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Harry Walker

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**JUSTICE AND THE DARK ARTS:
LAW AND SHAMANISM IN AMAZONIA**

Harry Walker

London School of Economics and Political Science

American Anthropologist

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ABSTRACT The idea of “law” as a regulating force external to individuals is rapidly gaining traction among Peruvian Urarina. Its uptake and mode of use have been guided by local forms of shamanic practice, reflecting the common basis of law and shamanism in ritual and violence. Yet despite people’s best efforts to deploy law on their own terms—namely as a weapon through which a higher force or authority is harnessed to individual ends—law, unlike shamanism, is inherently unifying rather than fragmenting and implies a unitary standard of truth and justice that is inimical to Amazonian political cosmology. Law epitomizes the centralizing processes of the state, promoting a fragile peace but only by establishing a monopoly on violence. [*law, shamanism, subjectivity, violence, morality, Urarina, Peru, Amazonia*]

By the time I met them in early 2005, Manuel and Ricardo were already bitter enemies. They were also brothers and had been living in the same community for some years, on the banks of the upper Chambira river in a remote corner of the Peruvian Amazon. But no more—when I arrived for fieldwork, I found them engrossed in an all-consuming and complex feud that originally concerned an alleged sexual impropriety involving one of the men’s daughters but had steadily engulfed everyone around them in a tit-for-tat struggle of endless acts of revenge, each provoking ever-greater outrage, such that the original cause of the dispute seemed all but forgotten. Even when Ricardo took his extended family and founded a new, rival community a few bends downriver, the hostilities continued to escalate. Yet the two men pursued increasingly divergent but strangely complementary strategies. Ricardo, for his part, chose the more “traditional” path of assault sorcery, travelling far away to the Cocama communities of the Marañón river to employ the sinister services of a legendary powerful shaman, who would presumably in the deep of night launch a flurry of tiny, invisible darts, which when lodged in the body of Manuel would cause sickness or worse.

Meanwhile, Manuel prepared and launched a steady barrage of legal documents. He began by attempting to draw up a formal “deed of commitment” (*acta de compromiso*) with the most prominent of the fluvial traders to visit in the area, which would effectively prohibit him from “supporting” Ricardo’s family and allies with his merchandise on credit. Manuel then launched a series of formal complaints, or *denuncias*, addressed primarily to the newly instated justice of the peace in the region, as well as to the mayor’s office in the town of Maipuco. A key aim of these documents was to persuade them to send a policeman who would take Ricardo away and ideally put him in prison. All the while, Manuel made every effort to acquire a national identity card, which he thought would greatly enhance his chances of success by compelling higher authorities to take notice of him. These divergent strategies for dealing with conflict are not mutually exclusive; Manuel might well have complemented his legal warfare with the shamanic arts, had he been able, while Ricardo was not averse to seeking redress through the courts. In many ways, their very

complementarity and proximity raises some interesting questions about how formal law penetrates nonstate societies, as well as regarding law's relationship to magic and ritual, a topic of long-standing and enduring interest.

In one of the founding texts of social anthropology, Sir Henry Maine (1963:15) contended that law and religion were originally inseparable and only became differentiated with the gradual advance of society. A few decades later, Émile Durkheim made a similar claim, arguing that the authority of law, its special nature as something to be respected, is part of the essence of moral phenomena. The role of law is to express and affirm shared beliefs and understandings, and these are essentially religious. It is not only that law expresses religious ideas, in the form of taboos and the like, but that law and religion have certain similarities as social phenomena: they impose obligations on those who accept their authority. In Durkheim's own words, "law, morals and even scientific thought itself were born of religion, were for a long time confounded with it, and have remained penetrated with its spirit" (Durkheim 1965:87). Religion today no longer provides the same all-embracing structure of beliefs as it once did, but modern society still requires a moral foundation, which it is the function of law to express, protect, and guarantee.

A number of anthropologists since Durkheim have pursued a similar line of inquiry, though generally leaving aside the unwieldy concept of "religion" to focus on law's relationship to magic and ritual. Hence scholars have drawn attention, for example, to the "magic" at the heart of early Roman law (e.g., Huvelin 1905; MacCormack 1969; Yelle 2001), noting for example the ritualistic use of precise legal formulae or the "magical" effects of personal seals. Others have drawn attention to the ritual elements that still underpin modern legal systems in the West (Corcos 2010; Crane 1915; Gurvitch 1942).¹ Perhaps the most notable example of the Durkheimian legacy is the theory of witchcraft as a form of social control, originally associated with British structural-functionalism. In the absence of formal or codified law, so the reasoning goes, other social institutions (such as

witchcraft) are thought to serve a similar function, regulating behavior according to accepted social norms.

One problem with this approach, as Marilyn Strathern (1985) has pointed out, is that there is no reason to assume a priori why conflicts or disputes should ultimately concern the imposition of order. The very idea that law is a mechanism that meets basic human needs for regulation is in fact itself part of the ideology of law, and it emerges from a model of social life that belongs to the industrial West, as well as to state systems of government (Strathern 1985:113). The Durkheimian paradigm could thus be said to exemplify the logic of what Gilles Deleuze and Félix Guattari (1987) have called “State science.” Society as a coherent, cohesive, unified, and unifying entity is modeled on, and exists for, the state; its counterparts are the atomized “individuals” similarly fashioned in the image of the state, which they have effectively internalized, “like miniscule individual sub-States subsumed by the State as the super-Individual” (Viveiros de Castro 2010:31). The alternative to “state science,” according to Deleuze and Guattari, is so-called “nomad thought”: a “minor science” of continuous variations that resists the temptation to universalize and instead celebrates multiplicity as a way of subverting the logic of incorporation and unification—much as Deleuze and Guattari saw warring tribes as resisting attempts at subordination and centralization. In fact, their theory was inspired in part by Pierre Clastres’s (1987, 2010) well-known argument, to the effect that Amazonian warfare, combined with strategies for undermining the power of chiefs, was precisely a means of warding off the state and preventing any submission to the forms of sovereign power that have existed in the region since pre-Columbian times.

