

OBEAH, VAGRANCY, AND THE BOUNDARIES OF RELIGIOUS FREEDOM: ANALYZING THE PROSCRIPTION OF “PRETENDING TO POSSESS SUPERNATURAL POWERS” IN THE ANGLOPHONE CARIBBEAN

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ABSTRACT

The practice of obeah, a term used to refer to a variety of African derived spiritual practices, remains proscribed in at least fourteen countries or territories in the Anglophone Caribbean today. This article examines the historical development of these laws and the significance of the continued prohibition of obeah. Although obeah laws were initially modeled on British statutes banning vagrancy and witchcraft, and were passed during a period when it was common for nations in the Western Hemisphere to prohibit the practice of African diaspora faiths, these statutes stand in stark contrast to the religious freedoms guaranteed in other parts of the Atlantic world in the twenty-first century. Obeah laws proscribe the mere performance of certain spiritual rituals, while other countries modified their policies in the mid-twentieth century to require evidence of intentional fraud and financial gain to convict occult practitioners. This article links the continued proscription of obeah to nineteenth century assertions that African peoples were animists and fetishists, as well as to long-standing hierarchies in the Western world placing theistic religions above those centered on spirit conjuring, divination, and the manipulation of supernatural forces.

KEYWORDS: obeah, witchcraft, vagrancy, Africa, Caribbean

In contrast to widespread protections generally extended to minority religions, including many African diaspora faiths, in the Western Hemisphere, the practice of obeah remains proscribed in at least fourteen countries or territories in the Anglophone Caribbean under antiquated laws initially developed to suppress slave rebellions.¹ This article examines both the historical arc that

1 These countries are Belize, the Bahamas, Guyana, Jamaica, Dominica, Antigua and Barbuda, Grenada, St. Kitts and Nevis, the British Virgin Islands, Montserrat, St. Vincent and the Grenadines, and Turks and Caicos, as well as the Cayman Islands. See Jerome S. Handler and Kenneth Bilby, *Enacting Power: The Criminalization of Obeah in the Anglophone Caribbean, 1760–2011* (Kingston: University of West Indies Press, 2012), 45–101 (detailing the historical and current status of obeah legislation in every country in the Anglophone Caribbean). In addition to these former British colonies, the laws of the U.S. Virgin Islands also prohibit “pretend[ing] or profess[ing] to tell fortunes by palmistry, ‘obeah’ or any such like superstitious means, or us[ing] or pretend[ing] to use any subtle craft or device, in order to deceive and impose upon other persons.” *Miscellaneous Acts of Vagrancy*, V.I. CODE ANN. tit. 14, § 2221 (1921).

led to the nonrecognition of the African spiritual practices described as “obeah” as well as the broader implications of their proscription on our legal and social understandings of “religion.”² In this study, I present three arguments about the significance of the persistent criminalization of obeah.

First and foremost, although obeah laws were initially drafted by British colonial legislators and derived from English ideals about witchcraft and sorcery, the proscription of supernatural rituals in the former British Caribbean has recently diverged from the remainder of the Anglophone world. In other countries in the English-speaking Atlantic, evidence of intentional fraud has been required to proscribe supernatural practices such as fortune-telling, astrology, and spirit conjuring, since the mid-twentieth century. In contrast, obeah laws in the former British Caribbean continue to prohibit the mere performance of certain spiritual rituals.

Second, I argue that legislators and judges in other parts of the Atlantic world have privileged theistic belief systems when recognizing African diaspora faiths. Once nearly universally proscribed, African diaspora religions with beliefs and observances centered on the veneration of a god or pantheon of deities, such as Santería/Lukumí, Candomblé, Vodou, and Shouter Baptism, are now legally recognized, and practitioners are permitted to worship freely. Furthermore, in Trinidad and Tobago, where, historically, the ambiguous term *obeah* was used to describe primarily certain African-based theistic religions, obeah laws were recently repealed. In many other countries in the Caribbean where *obeah* generally refers to nontheistic belief systems,³ the practice remains proscribed.

Finally, I assert that theism is a decisive factor in the criminalization of obeah because of long-standing debates among theologians, legislators, and public officials about the boundaries and hierarchies of religion. Since at least the early nineteenth century, Europeans relied on theories that African people had no concept of god, and practiced animism or fetishism—understood as very “primitive” forms of religion—to justify enslaving Africans and subjugating them under colonial rule. The notion that persons of African descent practiced “magic,” “witchcraft,” or even “devil worship” remained prevalent into the late nineteenth and early twentieth century to explain why Africans were unprepared for self-governance and political participation after emancipation. I contend that when the leaders of negritude, *indigenism*, black power, and independence movements countered these arguments in the mid-twentieth century with their own interpretations of African culture, they emphasized that most Africans believe in a god or gods, even if these Supreme Beings play a different role in African worldviews than they do in the West. They embraced African diaspora faiths that center on the worship of a pantheon of deities as indications of how African culture resembles that of Greek and Roman antiquity, some of the most revered cultures in Western history. By focusing on the existence and centrality of African theism, black leaders in the mid-twentieth century failed to challenge notions of an evolutionary scale of religion and left nontheistic faiths, including those categorized as “obeah,” unrecognized and unprotected.

2 Although scholars have long discussed the African origins of obeah, and obeah statutes initially focused on the proscription of the practices of enslaved persons, recent research has underscored how, particularly in the case of colonial Trinidad, the legal proscription of obeah often encompassed the religious or spiritual practices of other ethnic groups, especially Indians. See Alexander Rocklin, “Obeah and the Politics of Religion’s Making and Unmaking in Colonial Trinidad,” *Journal of the American Academy of Religion* 83, no. 3 (2015): 697–721.

3 The United Nations Special Rapporteur on Freedom of Religion or Belief very succinctly explained this concept as follows: “Theism is the belief in the existence of one supernatural being (monotheism) or several divinities (polytheism), whereas a nontheist is someone who does not accept a theistic understand of deity.” Asma Jahangir, *Elimination of All Forms of Religious Intolerance*, ¶ 67, U.N. Doc. A/62/280 (Aug. 20, 2007).

LITERATURE REVIEW

This article contributes to the growing body of literature about the proscription and prosecution of obeah, which was negligible until recently but has rapidly developed in the late 2000s and 2010s. In 2009, Diana Paton wrote an article in *Small Axe* titled “Obeah Acts: Producing and Policing the Boundaries of Religion in the Caribbean,” which highlighted the continued proscription of obeah in the Caribbean and discussed the role of race and colonial law, among other things, in creating the “continuing popular and official hostility to obeah” in the twenty-first century.⁴ In 2012, Jerome Handler and Kenneth Bilby published the first comprehensive book about obeah laws, *Enacting Power: The Criminalization of Obeah in the Anglophone Caribbean 1760–2011*, which both provided an overview of the development of anti-obeah legislation and contained a lengthy section analyzing these laws in each territory.⁵ That same year, Diana Paton and Maarit Forde completed an edited volume titled *Obeah and Other Powers: The Politics of Caribbean Religion and Healing*, which interrogated issues of representation, debates about tradition and modernity, and the relationship between race and religion in the Caribbean in the nineteenth and twentieth centuries.⁶ Three years later, in 2015, Diana Paton published a monograph titled *The Cultural Politics of Obeah: Religion, Colonialism and Modernity in the Caribbean World*, which delves deep into the definition of obeah as a legal category and explores obeah cases in greater detail than any work has previously done.⁷ Also in 2015, J. Brent Crosson published an article in the *Journal of Africana Religions* in which he argues that a significant factor in the continued proscription of obeah is its “association with both harm and healing.”⁸

Within this literature, this article primarily engages with Diana Paton’s 2009 article, wherein she argues that since the Enlightenment in Europe, there has been a “frequent contrast made between religion and terms such as witchcraft, magic, superstition, and charlatanism, all of which have been applied to obeah.”⁹ Therefore, Paton explains, “the concept ‘religion’ has acted as a race-making category: a marker of the line between supposedly ‘civilized’ peoples (who practice religion) and ‘primitive’ peoples (who practice superstition or magic).”¹⁰ I expand upon Paton’s argument by contending that the fact that obeah is both nontheistic and African-derived is the primary reason that it has continued to be classified as “primitive” and nonreligious, and is frequently compared to “witchcraft” or “magic.” While I agree with Crosson’s assertion that obeah’s association with both harm and healing contributes to the challenges of categorizing obeah as religion, this moral ambivalence is also prevalent in recognized African diaspora religions, most of which do not subscribe to Western notions of absolute good and evil, and do not reserve spiritual rituals for benevolent, community-serving rituals.

This article also contributes to the growing body of literature about the continued proscription of obeah in the late twentieth and early twenty-first centuries by contextualizing it amidst the high-profile cases of Victoria Helen Duncan and the Ballard family, which led to the recognition of the

4 Diana Paton, “Obeah Acts: Producing and Policing the Boundaries of Religion in the Caribbean,” *Small Axe* 13, no. 1 (2009): 1–18, at 1.

