate representation for this case. It would have been impossible for the Church to compromise on the core ritual of animal sacrifice, and opposition between the Lukumi Church and the state would likely

have continued in some form had the Court ruled in favor of the municipality of Hialeah. The direction of the legal outcome led to a resolution that was fortuitous in rendering peace instead of conflict, but also misleading if we conclude that church and state are not all that different when they are opposed to one another.

Acknowledging the substantial contrasts between the discourses of religion and politics that are clearly represented in the *Lukumi* case may be the definitive first step in establishing realistic arrangements between church and state in contemporary democracies. These contrasts suggest that the arrangements might be forged not so much on walls between the two institutions, but rather on the basis of an understanding of contacts among cultures, including the use of pragmatic instruments of accommodation, the mutual effects represented by transculturation, limitations on conflict through collateral reasoning, patterns of syncretism, and more. A survey like this also raises the possibility that political and religious discourses are incommensurable when they speak on matters of truth, likely to be in conflict when religion speaks truth to power, and their relationships finally governable only by third domains that are free of the assumptions of either practice. It is on this concession that church and state may have to reach accommodations with each other in modern democratic states.

At least a proper survey of historical patterns of cooperation and resistance would lay to rest, permanently, the popular creed of exceptionalism, the belief that secular patterns of thought, grounded in compromise and toleration, can scan and comprehend religious beliefs from some impartial perspective. This prospect is finally unintelligible when beliefs, laws and sacred texts are defined from a religious perspective, perhaps in the same way that animal sacrifice is inexplicable within liberal frames of reference.

Notes

Pages 1 forward

The proper name of the religion is not entirely settled. *Santería* (“the way of the saints”) is a Western term assigned to the religion by the Catholic culture that received the slaves. It is accepted currently by some priests in the religion, but not by others, and often functions as a cluster concept for many types of Afro-Cuban religions. “*Lukumí*” or “*Lucumí*” is also used to designate Yoruba practices in the West. It derives from the term “*Ulkimi*,” an ancient Yoruba kingdom, and is considered by some researchers as a transliteration of the Yoruba phrase, “I am a friend.” It is also the name of the Church that Pichardo founded. I use the “*Lukumí*” spelling for the Church because the Church does so, and because the legal case is in the law journals with that spelling. One generally acknowledged term for the religion is the one I am using: “*Osha*,” or, more completely, “*Regla de Osha*” (or *Ocha*, initially the Hispanic term for “*orisha*”). Other acceptable terms include *Regla Ifá* and, less formally, “*orisha worship*.” Some practitioners say that Yoruba priests in Africa, if asked to identify their religion, would simply say that they are priests of *Shangó* or some other divinity. This devolution reflects the influence of local organization in the religion. I am grateful to Rafael Martínez for discussing these terms with me. I have also profited in this note and elsewhere from Sara M. Sánchez’s discussion in her “*Afro-Cuban Diaspora Religions: A Comparative Analysis of the Literature and Selected Annotated Bibliography*,” (Institute for Cuban and Cuban-American Studies Occasional Paper Series August 2000). My gratitude extends to Ernesto Pichardo for the interviews, of course, but also for comments on an early draft of the paper, and the Rev. Juan J. Sosa and Willie Ramos, who both read late (and different)

drafts of the paper and made many helpful comments throughout the manuscript. Ramos was especially helpful in suggesting changes in the paragraph on the initiation ritual (page 18) and the pages on the role and forms of dance in Osha (pages 20-1). He also made Appendix I of his masters thesis available to me for clarification on the dance rituals in the religion. I have learned much from the *At the Crossroads* program at the History Museum in Miami, Florida, held between February 23 and July 8, 2001, and have taken at least some of the population figures and terminology from that program's exhibitions and presentations. Steve Stuempfle, the Museum Curator, met both of my requests for oral tapes of panel discussions with an alacrity that seemed boundless. Of course I absolve all of my informal consultants from the errors I know must still be present in my descriptions and analyses of Osha. I am still learning about this fascinating and complex Religion.