Two questions arise: How do we, as anthropologists, avoid imposing “state thought” where it doesn’t belong, and how, ethnographically speaking, does the logic of the state take over? That is, in other words, how do “societies against the state” become “societies for the state” (or, perhaps, simply “society” against the “individual”)?² Instead of a simple opposition between two succeeding social formations (prestate and state), we arrive here at the possibility of thinking about the state and

its logic in terms of opposing principles moving in opposite directions: on the one hand, we have the centralization, crystallization, and polarization of power that underlies state formation; on the other hand are the centrifugal processes of fragmentation that continually counteract this. This is, indeed, how I will propose we might think about the relationship between law and shamanism. In this way, I hope to rescue some of what I feel is especially valuable in Durkheim's writings on law—specifically, the focus on law's relationship to morality, its intrinsic connection to ritual and the sacred, and the correlation between penal sanctions and forms of solidarity—while moving beyond one of its biggest weaknesses—namely, its striking absence of politics. In emphasizing the idea of law as something to be believed in and willingly obeyed, Durkheim downplays its role as an instrument of domination, including the ways in which law may exacerbate as well as legitimize class and other social divisions—the necessary connection, in short, between the law and specific projects of governance.

Against legal pluralism, then—which is indeed arguably a prime example of “state science,” finding “law” everywhere—I take law here, following Simon Roberts (2005:13), to be “the concomitant of centralizing processes, processes that at a certain point resulted in the formation of the nation state.” Such an approach necessarily rejects the assumption that all societies have “law,” especially as conceived in formal or universal terms. Like many small-scale societies operating largely outside or even in opposition to the logic and purview of the state, Urarina generally seek to defuse conflict rather than mediate it. As formal procedures were virtually nonexistent, they until recently tended to rely primarily on two simple but highly effective informal techniques: laughter and fission. They also, at times, resorted to violence—often in the spectral realm of dark shamanism—to extract revenge for perceived slights or injustices.

In examining how these practices ground understandings of, and help pave the way for, the introduction of law, I thus take up one of the central questions of modern political thought, one that concerns the relationship between law, violence, and the state. A striking early expression of this

problem was Thomas Hobbes's figure of the Leviathan, who offers those who subordinate themselves to his dominion peace, legal security, and protection from the murderous violence of all against all. Taking it for granted that internal peace can only be assured by a central coercive power, Max Weber later developed the notion that the monopolization of force is the key criterion that distinguishes the state from all other historical forms. All acquiescence to the state, in short, involves acquiescence to force; and while Weber emphasized that state rule must be based on legitimacy, he also realized that the monopolization of violence does not imply its abolition and that the state must itself either threaten or use violence to realize its claim to monopoly (Anter 2014: 34).³

Such an understanding of the state raises moral issues about the use of violence as a legitimate means to achieve just ends—to maintain an established legal system, for example—that later became the focus of inquiry into the nature of the violence that underpins the constitution of sovereign power. In the classic treatments by Walter Benjamin (1978) and Jacques Derrida (1992), examining the relationship between law and force led them in the direction of a “divine violence” or a “mystical foundation of authority,” though Derrida's essay in particular has been deservedly criticized for ignoring specific institutional or social arrangements in favor of a transcendental, metaphysical account of the “force of law” (e.g., Fraser 1991–92). While engaging this complex debate directly is beyond the scope of this article, I do hope to offer an indirect contribution by showing how the force of law may have both a political and a metaphysical basis through its relationship to the sacred.

My argument, in brief, will be as follows. Prior to sedentarization in the 1980s, the Amazonian Urarina had no concept of “law” or “custom” as something external to individuals and regulating them from above or experienced as coercive. With increased exposure to the Peruvian state, they began to try to use law in an aggressive, individualistic, and instrumental way that closely resembles, and is perhaps largely modeled on, the magical techniques of shamanic ritual. Yet while Urarina themselves readily, and rightly, perceive some of the similarities between these two domains

of action—both, for example, involve ritualized techniques of persuasion that require forms of deference and both appear to lend themselves to the instrumental pursuit of violent revenge—there are also some important differences as concerns their respective political implications. Shamanism, despite a reliance on deference to higher authorities, prioritizes vengeance over reconciliation and thus promotes social and political fragmentation. Law, however, despite attempts to use it in similar ways, necessarily concentrates authority and the legitimate use of violence in the hands of a select few and works toward political centralization and a coercive form of sociality. In so doing, law fashions a belief in its own necessity, establishing, as it were, the logic of state thought.