5 Handler and Bilby, *Enacting Power*.

6 Paton and Forde, *Obeah and Other Powers: The Politics of Caribbean Religion and Healing* (Durham: Duke University Press, 2012).

7 Paton, *The Cultural Politics of Obeah: Religion, Colonialism and Modernity in the Caribbean World* (Cambridge: Cambridge University Press, 2015).

8 J. Brent Crosson, “What Obeah Does Do,” *Journal of Africana Religions* 3, no. 2 (2015): 151–76, at 169.

9 Paton, “Obeah Acts,” 2.

10 Ibid.

nontheistic belief systems in England and the United States, respectively, and the repeal of the same legislation that Paton explains formed the basis for obeah laws. It also provides the first lengthy analysis of the legislative debates leading to the decriminalization of obeah in Trinidad and Tobago.

THE HISTORY OF THE PROSCRIPTION OF OBEAH

Obeah, as noted above, is a term that applies to a panoply of beliefs and practices in the Anglophone Caribbean.¹¹ Etymological studies suggest it originated from West African (specifically Akan or Ibibio) terms meaning “wizard”¹² or “herbalist;”¹³ however, British authorities in the Caribbean adopted it by the early eighteenth century and gave it a new, primarily negative, connotation.¹⁴ After more than two hundred and fifty years of continuous legal proscription and prosecution, public perceptions of “obeah” have been largely shaped by its suppression.¹⁵

Although the social and legal definitions of “obeah” vary from island to island, scholars have generalized the term to denote “a set of hybrid or creolized beliefs dependent on ritual invocation, fetishes, and charms.”¹⁶ Unlike many Afro-Caribbean faiths, “obeah” does not center on the collective worship of a god or pantheon of deities, though it does include other common African diaspora practices, such as the “veneration of ancestors, spirit possession, animal sacrifice and divination,”¹⁷ as well as the use of charms and prayers.¹⁸ Obeah practitioners have an individualized relationship with their clients, and are consulted for a variety of reasons—to improve a person’s luck or help someone find love, heal a sickness, resolve a legal problem, protect an individual, or harm another person.¹⁹ They bring about these ends by prescribing the use of herbal remedies that can be consumed or applied to the body, as well as prayers, purifying rituals, and the distribution of “pouches or bottles made of various substances—herbs, earth, animal or human body matter (hair, nail clippings, blood, and other bodily fluids),” which are buried or hung in strategic spaces.²⁰ Though practitioners of “obeah” might believe in god,²¹ their predominant supernatural interactions are not with deities but with spirits of departed persons, known as “duppies.”²²

11 Margarite Fernández Olmos and Lizabeth Paravisini-Gebert, *Creole Religions of the Caribbean: An Introduction from Vodou and Santería to Obeah and Espiritismo* (New York: New York University Press, 2003), 131.

12 Ibid.

13 Jerome Handler and Kenneth Bilby, “On the Early Use and Origin of the Term ‘Obeah’ in Barbados and the Anglophone Caribbean,” *Slavery and Abolition* 22, no. 2 (2001): 87–100, at 90–91. Bilby and Handler argue for the Igbo/Ibibio origins of the term and contend that it more likely meant “herbalist” or “doctor” than “wizard.”

14 Ibid., 87.

15 Paton, “Obeah Acts,” 1–2; Paton, *The Cultural Politics of Obeah*, 1–2. Nathaniel Murrell, *Afro-Caribbean Religions: An Introduction to Their Historical, Cultural, and Sacred Traditions* (Philadelphia: Temple University Press, 2010), 225–26.

16 Olmos and Paravisini-Gebert, *Creole Religions*, 131.

17 Ibid., 133.

18 Murrell, *Afro-Caribbean Religions*, 229.

19 Ibid., 235; Olmos and Paravisini-Gebert, *Creole Religions*, 131, 133.

20 Olmos and Paravisini-Gebert, *Creole Religions*, 136–37; Murrell, *Afro-Caribbean Religions*, 239.

21 Murrell, *Afro-Caribbean Religions*, 238–39 (discussing how the practice of obeah has incorporated aspects of Christianity, indigenous Caribbean, and Indian religions, including the worship of deities of these faiths).

22 Olmos and Paravisini-Gebert, *Creole Religions*, 141. This is not to suggest that obeah practitioners do not believe in god or that persons belonging to theistic belief systems have not been charged with practicing obeah. In some cases, colonial authorities applied the term “obeah practitioner” to Afro-Christian and Orisha adherents.

In the Anglophone Caribbean, nearly every country currently proscribes the practice of obeah through laws passed during Britain's colonial governance. These statutes are strikingly similar, though there are some variations in the penalties and specific delimitations of the offenses. All of these laws vaguely prohibit "practicing obeah."²³ Consulting an obeah practitioner, possessing any "instruments of obeah," and/or having, producing, or distributing any "printed matter calculated to promote the superstition of obeah" are also common offenses.²⁴ Additionally, many Caribbean laws prohibit "pretending" to tell fortunes or using any kind of "witchcraft, sorcery, enchantment or conjuration;" however, states vary as to whether these provisions are integrated with obeah laws or contained in separate sections related to fraud or vagrancy.²⁵

Although they proscribe its practice, these laws do not clearly define obeah. Instead, they broadly describe it as "pretend[ing] to possess any supernatural power or knowledge" for "any fraudulent or unlawful purpose," "for the purpose of frightening any person," or "for gain."²⁶ Some statutes also specify that it is illegal to use purported supernatural powers to "pretend" to "discover lost or stolen things," "restore any person to health," "inflict any disease, loss, damage or personal injury upon any person," and "cause or divert affection."²⁷ Penalties for contravening these statutes range from a fine, for possessing obeah literature, to twelve months' imprisonment,

Furthermore, Alex Rocklin has recently examined how Indo-Trinidadian Hindus were also charged with practicing obeah. Rocklin, "Obeah and the Politics of Religion's Making and Unmaking in Colonial Trinidad," 706–16. However, followers of theistic religions who are charged with practicing obeah are typically engaged in aspects of those faiths that would appear nontheistic to outsiders (that is, fortunetelling, palm reading, the sale and use of charms, and working with spirits of deceased persons or animals), although adherents may be subtly invoking a deity to assist them in their practices.

- 23 Summary Jurisdiction (Offences) Law of Guyana, ch. 8:02, § 145(5) (1893) (codified as amended 2012), <http://www.legalaffairs.gov.gy/information/laws-of-guyana/> (prescribing a punishment of up to twelve months imprisonment and a twenty-thousand-dollar fine for this offense); Obeah Act of Dominica, ch. 10:38, § 6 (1904), <http://www.dominica.gov.dm/laws-of-dominica/> (subjecting a person practicing obeah to a term of twelve months imprisonment and a three thousand dollar fine); The Obeah Act of Jamaica, ch. 266, § 2–3 (1898), <http://moj.gov.jm/sites/default/files/laws/The%20Obeah%20Act.pdf> (prescribing a punishment of twelve months imprisonment for this offense).
- 24 The Obeah Act of Jamaica, ch. 266, § 2–10 (1898) (prohibiting practicing obeah, possessing instruments of obeah, consulting an obeah practitioner, and possessing or distributing any printed matter related to obeah); The Obeah Act of Antigua and Barbuda, ch. 298, § 2–11 (1904), <http://laws.gov.ag/acts/chapters/cap-298.pdf> (prohibiting practicing obeah, using instruments of obeah, possessing obeah literature, and consulting an obeah practitioner); Penal Code of the Bahamas, ch. 84, § 232 (1927), <http://laws.bahamas.gov.bs/cms/en/> (prohibiting practicing obeah); Summary Jurisdiction (Offences) Law of Guyana, ch. 8:02, § 145(1) (prohibiting practicing obeah, and the assumption of any occult means or supernatural power, as well as pretending to use any love philter).
- 25 In Caribbean nations that have enacted both obeah laws and separate statutes related to fraud and "witchcraft," the latter usually contain this specific language. For example, see Penal Code of the Bahamas, 84 STATUTE LAW OF THE BAHAMAS § 145(2) (1927). The Bahamas prohibit these acts subject to four months imprisonment in a section entitled "false pretenses and frauds." The criminal code of Grenada has analogous laws under the section entitled "Misappropriations and Frauds: Stealing." Criminal Code, ch. 72A, § 98(b) (1958), <http://laws.gov.gd/>. The laws of Belize prescribe up to six months imprisonment for any person who "pretends or professes to tell fortunes, or uses any subtle craft or device by palmistry, obeah or any such like superstitious means to deceive and impose upon any person." Summary Jurisdiction (Offences) Act, 98 SUBSTANTIVE LAWS OF BELIZE § 2(3)(1)(viii) (2000), <http://www.belizelaw.org/web/lawadmin/>.
- 26 The Obeah Act of Jamaica, as well as the Summary Jurisdiction (Offences) Act of Guyana use this language. See The Obeah Act of Jamaica, ch. 266 § 2 (1898); Summary Jurisdiction (Offences) Act of Guyana, ch. 8:02 § 145(1)–(2) (1893) (using "intimidating" instead of "frightening").
- 27 Penal Code of the Bahamas, 84 STATUTE LAW OF THE BAHAMAS § 232 (1927); Criminal Code, ch. 72A § 143 (1958) (Grenada); Summary Jurisdiction (Offences) Act of Guyana, ch. 8:02 § 145(2) (1893).