Pages 1-5; 24-31; 46-9; 53; 54-7

Ernesto Pichardo's narrative is drawn up primarily from the two long interviews I conducted with him in Miami, Florida: the first (in the church of the Lukumi Babalu Aye) on December 12, 1989, and a second interview (in his home) on November 7, 1999. The views I attribute to Pichardo on pages 59-60 are drawn from an email he sent me and the comments he made on the panel discussion on May 31, 2001, as part of the *At the Crossroads* program. Others on the panel were José Acosta Santo, Mercedes Sandoval, and Nelson Mendoza.

Pages 5-23, and throughout

The material on Santería is drawn from the interviews with Pichardo, and from interviews with Lydia Cabrera and Terisita Pedraza, August 5, 1989, also in Miami; and a number of helpful articles and books on Regla de Osha: Migene Gonzalez-Whippler, Santería (New York: The Augustan Press, 1973) and Santería: La Religion (Llewellyn Publishers, 1999); Joseph M. Murphy, Santería (New York: Beacon Press, 1988); George Brandon, Santería from Africa to the New World (Bloomington and Indianapolis: Indiana University Press, 1993); Marta Moreno Vega, The Altar of My Soul: The Living Traditions of Santería (New York: Ballantine Books, 2000); Mercedes Cros Sandoval, “Afro-Cuban Religion in Perspective,” in Enigmatic Powers: Syncretism with African and Indigenous Peoples, ed. Anthony M. Stevens-Arroyo and Andres J. Perez y Mena (New York: Bildner Center for Western Hemisphere Studies, 1995), pp. 81-89; Juan J. Sosa, Sectas, Cultos y Sincretismos (Miami: Ediciones Universal, 1999); Baba Ifa Karade, The Handbook of Yoruba Religious Concepts (York Beach, Maine: Samuel Weiser, Inc., 1994); El Obatala, Creative Ritual (York Beach, Maine: Samuel Weiser, Inc., 1996); Conrad E. Mauge and Awo Fayomi, Odu Ifa: Book One, Sacred Scripture of Ifa and Odu Ifa: Book Two, Sacred Scriptures of Ifa (Mount Vernon, New York: House of Providence, 1994); Raul Canizares, Walking with the Night: The Afro-Cuban World of Santería (Rochester, Vt.: Destiny Books, 1993) and Cuban Santería (Rochester, VT: Inner Traditions Intl Ltd, 1999); Lucumí’ni Lele, The Secrets of Afro-Cuban Divination: How to Cast the Diloggun, the Oracle of the Orishas (Destiny Books, 2000); Julio Garcia Cordez, The Osha: Secrets of the Yoruba-Santería-Lucumí Religion in the United States and the Americas (Brooklyn, New York: Athelia Henrietta, 2000). I have also benefitted from Roger Bastide’s imposing study of African (Yoruba) culture in Brazil, The African

Religions of Brazil (Baltimore, MD: Johns Hopkins University Press, 1978). Among the more general articles I have used are Andrew Webster, “Health and Body,” Salon.com (January 26, 2000), Bess Lovejoy, “World Religions: a Santería Primer,” the e.peak/1998-3/issue, Roberto Cespedes, “The Mystical Powers of Elián,,” The New York Times (September 30, 2000), Gustav Nieguhr, “Cuban Church: It’s Weak But Unified,” The New York Times (January 21, 1998), and various information sites on the web.