LAW AND MORALITY IN AMAZONIA

In present-day Amazonia, a number of indigenous peoples have relatively recently begun to grapple with the idea of the law and its ever-more prominent role in their lives. For the Urarina of Amazonian Peru, a group of around 4,000 hunter-horticulturalists occupying the banks of the Chambira River and its tributaries, legal process has become an increasing focus of concern since the early 1980s, when they first began to settle in larger, nucleated communities in accordance with the 1974 Law of Native Communities, a state-imposed legal model for Peru's indigenous population. Previously seminomadic with little direct relationship to the state, they embarked on this project of sedentarization to receive land title and other government incentives under a nationwide initiative. This has meant suddenly living in close proximity with large numbers of people, including distant relatives or even non-kin. Prior to this, Urarina lived a highly dispersed, mobile lifestyle in small, fluid, autonomous kin-based groups, in which mechanisms of conflict resolution were almost entirely absent. On the surface, at least, an emphasis on social harmony prevailed; as among so many small-scale, nonstate peoples elsewhere, disputes would be diffused as much as possible; where this was not possible, disputes would typically result in the relocation of one or more parties, a strategy facilitated by low population density.⁴ Thus, dissent in a settlement immediately led to some

insiders turning into new outsiders (Riviere 1984:74); as Joanna Overing (1988:172) put it, there was “no need for an authority system to impose itself formally upon the members of the community.” There was no civil law as we would ordinarily label it, no suprafamilial means of judging, controlling, or punishing ordinary misdemeanors (Overing 1985, 1988; see also Rosengren 2000).

Without durable kinship groups that outlast the individuals who comprise them, which might pressure disputing parties to end their quarrels, there were no institutions to define and apply norms, those “more or less overt” rules which express “‘ought’ aspects of relationships between human beings” (Bohannan 1965:34). Feuding was in no way institutionalized, however. As Elizabeth Colson (1953:210) writes of the Rhodesian Tonga, “Each act of vengeance, like each original incident, mobilizes different groups whose interests are concerned in the particular case and that alone.” Conflict rarely builds beyond the autonomy of minimal kinship groups or sibling sets, and its eventual fading away can best be thought of movements toward fragmentation, which prevent the build-up of support groups for either accused or accusers (Thomas 1982:183). In short, there was nothing resembling a court or council of elders, in which a third party might be called upon to mediate conflicting positions or adjudicate with reference to a shared body of “customary law.” Instead, custom and law were seen to reside within the person and not without, implicating a distinctly native Amazonian concept of personhood.

This form of morality is deeply rooted in ideas about subjectivity and humanity’s place in the cosmos. For a start, to act immorally is almost by definition to act as a less than fully human being. The Urarina self-designation, *cacha*, means literally “real person” or “true human being,” and such a person ideally exhibits, among other virtues, respect for others, knowledge, and generosity, while avoiding anger or violence directed at kin. The capacity to display such virtues is attributed primarily to the body, which must be maintained as fully human at all times, in part by consuming the food and drink proper to humans. Not only do Urarina refuse to eat certain foods that they consider foreign, such as beef; they consider the consumption of such foods by mestizos to be part and parcel

of their immoral behavior. Similarly, moral failings are located in bodily abnormalities. My neighbor Rosalia, for example, was a strong-willed woman who would often get in heated arguments, especially while drunk. One man explained this to me saying, “Her body is very strong, very fierce, that’s why she’s like that”. The ongoing fabrication of the properly human body is central to social life, including the processes of feeding and nurturing that underpin kinship. For this reason, those who are kin are “more” human, more *cache*, than others; they are, therefore, also those from whom one can expect the most moral behavior.

Nonhumans, by contrast—a category including sentient animals as well as neighboring indigenous groups—are considered to have social lives analogous to humans but ones that are flawed in a way that exemplifies undesirable moral qualities, manifesting above all in indiscriminate behavior toward kin, such as incest or predatory violence. Moral shortcomings among humans are attributed to the body rather than the mind; more specifically, they are attributed to the potential of the body to revert to a less than fully human form—to take on, quite literally, some degree of animality. As David Thomas (1982:165) notes for the Pemon, there is little exaltation of the positive aspects of moral virtues, as these are the expected state of affairs, while moral breaches are not specifically prohibited as much as “disesteemed qualities that manifest the absence of normal reactions and sentiments.” Thus, while lamenting the way certain inhabitants of our village were constantly fighting amongst themselves, one man explained to me, “their lives are different, they’re not yet fully civilized”. The term he used, *ichao*, meaning “life” or “way of life,” is often used to refer to animals, who just see the world fundamentally differently to humans. Essentially, the man was implying, there’s little use here in trying to enforce a universal standard, for animals will be animals, and they will always pursue their interests as constituted by their bodies. One who behaves in a truly abominable manner—who commits incest, for example—might be labelled *taebuinae*, or “savage animal,” a category whose prototype is the jaguar, a creature whose moral shortcomings, such as its “lack of respect,, are in some sense intrinsic to its jaguar body (see also Londoño Sulkin

2005:15). Thomas (1982:171) similarly notes how the “almost universal response” to a case of incest among the Pemon was the comment, “Those people are dogs,” coupled with “They live way up on the mountainside, away from everyone, so what you can do?”. Widespread reactions of scorn and disgust did not result in any sanctions; instead, incest “is an offense which places the offenders into the ‘nonhuman’ category” (ibid.:171).

Bodily transformation based on moral deviance appears to have a mythical precedent. Accounts of how particular species were transformed from their original protohuman condition in mythical times often locate moral failings at the heart of the transformation itself. The story of Woodpecker, for example, tells of a woman who possessed many ceramic pots but was too stingy to loan them out to her neighbors. When asked for a pot she would tap on a broken one, *tap tap tap*, and proclaim them all to be similarly broken and useless, to avoid having to loan them. This is, of course, the sound still heard today following her transformation into the bodily form of the Woodpecker. Yet then, as now, there is no universal principle external to one’s own body for directing or judging behavior; there is simply a sense that we have the bodies we deserve.