for practicing obeah; historically, obeah practitioners were also flogged. Aside from the repeal of some provisions prescribing corporal punishments for offenders, most of these statutes remain in effect, unchanged since the turn of the twentieth century.²⁸

THE PROSCRIPTION OF OBEAH IN CONTEXT

To most accurately understand how modern obeah laws developed and how they demonstrate a limited interpretation of the boundaries of “religion,” it is necessary to discuss the origins of these statutes and their evolution over time in comparison to other legislation proscribing supernatural crimes in the Atlantic world. When obeah statutes were first implemented in 1760 in Jamaica, they were born of British metropolitan legislation and ideals combined with Caribbean colonial concerns about slavery and the subjugation of persons of African descent. The earliest roots of obeah statutes, however, may be found in British witchcraft and vagrancy laws from the sixteenth century.²⁹

From the 1540s to the 1730s, English law criminalized the practice of witchcraft and sorcery, the use of enchantments, as well as the invocation or conjuration of spirits.³⁰ Primarily between the late sixteenth century and the late seventeenth century, the English prosecuted thousands and executed hundreds of individuals suspected of violating these witchcraft statutes.³¹ For lay people, who were responsible for the majority of witchcraft accusations, the primary function of these laws was to suppress the practice of malefic magic, through which they believed a witch could destroy property and cause misfortune, sickness, injury, or death to a person or animal.³² However, theologians also encouraged the enforcement of witchcraft legislation; they believed individuals with supernatural powers were in league with Satan, communing with him, and obtaining their powers through pacts with him and with his familiars.³³ Because of this belief that all individuals who possessed supernatural powers had obtained them from the devil, English law also criminalized using “non-natural means” to discover hidden treasure and stolen goods or to provoke unlawful love—acts which were primarily attributed to healers and diviners known as cunning folk.³⁴

Prosecutions for violations of English witchcraft laws declined in the late seventeenth century. The last known person convicted for witchcraft in England was Jane Wenham in 1712, and she

28 For instance, Jamaica’s Obeah statute was passed in 1898; Antigua and Barbuda’s Obeah Act was passed in 1904.

29 Several scholars have discussed the complex relationship between obeah legislation and English laws regarding witchcraft and vagrancy. See Paton, “Obeah Acts,” 4–7; Bilby and Handler, *Enacting Power*, 18–19.

30 These laws have been reprinted in Marion Gibson, ed., *Witchcraft and Society in England and America, 1550–1750* (Ithaca: Cornell University Press, 2003), 1–8.

31 James Sharpe, *Instruments of Darkness: Witchcraft in Early Modern England* (Philadelphia: University of Pennsylvania Press, 1997), 125 (indicating that although it is difficult to estimate the numbers of individuals prosecuted for witchcraft because of the limited surviving records, it is likely that less than 500 people were executed for the crime in England).

32 *Ibid.*, 64–66.

33 *Ibid.*, 85.

34 For example, see “An Act against Conjuration, Enchantments and Witchcrafts,” in Gibson, *Witchcraft and Society in England and America*, 3–5; Sharpe, *Instruments of Darkness*, 66–68 (noting that cunning men and women practiced counter-magic, provided treatment for a variety of illnesses, conducted divination, and discovered lost or stolen goods, as well as the individuals who stole them); Alan Macfarlane, *Witchcraft in Tudor and Stuart England: A Regional and Comparative Study* (New York: Harper and Row, 1970), 126 (explaining that there is little surviving evidence about cunning folks’ beliefs about the source of their power, however clergy believed that cunning folk acquired their powers from the devil).

was later granted a full reprieve from her charges.³⁵ A new statute, the Witchcraft Act of 1735,³⁶ marked the end of the legal suppression of witchcraft, sorcery, or conjuration, and the beginning of an era where the “pretended” exercise of supernatural powers was proscribed.³⁷ This law, however, was rarely enforced in the eighteenth century and a period of government apathy toward individuals who claimed to possess supernatural powers followed the passage of the Witchcraft Act of 1735 in England.³⁸

During this period of indifference toward the “pretended” practice of witchcraft in England, legislators in Jamaica passed the first Caribbean statute in 1760 that prohibited “any negro or slave” from “pretending” to possess supernatural powers or possessing any item used in the practice of “obeah or witchcraft.”³⁹ The most direct impetus for this statute against obeah was a large scale slave rebellion that occurred that same year.⁴⁰ This uprising was organized by an enslaved man named Tacky, who employed ritual specialists (described as “obeah practitioners” by colonial authorities) to administer sacred oaths to the insurgents and to provide them with charms to shield them from bullets.⁴¹ Colonial officials expressly blamed so-called obeah practitioners for inciting Tacky’s rebellion. They claimed that these African priests played upon the “superstitions” of enslaved persons to coerce them into participating in the uprising by convincing them that if they broke their sacred oath to take part in the revolt they would suffer severe physical pain and perhaps death.⁴² Reflecting these perceptions, the 1760 Jamaican ordinance described obeah practitioners as a threat to the security of the island and declared that practitioners “deluded” others into believing in their supernatural powers.⁴³

Following passage of the Jamaican law, colonial legislators implemented similar statutes in other parts of the British Caribbean such as Barbados and Dominica in the late eighteenth and early nineteenth centuries.⁴⁴ These laws reflected shared concerns expressed throughout colonial

35 Sharpe, *Instruments of Darkness*, 229–30.

36 This law actually went into effect in 1736 but, according to the law’s own short title, was called “The Witchcraft Act of 1735.”

37 “The Witchcraft Act of 1735,” in *Statutes of Practical Utility Passed in 1904, Arranged in Alphabetical Order in Continuation of “Chitty’s Statutes,” with Notes and Selected Statutory Rules*, ed. J. M. Lely (London: Sweet and Maxwell, 1904), 549–50. Specifically, this law said “no prosecution, suit, or proceeding, shall be commenced or carried on against any person or persons for witchcraft, enchantment [*sic*], or conjuration, or for charging another with any such offence in any Court in Great Britain.” Subject to one year imprisonment, it prohibited any person from “pretend[ing] to exercise or use any kind of witchcraft, sorcery, enchantment [*sic*], or conjuration, or undertak[ing] to tell fortunes, or pretend[ing] from his or her skill or knowledge in any occult or crafty science to discover where or in what manner any goods or chattels, supposed to have been stolen or lost, may be found.”

38 Owen Davies, *Witchcraft, Magic and Culture, 1736–1951* (Manchester: Manchester University Press, 1999), 50.

39 “Act 24 of 1760,” in *Acts of Assembly Passed in the Island of Jamaica; From the Year 1681 to the Year 1769* (Saint Jago de la Vega: Lowry and Sherlock, 1791), 2:55.

40 Diana Paton’s book, *The Cultural Politics of Obeah*, contains an entire chapter discussing the initial proscription of obeah in the mid-eighteenth century, following Tacky’s rebellion. Paton, “The Emergence of Caribbean Spiritual Politics,” in *The Cultural Politics of Obeah*, 17–42.

41 Walter C. Rucker, *The River Flows On: Black Resistance, Culture, and Identity Formation in Early America* (Baton Rouge: Louisiana State University Press, 2006), 44–45; Vincent Brown, *The Reaper’s Garden: Death and Power in the World of Atlantic Slavery* (Cambridge, MA: Harvard University Press, 2008), 147–50.

42 For example, see Edward Long, *The History of Jamaica; Or General Survey of the Antient And Modern State of That Island, [. . .]* (London: T. Lowndes, 1774), 2:451 (describing obeah practitioners as “chief in counseling and instigating the credulous herd” [referring to the insurgents in Tacky’s rebellion]).

43 “Act 24 of 1760,” 2:55.