Pages 6 -12

The Lukumi Church has issued two papers on these issues. One, “Syncretism,” suggests the distinction between theological and member syncretism. The other, “Rule or Diplomacy,” explores the religious mixture of Santería and Catholic religious expressions (by Ernesto Pichardo). See also the monograph by Ernesto Pichardo and Lourdes Nieto Pichardo, Oduduwa: Obatalá (Miami: St. Babalú Ayé, 1984) where the authors argue that the African form and structure in Osha transferred to Lukumí remained intact, without a blending with Catholicism. The intact thesis is also supported by George Brandon, in Santería from Africa to the New World: The Dead Sell Memories. Brandon sees the core of the ritual system in Santería as African, not Catholic. Also important is the work of Fernando Ortiz, who stresses the mutual effects of contact between Yoruba and Catholicism (which he calls “transculturation”). See (among other works) Ortiz, Ètnia y sociedad. Selección, notas y prólogo de Isaac Barreal (Habana: Editorial de Ciencias Sociales, 1993). I have taken the view of Lydia Cabrera I cite on page 6 of this paper from Sara Sánchez’s monograph, “Afro-Cuban Diaspora Religions,” page 6. Sánchez also cites Harry Lefever’s ambitious efforts to define Osha as a kind of resistance to cultural oppression (page 6). The full development of Lefever’s view of the Lucumí

religion as a form of hegemonic resistance is in his article, "When the Saints Go Riding In: Santería in Cuba and the United States," The Journal for the Scientific Study of Religion 35 (September, 1996), pp. 3-27. Some recent collateral research also seems to suggest African dominance. See Mary Ann Clark's argument that the similarity of multiple orisha worship in Africa and the New World indicates the priority of existing African antecedents, in "Orisha Worship Communities: A Reconsideration of Organizational Structure," Religion 30, No. 4 (October 2000), pp. 379-389. Clark also argues the point against syncretism on the basis that "Santería altar displays contain few or no statues of Catholic saints or other anthropomorphic figures," suggesting the dominance of African understandings of "spirituality and materiality and the place of the human body in religious practice," quotes from the Abstract), in "¡No Hay Ningún Santo Agui! (There Are No Saints Here!): Symbolic Language within Santería," Journal of the American Academy of Religion 69, No. 1 (March 2001), pp. 21-41. In this article Clark also examines some differences between the terms "saint" and "orisha," and suggests that the emphasis in Osha on the natural instead of the somatic is an invitation to rethink our categories of the material, spiritual and somatic. I see the ordering in the religion (in parallel fashion) as a challenge to the property dualism that has dominated Western thinking since Descartes. My understandings of the practical effects of syncretism have been broadened by conversations with a number of people in the Miami area, in particular Jackie Rodriguez and Willie Ramos, and by the helpful treatment of these issues in the panel discussions as part of the *At the Crossroads* exhibition. The two panel discussions I found most instructive were held on April 5 and May 31, 2001. The first included Ramos, Mercedes Sandoval and Nelson Mendoza, and the second (again) included José Acosta Santo, Ernesto Pichardo, Mercedes Sandoval, and Nelson Mendoza. I have taken

many of the views on syncretism I attribute to Sandoval from the thoughts she expressed in the April 5 panel presentation.

Page 11

The emphasis in Osha on practice instead of prior belief corresponds with Aristotelian and Catholic orientations rather than Luther's emphasis on faith over good acts. The preoccupation of the Catholic church with ceremony is well documented. Peter Ackroyd, in his biography, Thomas More (New York: Anchor Books, 1999), chronicles the pageantry of pre-Reformation England before Henry VIII and the martyrdom of More. The Ackroyd tour is more than a bit wistful over the post-Reformation abandonment of this pageantry. Andrew Greeley documents the contemporary enchantment of Catholicism, a state of mind typically represented in ceremony, in The Catholic Imagination (Berkeley, CA: University of California Press, 2000).

Page 16

The insider story is that Arnaz was not a devotee and that he took the "Babalu" song from Miguelito Valdez, a friend who was a disciple.

Pages 18-19

My description of the initiation ceremony may not be complete, or consistent with all accounts and experiences. But it is a good faith rendition of a protected ritual drawn from both scholarly works and interviews with practitioners.