A further, no less important reason that disputes of any kind are almost impossible to mediate is a pervasive unwillingness to claim to know other minds. Straightforward questions about someone else’s motives for performing a given action are met with a steadfast refusal to speculate, as well as often an insistence that it is impossible to know the mind of another (see also Course 2013). This is not to say that people do not in fact try to read other people’s minds; I suspect they do so all the time, but it is nevertheless downplayed and culturally discouraged. As has been suggested in a Melanesian context, statements about the opacity of other minds are not merely about the relation between knowledge and meaning, or public evidence and private states; they are also about authority (Stasch 2008). They are inherently moral and political, part of a pervasive emphasis on individualism and egalitarianism. For to claim to know another’s mind is to impinge on their self-determination.

The putative unknowability of other minds also underpins the local philosophy of language, which does not consider an utterer's mental state to be necessarily relevant to the interpretation of their speech. Words do things rather than express or mediate viewpoints; they are not made to "represent" objective truth, because all truth is relative to the relationships and experiences of those who claim to "know" (Rosaldo 1982:210). This perspectival philosophy in many ways runs counter to our own ideas of law and justice. When talking to people involved in disputes, I was often struck by what seemed to be their stubborn insistence on being absolutely in the right, even when I tried gently to draw attention to their own possible faults or failings. Accounts of events were similarly blatantly one-sided, and people refused to contemplate how another party might have perceived an event. Differences in this regard indeed seem irreconcilable, which partly accounts for the traditional lack of interest in mediating disputes. As already noted, early signs of tension might be made light of through joking and laughter, a particularly effective noncoercive tool for dealing with conflict. Once a dispute had escalated beyond a certain level, however, there was no real expectation that it could ever be resolved through a process of mediation; hence the common recourse to fission or departure by one or more parties and resulting high levels of mobility. Native Amazonian peoples place a premium on social harmony, but once this is broken, tempers flare and are difficult to cool. The transition from friend to enemy is fast and hard to reverse, all contributing to the general dynamic of fragmentation that characterizes traditional sociality.

DARK ART OF THE *DENUNCIA*

Let us return now to the conflict with which we began, between the two brothers Manuel and Ricardo, whose inability to see eye-to-eye had split their community apart. According to some, the feud got going after one of the men's young daughters found herself the object of unwanted attention from her inebriated uncle during a drinking party. Yet for the participants themselves, that brief moment of untoward behavior had long since been eclipsed by ever more serious offenses and

aggravated insults, culminating in a protracted struggle for recognition as the rightful incumbent of the office of lieutenant governor of the Native Community of Nueva Unión. Following the relocation of Ricardo and his allies a few bends downriver, this led by extension to a dispute over which of the two settlements was the “real” Nueva Unión—an issue complicated by Ricardo’s apparent possession of the original land title document—and thus who had the right to host a salaried bilingual teacher.

Needless to say, remaining neutral in such a conflict is impossible, and I found myself increasingly allied to Manuel, as he became one of my most valued and trusted research collaborators, always ready to share his ideas and opinions. As such, I can only speculate as to Ricardo’s precise course of action. The Cocama man he allegedly sought out was one of a handful of shamans widely considered to be particularly knowledgeable. As is common in the region, such men typically inhabit the peripheries of peoples’ social worlds and often belong to neighboring ethnic groups; in this case, it is noteworthy that the Cocama were first contacted prior to the Urarina and acted as intermediators for external agents of colonization, thus locating them decidedly closer to external sources of power.

The pursuit of vengeance through sorcery or shamanic ritual centers on the ritual chanting that accompanies the consumption of psychotropics.⁵ These chants have a kind of prophetic quality and are often said to actually bring about the events they describe. Often, psychotropics are drunk to “defend the living” or to heal illness, the latter of which is thought to be itself the result of malevolent sorcery. In such cases, the shaman attempts to extract the tiny magical darts from the patient and then direct them back at the sender, across considerable distances if necessary, in what can easily escalate into full-fledged mystical warfare. Yet as often as not, it seemed that the hostile action was not a direct attack; instead, it involved persuading some other agent, a potential ally such as a snake or malevolent spirit, to intervene and cause misfortune to one’s enemy. For example, one man admitted to me that he once offered a shaman gifts to make his cheating wife disappear,

agreeing that the shaman would communicate directly with the Mother of water, who would grab her and take her away one day while she was bathing.

The words sung in a shamanic chant are always highly formulaic, comprising juxtapositions of standardized figures and expressions that have been passed down from the ancestors but at the same time are always said to originate not from the shaman who is enunciating them but, rather, from the spirit Mother of the species of hallucinogenic plant he has just consumed. This being uses the shaman as a mouthpiece and speaks “through” him, as emphasized by the fact that the chant frequently addresses the enunciator himself in second person (as “you”). The chant’s key qualities of formality, repetition, and quotation are of course central to most, if not all, forms of ritual action, a defining feature of which is that it does not originate in the intentionality of the producer. As Caroline Humphrey and James Laidlaw make clear (1994:12), the degree of ritualization of action corresponds to the degree to which actions are felt to be stipulated in advance and thereby separated from people’s intentions in acting. Ritual is therefore closely linked to deference or “reliance on the authority of others to guarantee the value of what is said or done” (Bloch 2005:126). Yet in the case of shamanism, at least, there is still considerable scope for individual variation between shamans, who can acquire considerable power independently of each other and, indeed, use that power in perennial struggles that promote social and political fragmentation.