44 “An Act for the Encouragement, Protection, and Better Government of Slaves of 1788,” in *Copies of Several Acts for the Regulation of Slaves, Passed in the West India Islands* (n.p., 1789), 24 (Dominica); “An Act for the Better

governments in the Americas about African spiritual rituals. It was common for colonial regimes in the Western Hemisphere to enact laws against African diaspora religions because priests of these faiths purportedly used their herbal knowledge to poison plantation owners and develop ritual protections for insurgents, as well as exploited their own prestige to organize rebellions. For example, in colonial St. Domingue (modern day Haiti), legislators implemented ordinances prohibiting the sale and possession of charms known as makandals in 1751 after a Vodou priest named Francois Makandal purportedly orchestrated a plan to poison the plantation water supply and administered amulets to enslaved persons to provide them with spiritual protections.⁴⁵ Similarly, fearing that Africans used religious ceremonies as a pretext to orchestrate insurrections, colonial authorities in Brazil enacted legislation prohibiting slave gatherings and drum circles in the 1820s.⁴⁶ Furthermore, newspapers in 1850 and 1851 reported two separate incidents in which New Orleans officials arrested groups of females involved in “voodoo” ceremonies for unlawful assembly.⁴⁷ Although the media emphasized the supposedly obscene nature of the gatherings, reporting that the women were discovered dancing naked together, follow-up reports revealed that the authorities disrupted the ceremonies because they feared that the women were interested in “corrupting” enslaved persons, encouraging them to engage in orgies and other “superstitions,” and to abandon their duties on the plantations.⁴⁸

Not only were obeah laws commensurate with other colonial statutes and policies regarding African spiritual practices in the Americas, they also imitated British ideals about the nature and dangers of supernatural rituals. One of the most significant parallels between metropolitan and colonial legislation was characterization of obeah practices as “pretended.” This mirrored the language of the Witchcraft Act of 1735, which proscribed the “pretended” practice of witchcraft, sorcery, enchantment, conjuration, or fortune-telling. Caribbean laws also echoed English interpretations of the source of supernatural powers. The preambles of some of these statutes indicated that legislators believed that obeah practitioners professed or attempted to communicate with “the devil and other evil spirits.”⁴⁹ They also described obeah practices as “wicked acts” or “evils and offenses.”⁵⁰ While such statutory language was eliminated by the end of the nineteenth century, legislators and magistrates continued to describe obeah practitioners as “in league with the Evil One” well into the twentieth century.⁵¹

Obeah laws were modified after the abolition of slavery in the 1830s. These revised laws further aligned the proscription of obeah with developing Atlantic dialogues regarding the boundaries of legitimate spiritual practices and the necessity of protecting the public from their own

Prevention of the Practice of Obeah of 1818,” file CO 28/87, National Archives (UK), reprinted in *State Papers, Session: 21 November 1826–2 July 1827* (London: H. G. Clarke, 1827), 25:269 (Barbados).

45 Diana Paton, “Witchcraft, Poison, Law and Atlantic Slavery,” *William and Mary Quarterly* 69, no. 2 (2012): 235–64, at 254–55.

46 Paul Christopher Johnson, “Law, Religion and ‘Public Health’ in the Republic of Brazil,” *Law and Social Inquiry* 26, no. 9 (2001): 9–33, at 13.

47 “More of the Voudous,” *Times Picayune* (New Orleans), July 30, 1850, 5; “The Voudous Again,” *Times Picayune* (New Orleans), July 25, 1851, 2.

48 “Unlawful Assemblies,” *Times Picayune* (New Orleans), July 31, 1850, 2.

49 “Act 24 of 1760,” 2:55.

50 *Ibid.*; “An Act for the Better Prevention of the Practice of Obeah of 1818,” 25:269.

51 See S. Leslie Thornton, “‘Obeah’ in Jamaica,” *Journal of the Society of Comparative Legislation* 2, no. 5 (1904): 262–70, at 263. Despite colonial suggestions that obeah practitioners derived their powers from the devil, enslaved persons did not typically conceive of the world as a dichotomy of good and evil; they viewed supernatural forces as neutral power that could be manipulated for any desired end.

“superstitions.”⁵² In Britain, although few individuals were charged with violating the Witchcraft Act of 1735, persons who professed to use supernatural powers were arrested for contravening vagrancy laws, which had prohibited any person from claiming “to have knowledge in physiognomie [*sic*], palmistry, or other crafty science, or pretending that they can tell destinies fortunes, or such other like fantastical imaginations” since the late sixteenth century.⁵³ Vagrancy statutes, which also proscribed gambling, begging, and prostitution, created specific parameters of lawful means of earning a living. British legislators had most recently revised these laws in 1824, adding a provision indicating that individuals who professed to use supernatural powers “deceive[d] or impose[d] on his majesty’s subjects.”⁵⁴

By the mid-nineteenth century, Britain began policing supernatural practitioners more frequently; in particular, fortune-tellers, astrologers, and spiritualist mediums were charged with contravening vagrancy laws.⁵⁵ From the late nineteenth century to the mid twentieth century, this language about deception became common grounds for appealing convictions. Astrologers and spiritualist mediums, in particular, asserted that they were not guilty of vagrancy because they believed in their own purported powers.⁵⁶ On rare occasions, judges overturned convictions where there was sufficient evidence that the defendant had a sincere belief in the rituals she/he had performed. In the majority of cases, however, the courts ruled that intent to deceive was not a necessary element of the crime of vagrancy; the mere purported or attempted performance of these occult practices contravened the statute.⁵⁷ Some judges rationalized this decision by stating that proof of deception was unnecessary because intentional fraud could be inferred in these cases since no one “in these days of advanced knowledge,” could believe in astrology, fortune-telling, witchcraft, or conjuring spirits.⁵⁸

In the 1840s, closely following the abolition of slavery, British colonial legislators enacted vagrancy laws throughout the Caribbean that were similar to those in England.⁵⁹ Furthermore, from the mid-nineteenth century to the early twentieth century, most British colonies in the Caribbean revised their obeah statutes to more closely resemble English witchcraft and vagrancy laws.⁶⁰ Unlike pre-emancipation legislation, which described obeah as an impetus for rebellion and proscribed certain materials and ritual practices used in insurrection, these modified laws focused on deception. Instead of describing obeah as a threat to the “peace and security” of the

52 Paton, “Obeah Acts,” 5–7.

53 “An Act for punishment of Rogues, Vagabonds, and Sturdie Beggars,” in *Certain Statutes especially selected, and commanded by his Maiestie to be carefully put in execution by all Justices, and other Officers of the Peace throughout the Realme; [. . .]* (London: Robert Barker & John Bill, 1630), 45.

54 Vagrancy Act, 1824, 5 George 4, c. 83.

55 Davies, *Witchcraft, Magic, and Culture*, 56–57, 63.

56 Penny v. Hanson (1887), 18 QBD 478; Davis v. Curry (1918), 1 KB 109.

57 In Davis v. Curry, the court found that if there was no intent to deceive, no crime had been committed under the Vagrancy Act. Davis v. Curry (1918), 1 KB 109. In Stonehouse v. Masson, however, the court reversed its opinion in Davis and found that intent to deceive was irrelevant to the charge. Stonehouse v. Masson (1921), 2 KB 818.

58 The language about reasonable beliefs “in these days of advanced knowledge” comes from Penny v. Hanson (1887), 18 QBD 478. However, Justice Lawrence expressed similar sentiments in Stonehouse v. Masson, explaining that he could not imagine that any person who professed to communicate with spirits did not commit intentional fraud. Stonehouse v. Masson (1921), 2 KB 818.

59 House of Commons, “Sixth Report from the Select Committee on Sugar and Coffee Planting,” in *Reports from Committees: Sugar and Coffee Planting* (n.p. 1848): 13:135–69.

60 Diana Paton, Jerome Handler, and Kenneth Bilby have published detailed works that explain the text of post-emancipation obeah laws and provide more detailed comparisons of these texts. Paton, “Obeah Acts,” 5; Paton, *The Cultural Politics of Obeah*, 120–22; Bilby and Handler, *Enacting Power*, 18–19.

island(s), later preambles simply suggested that obeah practitioners defrauded others.⁶¹ The statutes no longer focused on specific rituals such as the administration of sacred oaths; instead they broadly proscribed and described any purported use of supernatural powers as a “pretense” or “deception.”⁶² Additionally, in Jamaica and likely other Caribbean colonies as well, obeah prosecutions peaked in the late nineteenth and early twentieth century, during approximately the same period as arrests for violations of vagrancy laws in England.⁶³

Nineteenth century revisions to the proscriptions of obeah in the British Caribbean also corresponded with similar efforts to suppress African diaspora religions in other countries in the Western Hemisphere. Authorities regarded these belief systems as antiquated, “superstitious,” and a threat to public health and morality. For instance, in 1890, shortly after the abolition of slavery, Brazil enacted new sections of the Penal Code prohibiting magic, spiritism, curing, and using talismans.⁶⁴ These articles, which closely resembled the language in Caribbean obeah statutes, were employed to suppress Candomblé, an African diaspora faith derived largely from the Yoruba people and centered on the veneration of spirits or deities known as *orixás*.⁶⁵

Legislators in the Americas even prohibited some Afro-Christian religions during this period relying on similar rationales.⁶⁶ For example, Spiritual and Shouter Baptist faiths were outlawed in St. Vincent as well as Trinidad and Tobago in 1912 and 1917, respectively.⁶⁷ These religious groups, who trace their spiritual lineage to John the Baptist and believe that people experience “the physical manifestation of possession [by the Holy Spirit] in the shaking, dancing, speaking in tongues,” were described by the media as degenerate or blasphemous forms of Christianity that “deceived the feeble-minded.”⁶⁸

As these examples demonstrate, from 1760 to the early twentieth century, the proscription of obeah in the British Caribbean replicated metropolitan language about the dangers of supernatural practices and corresponded with the suppression of African religions in other regions of the