Pages 20-3

I was present at a wemilere where an orisha was apparently trying to gain possession of a participant, seeming to move in and out of the man's countenance as he danced. The singer was chanting the African phrases directly into the man's face in what seemed an unusually loud voice. The mounting was incomplete, in part (I was told) because of the ceremonial nature of the afternoon's session. In bembé the mounting might have been completed.

Pages 24-31; 39-51

I have drawn the legal material on *Lukumi* from the District Court decision, the oral arguments before the U.S. Supreme Court, the U.S. Supreme Court decision, relevant articles in legal journals -- especially one by the attorney who argued the case for the church in the appeal to the U.S. Supreme Court, Douglas Laycock's "Free Exercise and the Religious Restoration Act," Fordham Law Review (February 1994) -- the two interviews with Pichardo, and interviews with some of the attorneys for the city of Hialeah and selected members of the Hialeah city council at the time of the legal dispute. These interviews (all conducted in Hialeah, Florida) include those with Dan DeLoach on May 5, 1994, and Herara Echeverria on May 21, 1994.

Pages 31-4

As one recent example of the impressive political clout of animal rights groups, the U.S. Department of Agriculture tentatively agreed in early October, 2000, to settle a lawsuit seeking to increase the protection of birds, mice, and rats used in research. Arrayed unsuccessfully against this settlement, and no match for the animal rights groups, were

the Association of Medical Colleges and the National Association for Biomedical Research (which represents 350 universities and companies). The U.S. Congress later intervened to restore at least one sense of an equilibrium by blocking the settlement. See Ron Southwick, "Lobbyists Say Research Will Suffer From Reported Settlement of Animal-Rights Lawsuit," The Chronicle of Higher Education (October 3, 2000) and "Lawmakers Move to Block Extension of Animal-Welfare Protection to Birds and Rodents," The Chronicle of Higher Education (October 9, 2000).

Page 32

This caveat. The Catholic Church, in its doctrine of transubstantiation, maintains that the bread becomes the body, the wine the blood, of Christ in the communion ritual. The implication is that while the ceremony is symbolic it is also in some complex sense to be regarded as literal.

Pages 35-8

Interview with Augusta Del Zotto on October 5, 2000.

Page 37

I have come to see that this description of animal sacrifice is flawed in several respects, meaning that it is irregular when viewed from the frame of conventional Osha rituals. I am certain that Ms. Del Zotto has reported her experiences accurately, and so conclude that, perhaps because of his age, Nilo Tanden was inadvertently mixing a number of rites from various traditions. Or (and this is one reason why I have included the account) the

ritual may indicate random syncretism at local levels in one of the key rituals of the religion.

Pages 66-7

For a concise summary of these two models, Ralf Dahrendorf, Class and Class Conflict in Industrial Society (Stanford, CA: Stanford University Press, 1959).

Page 67

One version of a third domain is the collateral reasoning and mediated speech acts I argue for in Public Reason: Mediated Authority in the Liberal State (Ithaca, NY: Cornell University Press, 1999).

Brief Bio

Fred M. Frohock is Professor of Political Science in the Maxwell School at Syracuse University. His academic concentrations are political philosophy, law, and bioethics. He is the author of nine books and numerous articles in scholarly journals. His latest book, *Lives of the Psychics* (University of Chicago Press, 2000), is a study of alternative realities. His most recent book in political philosophy, *Public Reason: Mediated Authority in the Liberal State* (Cornell University Press, fall 1999), is an account of public reasoning on post-Wittgenstein theories of language. In 1992 he published a study of alternative medicine and spiritual healing entitled *Healing Powers* (University of Chicago Press -- issued in paper in 1995). He has twice been a Social Science Research Council Fellow, and has served as chair of the Political Science Department at Syracuse University (1985-89). He is also on the Ethics Committee at University Hospital in Syracuse, NY, and is a founder and currently vice president of the Institute for Ethics in Health Care (a non-profit institute serving the central New York area). In the spring term of 2001 he was a visiting professor at the University of Miami while working on a book on religion and politics.

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