As for Manuel’s struggle, in which I sometimes reluctantly participated as scribe, it centered on the so-called *denuncia*, or “denunciation,” one of the most striking features of which is its formality. Urarina are acutely aware of the way these documents should look and sound, and there is a general consensus that the more formal they are, the better. The following was sent by Manuel to the local justice of the peace, written (as always) in Spanish, with the assistance of the schoolteacher because Manuel was illiterate:

Native Community Nueva Unión
16 February, 2006

From: Mr Manuel Clemente Noribe
Lieutenant Governor, Nueva Unión

Sir: Antonio Fartari Macusi
Justice of the Peace

Matter: Request for Solution to a Problem

I, Manuel Clemente Noribe, Lieutenant Governor of Nueva Unión, hereby affirm that Mr. Ricardo Clemente Noribe has been illegally removing fish from the lagoon belonging to our community, without permission of the authorities. The bearer of this document, Mr. Antonio Inuma Vela, is a witness to the affair. I desirously beg your support in the hope that justice may be done.

Sincerely,

Manuel Clemente Noribe

The formality of these documents contrasts dramatically with the highly colloquial nature of spoken Spanish, and I had a strong sense that their very formality in large part accounted for their persuasive power. Formal language shifts emphasis from the personal identity of the speaker to his or her role, invoking positional and public identities, along with a sense of social distance and respect for an established political and social order (Irvine 1979). This is a way of increasing legitimacy: the point of sending a document with the much sought-after personal stamp or seal is similarly to emphasize that the author is writing not in his capacity as an individual but as the bearer of an official role, invested with a special authority. All this is relatively unusual in a native Amazonian context, precisely because of the lack of formal roles or offices in traditional sociality (see also Walker 2013b).

Deference is also an important feature of legal action. Manuel places his hopes that his ends will be achieved in the hands of others he trusts: deferring first to the established manner of composing a formal document and second to the justice of the peace himself as a higher authority. In fact, the two strategies—legal and magical—are both violent in intent, though they also rely on

supplication rather than any direct coercion. They are both ultimately techniques of persuasion, directed at powerful allies. Manuel did not view the justice of the peace as an impartial observer capable of adjudicating the case on its merits but, rather, as an entity to be cultivated and co-opted as an ally in his war on Ricardo. He showed little concern to set out the facts of the case in an optimum light and instead directed all his energies to the acquisition of identity documents and gifts from his supporters in the community to help with the persuasion. His pragmatism in these matters may be perhaps unsurprising, but we should note that the impossibility of an impartial or objective viewpoint is also a logical consequence of his underlying philosophy of language and action, which, as noted earlier, is predicated on the impossibility of mediating between, or reconciling, divergent perspectives.

There is nevertheless a crucial difference between the two strategies, insofar as the violent effects aimed for in shamanic ritual are potentially available to anyone with enough dedication to learn the dark arts. There is no centralization or coordination—hence the classic situation of a number of powerful shamans covertly at war with each other. Legal action, by contrast, depends on a degree of coordination between the centers of power: the justice of the peace, the mayor in Maipuco, and other organs of government. As Deleuze and Guattari would put it, the central state organizes a “resonance” between these power centers; they are polarized at a common point, like concentric circles (see also Mentore 2004). For their part, while I’m not sure Urarina see law as especially “magical” per se, they do tend to focus on its similarities to shamanism rather than the differences between the two. When I once asked how a typical shamanic curing chant worked, I was told that illness is a form of soul loss and that the words of the chant were “like a policeman” who must go to fetch the soul of the sick patient from the “prison” in which it was being held captive and return it to the body. One of the striking features of this analogy is that the shaman, much like the policeman, can use his power for either good or bad. This results in a fundamental ambivalence toward both magic and the law, arising from the duality of their use in both attack and defense. These two aspects

of both shamanism and the law are not seen as separate: the power to cure harm and to cause it, like the power to imprison and to set free, are inextricably linked.

In many ways, Urarina do not need to draw an association with shamanism to perceive the possibilities of law as a weapon, for their own history offers ample illustrations. Many of their more negative experiences of law involve the specter of the policeman—probably law’s earliest historical incarnation—who is always envisaged as brutal and lacking respect and who, in oral histories, arrives in Urarina territory to carry away and imprison Urarina who have been made the targets of formal complaints by mestizo *patrones*, or labor bosses, seeking to punish acts of resistance and tighten their control over their native labor force. The notorious prison in Moyobamba, a far-away city in the San Martín region, looms large in these accounts as everyone’s worst nightmare, and epitomizes the power of the policemen to make people disappear. Yet even the prison is a relatively humane development for an earlier power to remove people altogether. One man told me, “You know, something that doesn’t serve me, I’m not going to put in my room, or in the prison, I’m going to throw it away. That’s how it was in the old days. There was no Moyobamba in those days—they just threw out the criminals, I don’t know where”.

Yet the defensive possibilities of law are gradually becoming apparent. In some stories of more recent origin, the law is on the Urarina’s side in their struggles with outsiders, even helping them to gain revenge. When my friend Jorge, for example, was unable to recover money owed to him by an unscrupulous stranger for whom he had done some work in the city, a simple visit to the state-funded legal organization Defensoria del Pueblo (“Defenders of the People”) was enough to spur a team of lawyers and policemen into immediate action on his behalf. When he later told me the story, he emphasized, “We Urarina have heaps of support. We have heaps of rights”.

THE RISE OF PUNISHMENT

The use of law as a technique of punishment by the group, rather than an instrument of individual vengeance, increasingly takes place within the Native Community itself. The process of sedentarization that began in the 1980s has meant the construction of larger, more permanent houses that contributes greatly to people's desire to resolve disputes rather than simply relocate and start over. This in turn often requires seeking out an authoritative third party, such as the recently appointed Urarina justice of the peace. Unlike the Dobe/Ju'hoansi *kgotla* "courts" described by Richard Lee (1993:102), however, where the introduction of "law" to the district was widely seen as a positive contribution and the increasingly popular courts relieved people of "the heavy responsibility of resolving serious internal conflicts under the threat of retaliation," Urarina remain wary of adjudication and its pretense at neutrality and rightly perceive that the concentration of law in the hands of a privileged elite consolidates their power and increases the prospects for its misuse.