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- 61 For example, British Guiana’s Obeah Act of 1855 stated in the preamble “Whereas the practice of Obeah has increased to a great extent in this Colony, and whereas the punishment provided by law is wholly inadequate to repress the commission of the said practice, or of the various *frauds* connected therewith.” “An Ordinance to Repress the Commission of Obeah Practices, Ord. 1 of 1855,” in *The Laws of British Guiana* (Demerara: L. McDermott, 1873), 2:370 (emphasis added). Similarly, Jamaica’s Obeah Act of 1857 defined the practice of obeah, in part, as “any person who shall for false, crafty, or unlawful purposes pretend to the possession of supernatural power.” “An Act to Explain the Fourth Victoria, Chapter Forty-Two, and the Nineteenth Victoria, Chapter Thirty, and for the More Effectual Punishment of Obeah and Myalism, 1857,” in *The Statutes and Laws of the Island of Jamaica*, ed. C. Ribton Curran (Kingston: Government Printing Establishment, 1890), 4:45.
- 62 For instance, the Obeah Act of Antigua and Barbuda copied some of the language of English vagrancy laws nearly word for word. They said “Any person who pretends or professes to tell fortunes, or uses any subtle craft, means or device, by palmistry or otherwise, or pretends to cure injuries or diseases or to intimidate or effect any purpose by means of any charm, incantation or other pretended supernatural practice, shall be liable to be imprisoned for any period not exceeding six months.” The Obeah Act of Antigua and Barbuda, ch. 298, § 5 (1904), <http://laws.gov.ag/acts/chapters/cap-298.pdf>.
- 63 This is based on the author’s own research, which consists of hundreds of prosecutions of witchcraft, vagrancy, and obeah from England and the British Caribbean.
- 64 Johnson, “Law, Religion and ‘Public Health’ in the Republic of Brazil,” 19–20.
- 65 *Ibid.*
- 66 Paton, “Obeah Acts,” 13–17 (discussing these comparisons in greater detail).
- 67 Frances Henry, *Reclaiming African Religions in Trinidad: The Socio-Political Legitimation of the Orisha and Spiritual Baptist Faiths* (Kingston: University of the West Indies Press, 2003), 32.
- 68 *Ibid.*, 34, 36 (internal quotation marks omitted). Diana Paton also describes discriminatory media descriptions of Spiritual Baptists, where authors referred to them as “pseudo-religion,” blasphemous, and devilish. Paton, “Obeah Acts,” 13.

Western Hemisphere. However, Caribbean policies regarding obeah began to diverge and conflict with widespread trends in the Atlantic in the middle of the twentieth century, when the policing of outlying religious rituals as forms of vagrancy and charlatanism dissipated in other countries. The United States was one of the first countries to change its position on supernatural crimes; this shift occurred in 1944, when the Supreme Court heard the appeal of Edna Ballard and her son Donald, who had been convicted on charges of mail fraud for sending literature and soliciting funds for their spiritual organization, the I Am movement.⁶⁹

Edna and her husband Guy founded the I Am movement, claiming to be the earthly messengers of a divine being known as Saint Germaine, who transported them through time and space to experience life in other societies and different historical periods.⁷⁰ The Ballards held public lectures and members-only classes for their followers who paid them with donations referred to as “love offerings,” which were estimated to reach approximately \$1000 per day at the height of the movement in the late 1930s.⁷¹ In 1939, Guy Ballard died while under federal investigation for fraud. His wife and son persisted with their business, even selling photos of Guy which they claimed he had blessed with a special magnetic charge before he died.⁷²

In 1940, Edna and her son were charged with using mail to defraud others, a crime which requires a defendant to knowingly make a false representation and have a “victim” part with money or goods in reliance on that pretense. The trial court, however, instructed the jury that they were not to determine whether the Ballards’ religious beliefs were false; they were to assess whether the Ballards themselves believed in the efficacy of the spiritual practices for which they received these “love offerings.”⁷³ The Ballards objected to these instructions; they argued that the prosecution could not make its case for fraud without proving that their claims of supernatural powers (spiritual healing, reincarnation, and mediumship, among others), were false or impossible.⁷⁴ The Supreme Court disagreed with the Ballards, ruling that it would have been a violation of the first amendment’s guarantee of free exercise of religion for a court to determine the veracity of any faith, no matter how “incredible, if not preposterous,” their beliefs might seem to most people.⁷⁵ This decision represents an important and enormous shift from earlier Atlantic policies regarding conjuration, mediumship, and related spiritual practices which had heretofore dismissed certain nonmainstream religious beliefs as vagrancy, charlatanism, and a threat to public health. The position that the Supreme Court took in this ruling, that evidence of intentional fraud was required to prosecute individuals for their spiritual rituals, would become the predominate policy in the Anglophone Atlantic over the next few decades.

Britain also drastically altered its approach to cases of “pretended” witchcraft, vagrancy and conjuration in the mid-twentieth century. The shift began in 1944, the same year that the U.S. Supreme Court issued its ruling in *Ballard*. The Court of Criminal Appeal in Britain heard the case of Victoria Helen Duncan, a spiritualist medium who had been convicted of “pretending”

69 *United States v. Ballard*, 322 U.S. 78 (1944).

70 For example, Guy Ballard asserted that in one past life he was George Washington and in another he was the son of an Incan ruler. Marie Failinger, “United States v. Ballard: Government Prohibited from Declaring Religious Truth,” in *Law and Religion: Cases in Context*, ed. Leslie Griffin (Austin: Wolters Kluwer Law & Business, 2010), 32–49, at 35.

71 *Ibid.*, 36–37.

72 *Ibid.*, 38–39.

73 *Ibid.*, 34–38 (discussing the Ballard’s purported beliefs and practices); *Ballard*, 322 U.S. at 82 (quoting the jury instructions).

74 *Ballard*, 322 U.S. at 82.

75 *Ibid.*, 87.

to practice conjuration in violation the Witchcraft Act of 1735.⁷⁶ Duncan was arrested for performing séances, during which she claimed to communicate with her spirit guide, Albert, who brought her messages from deceased persons. Duncan offered to provide an in-court demonstration of her abilities to prove that she was not guilty of “pretending” to practice conjuration because she actually had the abilities she claimed to possess. The court refused her request and explained that the prosecution was not required to prove that Duncan’s purported ability to communicate with spirits of the departed was false or impossible; rather, her mere assertion that she had this supernatural power violated the Witchcraft Act.⁷⁷

While this court’s decision was consistent with decades of precedent in the cases of spiritualist mediums convicted of vagrancy, there was an immediate backlash to Duncan’s conviction because she was charged with violating the rarely enforced, two-hundred-year-old witchcraft statute.⁷⁸ In partial response to widespread criticism of this case, in 1951, Britain repealed the Witchcraft Act of 1735 and the sections of the vagrancy legislation that prohibited fortune-telling, palmistry, and related offenses.⁷⁹ In its place, legislators passed the Fraudulent Mediums Act, which made it unlawful to “purport to act as a spiritualistic medium or to exercise any powers of telepathy, clairvoyance or similar powers” only if an individual intended to commit fraud and sought financial gain from that deception.⁸⁰ This statute essentially reversed decades of appellate court decisions in England where judges held that no reasonable person could believe that they were capable of fortune-telling, palmistry, and related practices. Like the United States, England was no longer willing to assume that a spiritual belief or practice was fraudulent; intentional deception became a necessary element for the conviction of occult practitioners.

In contrast to widespread trends to require fraudulent intent to uphold a conviction for the purported use of supernatural powers, obeah laws remain in place and unchanged in most countries in the former British Caribbean. Perhaps the most illuminating evidence of the Anglophone Caribbean’s deviation from Atlantic trends in the proscription of spiritual rituals is the case of *Regina v. Molly Brodie*, heard by the Supreme Court of Judicature of Jamaica in 1952.⁸¹ Brodie was convicted for violating Jamaica’s vagrancy law, which was identical to England’s recently repealed Vagrancy Act of 1824, except it also prohibited “pretending to deal in obeah, myalism, duppy catching, or witchcraft.”⁸² Brodie was arrested for “pretending to deal in obeah,” after the police saw her and another woman walking around a baby, sprinkling it with an unidentified fluid and speaking in an unknown language. When the police asked her what she was doing to the baby, she responded that “it was sick and she was healing it.”⁸³

76 *Rex v. Duncan and Others* [1944] KB 713.

77 Specifically, the justices explained “What was aimed at, as shown by the language of the statute itself, was that ignorant persons should not be deluded or defrauded by the pretence to exercise or use any kind of conjuration. . . . The prosecution did not seek to prove that spirits of deceased persons could not be called forth or materialized or embodied in a particular form. Their task was much more limited and prosaic. It was to prove, if they could, that the appellants had been guilty of conspiring to pretend that they could do these things, and, therefore, of conspiring to pretend that they could exercise a kind of conjuration to do these things.” *Ibid.*

78 For instance, see B. Abdy Collins’s strong criticism of this prosecution published the year after the court’s decision. B. Abdy Collins, “Spiritualism and the Law,” *Modern Law Review* 8, no. 3 (1945): 158–62.

79 Fraudulent Mediums Act, 1951, 14 & 15 George 6 c. 33, § 1.

80 *Ibid.*

81 “*Regina v. Molly Brodie*,” *Caribbean Law Journal* 1, no. 2 (1953): 22–24.

82 *Ibid.*, 22.

83 *Ibid.*

Brodie appealed her conviction based on ambiguity about the meaning of the charges against her. In a previous case, the Supreme Court of Jamaica had suggested that the offense of “pretending to deal in obeah,” as proscribed in vagrancy laws, was the same as the crime of “practicing obeah” which was banned in obeah laws.⁸⁴ The vagrancy law does not define the meaning of “pretending to deal in obeah.” Therefore, to understand the charges against her, Brodie’s attorney looked to the supposedly analogous obeah statutes, which describe “practicing obeah” as the purported use of supernatural powers for fraud, for gain, to frighten someone, or for an unlawful purpose. Brodie’s defense counsel argued that her conviction should be overturned because she had not utilized her spiritual rituals to achieve any of these proscribed ends.⁸⁵

In this case, however, the Jamaican Supreme Court explained that the offense of “pretending to deal in obeah” encompassed more than the act of “practicing obeah,” as defined by the obeah statute.⁸⁶ Specifically, citing an English case from 1921, *Stonehouse v. Masson*, as precedent, the Court ruled “A person, may, perhaps, believe that he has supernatural powers, and be performing some ceremony connected with his belief in his powers; but he nevertheless can be convicted of an offence under the Vagrancy Law of pretending to deal in obeah.”⁸⁷ Through this statement, the Supreme Court clarified that neither fraud, financial gain, unlawful purpose, nor intent to frighten had to be proven in cases of “pretending to deal in obeah.” In these vagrancy prosecutions, the mere performance of a supernatural ritual was sufficient to constitute a violation of the law.⁸⁸

This interpretation of Jamaica’s vagrancy law was consistent with how appellate courts had construed the same in England in the early twentieth century. The irony of this ruling, however, was that the Supreme Court of Jamaica, which was still a British colony at this time, based their decision on a case interpreting England’s Vagrancy Act, *which had been repealed* the year before and replaced by the Fraudulent Mediums Act. In 1952, when Brodie’s appeal was heard, English law no longer permitted the punishment of spiritual rituals without evidence of intent to deceive and proof of financial gain from the fraud.

The continued proscription of obeah in the British Caribbean also deviated from the norm in the Atlantic world in other ways. In addition to the revocation of laws proscribing fortune-telling, spirit conjuration, and other related practices common among individuals of European descent, most countries in the Western Hemisphere legalized or recognized African religious practices by the late twentieth century. Trinidad and Tobago rescinded their legislation banning Spiritual Baptism in 1951.⁸⁹ Decades later, the government also granted the Spiritual Baptists a national holiday commemorating the end of the proscription of their faith.⁹⁰ Cuba, which had once glossed Afro-Cuban religious ceremonies as forms of sorcery and imprisoned practitioners, gradually lessened its restrictions on these faiths starting in the 1970s.⁹¹ Furthermore, the United States, through

84 Ibid., 23.

85 Ibid., 22–23.

86 Ibid., 23.

87 Ibid.

88 It is important to note that this decision by the Jamaican Supreme Court, which interprets the Vagrancy Act’s provision banning “pretending to deal in obeah” to be contravened by the mere performance of a supernatural ritual, is quite distinct from most obeah cases in Jamaica, which, as scholars have well documented, often relied on proof of financial gain. Paton, *The Cultural Politics of Obeah*, 195–96.

89 Henry, *Reclaiming African Religions in Trinidad*, 36.

90 Public Holidays and Festivals Act, 19:05 Laws of Trinidad and Tobago, 8 (2015), http://rgd.legalaffairs.gov.tt/Laws2/Alphabetical_List/lawspdfs/19.05.pdf.

91 Johan Wedel, *Santeria Healing: A Journey into the Afro-Cuban World of Divinities, Spirits and Sorcery* (Gainesville: University Press of Florida, 2004), 31–33.

a Supreme Court ruling issued in 1993, recognized that an African diaspora faith known as Santeria or Lukumi was a legitimate religion that qualifies for first amendment protection.⁹²

While obeah prosecutions began to taper off in the mid-twentieth century and virtually cease by the late twentieth century,⁹³ most former British colonies have resisted the trend to decriminalize, or even legitimize or nationalize, African diaspora religions. Many countries have maintained their obeah statutes, unchanged since the colonial period. Analyzing the response to attempts to abolish obeah laws in Guyana and the process of repealing them in Trinidad and Tobago helps to elucidate the reasons that many proscriptions remain intact. In particular, early colonial narratives comparing obeah to devil worship, witchcraft, and sorcery have resurfaced in recent debates about its decriminalization and appear to be one of the central factors that have prevented obeah from being classified as “religion.”

One of the earliest attempts to legalize obeah in the former British Caribbean occurred in Guyana in the 1970s. The movement was led by the country’s prime minister, Forbes Burnham, who described obeah legislation as a form of “cultural imperialism.”⁹⁴ Burnham explained that his proposal to repeal the obeah law was designed to promote religious freedom of non-Christians in Guyana, however, many people struggled to accept Burnham’s categorization of obeah as a religion.⁹⁵ Several Guyanese newspapers published stories of obeah describing it as a malefic practice, using the colonial characterizations of obeah as “witchcraft” to oppose the repeal of legislation banning it.⁹⁶ Many also expressed concern that in furtherance of protecting Guyana’s “culture,” the abolition of obeah legislation would actually lead to the encouragement of “unchristian” behavior or even outright devil worship.⁹⁷

Jamaicans had similar responses to the news of Burnham’s proposal to legalize obeah in Guyana. For instance, the author of an article published on the front page of a Jamaican newspaper, the *Daily Gleaner*, in November 1973, wrote that the prime minister planned to “legalize obeah— a form of witchcraft— as a means of promoting Guyanese culture.”⁹⁸ Similarly, in December 1973, the *Daily Gleaner* published an editorial by D. J. Judah, who pointed out that according to the Oxford dictionary, obeah is “a kind of sorcery practiced by negroes.”⁹⁹ Sorcery, Judah explained, “is, of course, the use of power (usually pretended) from the assistance or control of evil spirits and intercourse with the devil.”¹⁰⁰

Burnham’s efforts to reclassify obeah as religion were likely further complicated by the format of Guyanese laws. The proscription of “pretending to have supernatural powers” appears under the heading “obeah and witchcraft,” and several subsections repeat this phrasing, implying that the two practices are linked.¹⁰¹ When one considers these legal and social characterizations of obeah

92 Church of Lukumi Babalu Aye v. City of Hialeah, 508 U.S. 520 (1993).

93 Paton, *The Cultural Politics of Obeah*, 278–79.

94 “Burnham to Legalize Obeah,” *Daily Gleaner* (Kingston, Jamaica), November 2, 1973.

95 It is also important to note that Burnham’s proposed plan to legalize obeah was part of a political struggle between Afro-Guyanese and Indo-Guyanese populations at this time. His proposal would have been controversial because it placed state support behind the former by legitimizing a belief system that was regarded as Afro-Guyanese. Paton, *The Cultural Politics of Obeah*, 283–87.

96 *Ibid.*, 287.

97 *Ibid.*

98 “Burnham to Legalize Obeah.”

99 “Insult to Catholics,” *Daily Gleaner* (Kingston, Jamaica), December 13, 1973.

100 *Ibid.*

101 Summary Jurisdiction (Offenses) Act, ch. 8:02 § 145 (2012), <http://www.legalaffairs.gov.gy/information/laws-of-guyana/>. Many current obeah laws contain very antiquated language that identifies obeah as synonymous with witchcraft. The current laws of Antigua and Barbuda even specify in the definition of obeah that it

as witchcraft, sorcery, and “intercourse with the devil,” it is not surprising that Burnham’s efforts were ultimately unsuccessful. Obeah remains illegal in Guyana, punishable by up to twelve months’ imprisonment, a twenty-thousand-dollar fine, as well as corporal punishment for males and solitary confinement for females.¹⁰²

Similar commentary emerged in the legislative debates about the bill that eliminated the proscription of obeah in Trinidad and Tobago in 2000. Representative Colm Imbert explained that he was opposed to the decriminalization of obeah because it was described in Trinidadian law as “witchcraft” and “supernatural practices.”¹⁰³ He noted that, according to their dictionary definitions, “witchcraft” and “supernatural” were terms that implied that an individual practiced magic or had a relationship with the devil. Imbert explained, “This is why I am saying that I am having some difficulty with this legislation. From my Christian background, I am totally against any dealings with the devil.”¹⁰⁴ He continued, “I would hate to be involved in anything in this Parliament where we are weakening the laws that deal with devil worship in this country. I cannot subscribe to any legislation that is going to promote and support the worship of the devil in this country.”¹⁰⁵

Ramesh Lawrence Maharaj, attorney general and minister of legal affairs for the House of Representatives, responded to Imbert’s concerns by explaining that in the early twentieth century, when these provisions were introduced to Trinidadian law, they “were there as part and parcel of the package to discriminate against non-Christians in that context, and everything was regarded as obeah, occult, heathen and so forth.”¹⁰⁶ Maharaj attempted to convince Imbert that both the Shouter Baptists and members of the Orisa faith, two recognized African diaspora religions in Trinidad, were described as devil worshippers at the time. Mr. Imbert refused to accept Maharaj’s explanation, interjecting, “Nonsense! Were you there?”¹⁰⁷ Maharaj further explained the problem with the proscription of obeah was the breadth of the provisions. They proscribed *every* pretended assumption of supernatural power and therefore, Maharaj argued, could be interpreted to prohibit the spiritual practices of every priest, Imam, or Swami.¹⁰⁸ Imbert, however, clearly remained unconvinced that obeah legislation had been or ever would be interpreted in this fashion, and he ended his dispute with Maharaj with the simple reply, “You are a devil worshipper!”¹⁰⁹

Obeah is far from unique in these descriptions of practitioners as devil worshippers and witches. As a component of the once virtually universal proscription of African diaspora religions in the Americas, most were characterized as forms of sorcery and Satanism. Even in the present day,

“includes witchcraft and working or pretending to work by spells or by professed occult or supernatural power.”