In cases in which mediation is sought, the mental states of perpetrators are frequently disregarded, in general accordance with the doctrine of the opacity of other minds. For example, in June 2006 a young boy named Toribio died after being accidentally struck on the hand with a machete by his friend while out collecting papaya. Enraged, Toribio's father immediately departed for the downstream community of San Miguel, in the hope that the justice of the peace would back his demand for hefty compensation. In the negotiations that ensued, the fact that the event was an accident was never openly mentioned (even if presumably clear to all parties, and indeed negotiations may not otherwise have even begun). The entire focus was on the outcome of death, and the degree of compensation that should follow as a result. This is not unusual in those parts of the world where so-called strict liability is the norm, and mental elements are not considered relevant to the defense that might be offered (e.g., Rosen 2006:108). Perpetrators of crimes and misdemeanors are found responsible and punished in accordance with the degree of damage they have caused rather than the degree to which their crime was committed intentionally. As Eve Danziger (2006:259) writes apropos of the Mopan Maya, "The defense of 'I didn't mean it' is considered irrelevant and

seldom attempted.” There appears to be no equivalent of the concept of *mens rea*, the “vicious will” or “guilty mind” that is viewed as one of the necessary elements of a crime in Western law. In legal terms, we might say that people are liable but not culpable; and this liability is distributed, in the sense that husbands and fathers in particular are often held primarily accountable for damages caused by their wives or children.

Interestingly, not only the mental states of perpetrators are disregarded. Take cases of rape—or, rather, take the the lack of such cases. Although I heard frequent complaints of *violación*, or “rape,” these always involved minors and often an element of incest. What was generally at issue, it seemed, was not the lack of consent on the part of the girl but her age or status as kin. Rape as such seemed not to provoke much controversy, not only because of patriarchal tendencies but also because concrete events take precedence over issues of intention in determinations of responsibility. In other words, the concern is with what happened or who did what to whom rather than what people were thinking or intending at the time.

Where a dispute or crime is relatively minor, people increasingly try to seek resolution without recourse to an external authority. Thus, one of the key features of the modern native community is the *calabozo*, or holding cell. In all Urarina communities, one now finds, next to the school and the soccer field, a small, wooden structure, about a meter in diameter and too low to stand upright in, with a door that can be locked on the outside with the aid of a few nails. Temporary imprisonment in the holding cell, usually for a period of between six and twenty-four hours, has become a ubiquitous (and much-feared) form of punishment for a variety of misdemeanors ranging from theft or adultery to failure to participate in a collective work effort. The range of possible offenses seems limitless: a 14-year-old girl was imprisoned in the holding cell for six hours for shouting insults at her mother-in-law; I myself was once threatened with imprisonment for failing to share my belongings as widely as at least some people thought I should.

Incarceration is the prerogative of the Lieutenant Governor (*teniente-gobernador*), the elected representative of the state within each community, who alone wields coercive power. In accordance with the official state model of the Native Community, the lieutenant governor is legally authorized to adjudicate disputes and to punish misdemeanors on the community's behalf. This office was once held by the owners of large estates (*haciendas*), who used and abused their authority to enforce compliance among the native population who made up their labor force. Today, however, the decision to punish is usually made by the group as a whole, through a process of consensus at a communal meeting. As such, punishment is effectively exerted by the community itself, acting as a single entity. This approaches what Durkheim called repressive sanctions—a collective condemnation of the offender on behalf of society as a whole, a public vindication of collective values. In other words, the origins of this kind of punishment are to be found in a particular kind of collective life, in which the social comes (for the first time) to exert a coercive force over its individual members. This is the logic of the state, and the role of law is undeniable.

One of the effects of this new regime is that crimes or misdemeanors are increasingly spoken of as being “against the law,” or as “right” or “wrong” in some absolute sense—that is, “antisocial” rather than simply against the interests of one or more individuals. Revenge wrought by the group transforms into punishment; ugly or less-than-human behavior calls for sanctions beyond social ostracism. Law, morality, and custom come to be seen as external to people and regulating their behavior. Antisocial behavior results in an individual being seen as deviant, in the wrong because they could have acted otherwise, but not less than human. At the same time, the law comes to take on something of a sacred quality. For example, just a month or so after moving his extended family downstream and starting his own rival community, Ricardo had already constructed a modest soccer field. But he knew that his tiny breakaway community would never achieve legitimacy until it boasted a school. One day, while all the original community members were away, he paddled upriver with his sons-in-law and dismantled the original school, ferried it downstream piece by

piece, and reassembled it in the middle of his renegade community. The outrage this caused among my friends goes without saying. “You can’t just dismantle a school!” Manuel exclaimed, livid. “That school has lots of law!” [*¡Esa escuela tiene bastante ley!*]. The force of the law as a vital, immanent energy seems to be associated here with the unifying qualities of the school as the symbolic heart of the native community—which is itself a microcosm of the state, in whose image it is constructed.

The idea of law as an abstract unifying principle that crystallizes shared values and produces a sense of devotion is further associated with the rise of moralizing discourses, managed by schoolteachers and other young leaders, telling people how they should live, as good, “modern,” civilized Peruvians. Increasingly, the new style of life in organized, orderly native communities is counterposed to the ostensibly chaotic and violent ways of the ancestors. The rule of law is now commonly evoked as a peaceful contrast to even the not-too-distant past, depicted as a time in which violence was entrenched in the manner of men. There are many tales of historical violence that center on the aggression waged against Urarina by powerful, destructive neighbors; much as for the Ecuadorian Huaorani (Rival 2002:49), recounting such tales goes some way to constituting a coherent collective identity.