The Obeah Act of Antigua and Barbuda, ch. 298, § 2 (1904), <http://laws.gov.ag/acts/chapters/cap-298.pdf>; The Obeah Act of Dominica, passed at the same time as the statutes of Antigua and Barbuda, use identical language.

The long title of this law is “An Act for preventing and punishing persons who pretend to exercise or use any kind of witchcraft, sorcery or other supernatural practices,” Obeah Act of Dominica, ch. 10:38, § 6 (1904) <http://www.dominica.gov.dm/laws-of-dominica>.

102 Summary Jurisdiction (Offenses) Act, ch. 8:02 § 145(4) (2012), <http://www.legalaffairs.gov.gy/information/laws-of-guyana/>.

103 Hansard Proceedings and Debates HR (2000) (Trin & Tobago), 59–60, www.tparliament.org/hansards/hh20001011.pdf.

104 *Ibid.*, 60.

105 *Ibid.*, 62.

106 *Ibid.*, 70.

107 *Ibid.*

108 *Ibid.*

109 *Ibid.*, 71.

television and film depictions of African-derived faiths frequently link them with malefic magic, devil worship, and human sacrifice.¹¹⁰ However, there are several distinctions between obeah and legally recognized African diaspora religions that likely contribute to the continued proscription of obeah and its scholarly and legal classification as “witchcraft” or “magic” which, in public perceptions, are the antithesis of “religion.”

Diana Paton, in her work describing the history and political context of the criminalization of obeah, has argued that one of the central reasons for its continuing proscription is the ambiguity of the term itself.¹¹¹ As previously discussed, the word *obeah* encompasses a variety of African diaspora spiritual beliefs and practices in the former British Caribbean. Not only is it a broad, vague term, but it is an external construct—a term that has been largely defined and employed by non-practitioners, particularly colonial authorities.¹¹² Since the label *obeah* has been applied to such a variety of different practices and practitioners, many of whom would not self-identify as engaging in obeah rituals, it has been difficult for people to organize in support of the legalization of obeah.¹¹³

One could argue that gaining mainstream backing for the repeal of obeah laws is also challenging because obeah typically refers to belief systems structured on individual practitioner-client relationships, not collective systems of worship.¹¹⁴ Some scholars have contended that the individualized structure of obeah is the result of “secrecy made necessary by their legal persecution.”¹¹⁵ This argument seems to carry particular weight in countries where obeah laws proscribe both practicing obeah as well as consulting practitioners—leaving both priests and clients vulnerable to prosecution.¹¹⁶ Certainly, fear that another purported “client” might actually be an informant would chill any desires for community development. However, one could argue that this is a cyclical problem, with no clear indication of whether obeah practitioners do not form communities primarily because it is proscribed or obeah remains prohibited because there is no community structure. Since there is no preexisting organized meeting or centralized space where practitioners could join together to organize and rally against legislation outlawing their spiritual practices, this places obeah practitioners at a disadvantage as opposed to other African diaspora groups seeking legal

110 One has only to look at modern-day crime dramas or 85 years of horror films to see a plethora of examples of plots about African diaspora faiths. “Curse of the Coffin,” *CSI Miami* (CBS television broadcast, October 2006); “The Man in the Morgue,” *Bones* (Fox television broadcast, April 19, 2006); *Princess and the Frog* (Disney, 2009); *Tales of Voodoo* (Videoasia 2007) (5 DVD series, aired 2005–present); *Zombie Nation* (Working Poor Productions, 2006); *Santeria: the Soul Possessed* (Lions Gate Films, 2006); *The Skeleton Key* (Universal Pictures, 2005); *London Voodoo* (Zen Films 2004); *Voodoo Dawn* (Bridge Pictures, 2000); *Voodoo Academy* (2000); *Tales from the Hood* (40 Acres & A Mule Filmworks, 1995); *Voodoo* (Planet Productions, 1995); *Serpent and the Rainbow* (Serpent & the Rainbow, 1988); *Angel Heart* (Carollo Int’l NV, 1987); *Curse of the Voodoo* (Futurama Entertainment Corp., 1965); *I Walked with a Zombie* (RKO Radio Pictures, 1943); *White Zombie* (Edward Halperin Productions, 1932).

111 Paton, “Obeah Acts,” 15–16.

112 *Ibid.*

113 *Ibid.*

114 Olmos and Paravisini-Gebert, *Creole Religions*, 133.

115 *Ibid.* Olmos and Paravisini-Gebert also argue that “there are no group rituals, dancing, drum playing or singing connected to Obeah practices, except in the case of Myalism in Jamaica. The systematic repression of African cultural expressions on the part of the British had forced these practices underground, and they had ultimately been lost, except in some pockets of religious activity like Myalism and the Trinidadian Orisha tradition.” *Ibid.*, 136.

116 For example, see “The Obeah Law of 1898,” in *The Laws of Jamaica: Passed in a Session Which Began on the 15th Day of March, and Adjourned Sine Die on the 29th Day of August* (Kingston: Government Printing Office, 1898), 2.

recognition. Diana Paton has taken this argument one step farther, asserting that because obeah practitioners are solicited to assist an individual, perhaps to the detriment of another, the faith is not viewed positively by the communities where it is practiced.¹¹⁷ Therefore, obeah's individualized nature may hinder its legal recognition in a number of ways.

However, there is another critical distinction between obeah and the most widely recognized African diaspora religions that has not been adequately explored—in most countries, obeah refers to a set of nontheistic beliefs and practices.¹¹⁸ Nearly all of the African diaspora religions that have been decriminalized and officially recognized as “religions,” such as Brazilian Candomblé, Cuban Santería/Lukumí, and Haitian Vodou, are centered on the worship of a pantheon of spirits or deities. Meanwhile, belief systems that heavily incorporate the manipulation of supernatural forces or the consultation and veneration of spirits of the departed, such as Brazilian Macumba, Cuban Palo Monte, and Obeah, are rarely studied, acknowledged, or protected.¹¹⁹ The significance of this distinction between theistic faiths and those that are perceived as nontheistic becomes more apparent when one considers that in Trinidad and Tobago, one of the few places where obeah legislation has been successfully abolished, the removal of these laws was in response to protests from two theistic religions: orisha worshippers and Shouter Baptists.

When the parliament of Trinidad and Tobago repealed its obeah legislation in 2000, the bill they passed actually amended three statutes: the Summary Court Act, the Summary Offense Acts, and the Offenses against the Person Act.¹²⁰ Pursuant to its own title, the bill was designed to “remove certain discriminatory religious references” from these laws.¹²¹ The modification that the legislators made to the Summary Offenses Act was the deletion of a section titled “Superstitious Devices,” which, since at least 1902 and likely much earlier, had criminalized the following:

Every person who, by the practice of obeah or by any occult means or by any assumption of supernatural power or knowledge, shall intimidate or attempt to intimidate any person, or shall obtain or endeavour to obtain any chattel, money, or valuable security from any other person, or shall pretend to discover any lost or stolen goods, or the person who stole the same, or to inflict any disease, loss, damage, personal injury to or upon any other person, or to restore any other person to health, and every person who shall procure, counsel, induce or persuade, or endeavour to persuade any other person to commit any such offence . . .¹²²

117 Paton, *The Cultural Politics of Obeah*, 276.

118 Olmos and Paravisini-Gebert, *Creole Religions*, 133.

119 Though none of these religions are completely nontheistic, scholars have argued that Regla de Palo is “focused less on a pantheon of deities, the Reglas Congos (referring to Palo) emphasize control of the spirits of the dead and healing with the use of charms.” Ibid., 79. Olmos and Paravisini-Gebert explain that Palo is “less familiar to many inside and outside Cuba.” Ibid., 78. Nathaniel Murrell notes the same, explaining that some have attributed this discrepancy to the scholarly focus on Yoruba religion in Cuba. Murrell, *Afro-Caribbean Religions*, 135–36. Murrell further explains about Palo that “for a long time it remained less popular, less known, more suspect, and more greatly suppressed as *brujería* than Lucumi was” though he argues that the faith has become more popular in recent years. Ibid., 154. Murrell has stronger words for Macumba, which, like obeah and Palo Monte/Mayombe, is characterized by divination, communication with spirits of the dead, and “magical rites.” Ibid., 184. Murrell describes Macumba as “one of the earliest but most suppressed and least respected religion[s] in the world’s most African diaspora,” and “the religion most Brazilians despise.” Ibid., 184–85.