Yet other anecdotes depict forms of internal violence and discord that are now considered unhealthy and destabilizing. One man expressed it to me as follows: “Earlier, fifty years ago, the life of men was like this. With sticks they beat each other, they fought, they stuck their weapons right into the body without any care”. Overhearing, another added, “Yes, that’s how my father was. My father was a bad person. Tall, and fat. We—my brothers and I—have not followed him. We have more knowledge.” The first continued: “The ancients were fierce. Like killing an animal, they attacked other men, they had no pity. They really liked to fight! My uncle, he fought with absolutely everyone, while stone cold sober. The people were all afraid of each other. Those bad old-timers have all died now, that kind of fighting no longer exists now. Now, life has changed, and there is respect.” While there may well be some truth in claims such as these, my suspicion is that

representations of the past as a time of chaos are partly the products of the new regime of punishment and order, in which social control, in the form of law, is increasingly seen as necessary and inevitable. Much as centuries of colonial attempts to “tame wild Indians” led to a proliferation throughout the region of images of wildness and savagery (see, e.g., Taussig 1986), the imposition of “law and order” produces its opposite—a terrifying sense of “disorder” or “chaos.”

JUSTICE AND THE END OF STRUGGLE

Legal techniques such as the *denuncia* (the formal complaint), along with the concept of the law, in which these are embedded, have been enthusiastically embraced by Urarina in recent years. Despite a lingering sense of ambivalence and uncertainty, legal denunciation now exists alongside—but has not yet supplanted—dark shamanism and departure as methods for dealing with conflict; all are now equally likely avenues for those with grievances. What is clear, however, is that such positive or formal law does not exist in any meaningful relationship with customary law or formal techniques of adjudication, for these are virtually nonexistent and, in any case, are contrary to the premises of native Amazonian political ontology. To understand how and why the law has managed to gain so much traction in recent years—to the point of becoming a fetish of sorts—I have looked to concrete historical experiences of justice and injustice as well as to the sphere of action that most closely resembles legal technique: namely, shamanic ritual. For law is itself a ritual of the state, and the documents and procedures that comprise peoples’ primary experience of law find common ground with the displaced intentionality and attitude of deference and supplication that lies at the heart of shamanic authority.

For Durkheim, who made a powerful case for the religious basis of law, religious belief is always belief in abstract forces that give people a sense of the sacredness of something outside themselves, of a life lived in common with others, including past and present generations. Yet if law is indeed an object of attachment and a unifying, regulatory force, the same cannot be said for

Amazonian shamanism, which is a solitary pursuit and ultimately serves the interests of individuals and small groups. Like warfare, it tends to be fragmenting in its effects, promoting dispersal, grounded in violence, and preventing the concentration or consolidation of power or influence. While violence is not the only way in which law becomes meaningful for Urarina people—as is evidenced by a steady bureaucratization of community life—it would nevertheless appear that people are most fascinated by law’s potential as a weapon or as a set of procedures for the effective persuasion of higher forces or authorities for individual, often violent ends. Law, like shamanism, is often closely linked to predatory violence: either as a capacity for inflicting harm or a way of defending oneself against enemies. Yet it is also closely linked with an emerging concept of “society” or “the social,” a product of “state thought” that results in a real ambivalence surrounding its moral value.

Yet law seems to work its magic regardless of people’s wishes or intentions. When Manuel once labeled his enemy Ricardo as a “savage animal” (*taebuinae*) and a “criminal,” he probably saw these as equivalent. But the implications are distinct: in the former case, morality and custom are immanent in the person and define the human perspective as such; in the latter case, they are imposed on individuals from without, demanding commitment and obedience. Enthusiasm for the denuncia is part of Urarina’s attempts to decentralize the law, to wield it instrumentally and take redress themselves, just as the shaman wields the tiny darts of assault sorcery. But such attempts are ultimately often futile. As is so often the case, the force of law exceeds people’s capacities to manage or control it—or, indeed, to solve their problems the way they wish—and the ceremony and formality of law cannot in the end ease the social pain of anger or loss of love (see Merry 1990). Like magical power, it surpasses the intentionality of even the most potent practitioners (cf. Styers 2004:216).

In particular, law always works to create a monopoly on violence, creating a wedge between legitimate and illegitimate deployments. It attaches conditions to the use of force that authorize its

employment only by certain individuals, under certain circumstances; it makes reconciliation compulsory. In this way, law unifies the community on behalf of which it is implemented. The individual who is authorized to apply coercive measures—in our case, the lieutenant governor of the native community or the justice of the peace—acts as an organ of the community constituted by this legal order. In short, law makes the use of force a monopoly of the community, which, in the process, it also “pacifies” (Kelsen 1941:81). As Steven Rubenstein (2012:68) observed for the Ecuadorian Shuar, *pacification* in practice entails appropriation by the state of indigenous violence. Each native community effectively becomes a microcosm of the state: a centralized political organization and a coercive order, punishing in its own name.

While they seek to deploy law violently and as individuals, people praise the law for keeping violence at bay, for enabling them to move beyond the chaotic and violent ways of the ancestors and to become “organized.” Such a conception, together with the gradual turn to external mediation, in some ways resembles the rise of “harmony ideology” in Zapotec society (Nader 2002) in which a pattern of dispute settlement dominated by compromise and conciliation was found to have its roots in colonial processes of pacification, even though it later became part of counterhegemonic responses. Yet the model remains coercive, insofar as it mandates “unity, consensus, cooperation, compliance, passivity, and docility—features often taken for granted as humankind’s normal state and considered benign” (Nader 2002:34).

Here, above all, at the heart of this paradox, is where the ideological effects of law are working their magic: some form of social control, external to individuals, comes to be seen as necessary. The representation of the past as a time of internal chaos is itself, I suggest, largely an ideological effect of law. In contrast to the reality that people are quintessentially social creations, already dependent upon one another from the moment they are born, law persuasively furnishes a concept of the atomized, asocial individual with a calculable form of interiority and a need for social regulation. Such a view seems unlikely to have prevailed in Amazonia until recently. On the

contrary, it is tempting to suggest the potential danger that most concerned people as a threat to social life was not atomization but its opposite: excessive unification, arising from the failure to properly differentiate oneself from others (Viveiros de Castro 2004:476). Hence we could understand a reluctance to impinge on others by reading their minds: to do so might risk an unwanted identification. It is not existential isolation that troubles the native Amazonian psyche but, rather, total subsumption into the other—existential nondifferentiation.

The principal thrust of shamanism and warfare is thus toward fragmentation and dispersal: creating enemies and boundaries, asserting differences, and fighting against the processes of centralization and unification that give rise to a state, of which law is the paramount expression. Looking further afield, even to where very different understandings of morality and personhood prevail, there are traces of similar processes. It should perhaps come as no surprise that shamanism so often emerges or flourishes in times of colonial activity, when centralizing forces are most in need of destabilizing (see, e.g., Carneiro da Cunha 1998; Thomas and Humphrey 1996), or that witchcraft and sorcery so often pose thorny problems for state legal systems (e.g., Herriman 2013; Rio 2010) and are deeply grounded in notions of personhood, culpability, and intentional action (Mills 2013). In so many parts of the colonial and postcolonial world, the rise of state law reveals an intimate relationship to the occult arts, even as the former struggles to contain and encompass the latter. This peculiar affinity may point not only to their common grounding in elements of magic, religion, and ritual but also to the latent possibilities for violence inherent in each—a violence that the state must eventually seek to assimilate.

Among the Urarina, law is constructing a new model of the person as a legal subject or citizen. True membership of this category requires the possession not of a human body but of identity documents. In this model, the “good Peruvian” is the new benchmark of moral personhood, based on virtues of peace, discipline, order, and organization. Law reshapes subjectivity, transforming singularities into subjects and multiplicities into a unified people. What passes by

largely unnoticed is the ways in which these new moral virtues are enabled by the force monopoly of the community. Urarina responses to law resonate with Derrida's (1992) claims that law is not simply an external force, exterior to power, and that there is an internal (if complex) relationship between law and violence, such that "justice" is either impossible or at least always in the future, an event still "to come." Yet insofar as the founding of law is in some way "mystical," I would suggest that this is not simply because this moment is somehow unintelligible or indecipherable but because of the way law hijacks other forms of mystical authority.

When the Urarina justice of the peace was inaugurated in 2005, he made a speech celebrating the pacifying function of law as a tool of progress, akin to formal schooling. Yet my companions at the time were deeply ambivalent, and most did not see his instatement as a positive move. They felt that the "justice" he espoused would never be impartial. They sensed that whatever its benefits, law would too easily be used in the service of oppression. The instatement of a justice of the peace meant more concentration of power in the hands of an elite and an erosion of the sovereignty of local groups, and my friends saw themselves as all too likely to find themselves on the wrong side of the law. In many ways, the concept of an "impartial justice" implies a unitary standard of truth and morality that is inimical to Amazonian cosmopolitics, in which the struggle of perspectives is endless, and there can be no transcendence. This is what life is. Its converse, the end of struggle, is justice.

Harry Walker*Department of Anthropology, London School of Economics and Political Science,
London WC2A 2AE, United Kingdom; h.l.walker@lse.ac.uk;
<http://www.lse.ac.uk/anthropology/people/walker.aspx>*

NOTES

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1. Since Frazer, scholars have tended to distinguish magic from religion on the grounds that it is individual rather than communal as well as technical and instrumental rather than propitiatory or supplicatory. Such distinctions are often difficult to maintain in practice, however, as indeed they are in the case discussed here.

2. As Rubenstein (2012) put it, “One might characterize the history of the pre-Federation Shuar as a people’s struggle against Society.” Many of the specifics of Clastres’ arguments have of course been widely (and justly) critiqued, but see Barbosa 2004 for a defense and Course 2012 for an insightful reassessment that better accounts for native understandings of language and intention.

3. As Cover (1986) has emphasised, legal interpretive acts themselves constitute justifications for violence that has already occurred or is about to occur (e.g., through the treatment of prisoners). Yet violence is so intrinsic to the practice of law and government, so taken for granted, that we scarcely find mention of the fact that the government, ordained and established, has the power to practice violence over its people, beginning with broad interpretive categories such as “blame” or “punishment.”

4. Based on his work with the Dobe/Ju’hoansi, Lee (1993) observes that fission is an excellent form of conflict “resolution” and that a period of separation of a few months might be sufficient before opposing parties can re-establish good ties. However, I certainly never witnessed anything resembling the striking case he likened to an execution, in which a homicide was effectively sanctioned by all involved, including the relatives of the intended victim, thereby bringing a cycle of

violence and feuding to an end. His interpretation is revealing: “It is as if for one brief moment, this egalitarian society constituted itself a state and took upon itself the powers of life and death. It is this collective will in embryo that later grew to become the form of society that we know today as the state” (Lee 1993:102).

5. For a fuller discussion of Urarina shamanism and its relationship to personhood, see Walker 2013a.

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