120 Miscellaneous Laws Act, 2000, 85, 39 Trin. & Tobago Gazette 1117, 1118–120 (2000), <http://www.ttparliament.org/legislations/a2000-85.pdf>.

121 Ibid., 1117.

122 “An Ordinance for Rendering Certain Offences Punishable on Summary Conviction of 1902,” in *Laws of Trinidad and Tobago* (Port-of-Spain: Government Printing Office, 1902), 1:122, 130–31. I have been unable to locate an earlier version of this law from 1868 to confirm that the language is identical. However, this law

Any person violating these provisions could be sentenced to imprisonment for up to six months.¹²³

Parliament deleted the words “by the practice of obeah or by any occult means or by any assumption of supernatural power or knowledge” from the statute and replaced it with the phrase “by any fraudulent means.”¹²⁴ Though enacted nearly sixty years later, these provisions closely resemble Britain’s Fraudulent Mediums Act of 1951. Ramesh Lawrence Maharaj, introduced above, attorney general and minister of legal affairs for the House of Representatives, argued that removing the word *obeah* from the Summary Offenses Act and amending the section to prohibit using false means to intimidate someone would make it religiously neutral.¹²⁵

When one examines the parliamentary debates about these revisions, it becomes apparent that the legislators believed that provisions prohibiting obeah infringed upon the rights of two particular religious groups: Shouter Baptists (also referred to as Spiritual Baptists) and Orisa Worshipers.¹²⁶ When the bill was before the House of Representatives, Member C. Robinson-Regis contended the term *obeah* was designed to target Orisa worshippers because the word “comes from the very seed, the obi seed, which is used in their process of divination.”¹²⁷ Similarly, during the Senate debates, the acting attorney general and minister of legal affairs, Gonga Singh, argued that these revisions to Trinidad and Tobago’s laws were necessary because of “[t]he negative, social and cultural stereotypes surrounded by the use of the term, ‘obeah’, and the practice of obeah in relation to the practices of certain religious groups, such as the Spiritual Baptists and the Orisas.”¹²⁸ He further described these provisions as remnants of the “prejudices perpetuated” by the Shouter [Baptist] Prohibition Ordinance, which was passed in 1917 and repealed in 1951.¹²⁹ Senator Joan Yuille-Williams also informed parliament that the Shouter Baptists and the Orisas had sent in letters seeking the repeal of the entire section of the Summary Offenses Act dealing with obeah and “superstitious devices.”¹³⁰ Based on these records, it seems clear that the Spiritual Baptists and the Orisas were the faiths that legislators intended to recognize and protect with this bill to “remove certain discriminatory religious references” from the laws of Trinidad and Tobago.

This emphasis on extending religious protections to certain theistic faiths becomes even more apparent when one examines the debates about the other segments of this bill which amended the sections of the Offenses against the Person Act prohibiting “obstructing or assaulting a minister in the discharge of his duties.”¹³¹ The legislature removed references to “ministers” and “churches,” and inserted broader religious terms such as “officials” and “place of divine

is described in another work in sufficient detail to suggest that the language was at least very similar, if not the same. Handler and Bilby, *Enacting Power*, 59.

123 Handler and Bilby, *Enacting Power*, 59.

124 Miscellaneous Laws Act, 2000, 1118.

125 23 Hansard Proceedings and Debates HR (2000) (Trin. & Tobago), 24, www.ttparliament.org/hansards/hh20001011.pdf.

126 Maharaj asserted that “the laws which we are trying to reform today, are laws which impact tremendously on the right of worship of certain of the religions and, in particular, the Baptists and Orisas.” *Ibid.*, 22.

127 *Ibid.*, 35. However, this is very likely an erroneous statement. Scholars have attributed the origins of the word *obeah* to the Ashanti words for spiritual beings, *obayifo* or *obeye*; not orisha worshippers whose practices are primarily derived from the Yoruba people. Olmos and Paravisini-Gebert, *Creole Religions*, 131.

128 22 Hansard Proceedings and Debates Senate (2000) (Trin. & Tobago), 94–95, www.ttparliament.org/hansards/h20001019.pdf.

129 *Ibid.*, 93.

130 *Ibid.*, 98–100.

131 Miscellaneous Laws Act, 2000, 1120, <http://www.ttparliament.org/legislations/a2000-85.pdf>.

worship.”¹³² Members of both the Senate and the House of Representatives debated whether the use of the word “divine” was offensive or limited the places of worship covered by this statute. These debates provide valuable insight about the legislature’s definition of religion.

In the House of Representatives, Mrs. C. Robinson-Regis was in favor of the use of the word *divine* because she felt that it was encompassing of all religions. She noted that the dictionary definition of this word was “of God or a deity, Godlike, of or associated with religion or worship, of supreme excellence or worth, splendid, perfect, another term for God.”¹³³ This word was an appropriate description of “places of worship,” she contended, because “it seems to me that all religions have a God figure or a divine figure whom they worship.”¹³⁴ Therefore, Robinson-Regis explained, “We on this side are of the view that there is no necessity to remove the term ‘divine’ unless the Government would also want to encompass ‘place of worship’ as non-divine worship or devil worship. I am trusting that those places do not exist here.”¹³⁵

Diana Mahabir-Wyatt made a similar argument when the Bill came before the Senate. She clarified that the broadening of the language in the Offenses against the Person Act from *minister* to *divine* ensured that these provisions prohibiting assaults on religious officials applied practitioners of Hinduism and Islam, not just Christianity.¹³⁶ She was perplexed, however, as to why some of her colleagues objected to the word “divine,” as it, pursuant to the dictionary definition, “means ‘Of God or a deity.’” Mahabir-Wyatt claimed “divine” must therefore be an all-encompassing term because “all religions have—I mean, whatever religion we are, we all believe in God.”¹³⁷

By reading the debates leading to the repeal of obeah provisions and the revision of these other laws in Trinidad, it becomes very apparent that legislators conceived of religion in terms of the worship of a divine being. Some legislators could not imagine that there were faiths that were not encompassed by the general references to god or gods, and were certain that the parliament did not intend to protect non-divine worship, which they equated with devil worship, with this bill. It is equally clear that the revisions to obeah laws were the direct result of the lobbying of two theistic religions, the Orisas and Shouter Baptists, who were historically arrested for contravening these laws. It seems likely that this is why Trinidad and Tobago repealed their obeah laws while identical or comparable laws remain in place in most other Caribbean nations, where nontheistic spiritual practitioners are typically charged with practicing obeah.

THE DISPARATE TREATMENT OF AFRICAN NONTHEISTIC RELIGIONS

In the preceding paragraphs, I have argued that obeah is distinct from most recognized and respected Africana religions because of the centrality of individualized practitioner-client relationships (as opposed to collective worship) as well as the primacy of spirit-human interactions and the performance of “magic” (rather than the worship of a deity or deities). Furthermore, I have

132 23 Hansard Proceedings and Debates HR (2000) (Trin. & Tobago), 38–39, www.ttparliament.org/hansards/hh20001011.pdf.

133 Ibid., 39.

134 Ibid.

135 Ibid.

136 Miscellaneous Law Bill, 5 Hansard Proceedings and Debates 105 (2000) (Trin. & Tobago), www.ttparliament.org/hansards/hs20001019.pdf.

137 Ibid.

contended that these disparities offer an explanation for why a widespread repeal of obeah legislation did not occur in the late twentieth century alongside that of laws against other African diaspora faiths. However, these same characteristics that differentiate obeah from many African-derived religions are attributes it shares with both Spiritualism and the I Am Movement.¹³⁸ Therefore, one must look beyond mere nontheism and individualized structures to understand why the latter successfully contested laws that proscribed their practices in the mid-twentieth century, while the former remains prohibited by legislation derived from the same legal system and founded upon the same principles.

The answer, in part, appears to have its roots in the second half of the nineteenth century, when prosecutions of occult practitioners intensified in many parts of the Atlantic world. While obeah legislation may have shared many characteristics with English witchcraft and vagrancy statutes, and the principles of both were grounded in the desire to protect “superstitious” people from “charlatans” who knew they could not possess the powers they professed, the colonial justifications of obeah statutes were also deeply rooted in racialized narratives that distinguished them from English domestic policies. In this era of post-emancipation anxiety about the role of persons of African descent in American societies, the rise of scientific racism, and the carving up of Africa into European colonies, belief in god became a central theme in debates about European obligations to “civilize” Africans. It is the pervasive bias that developed from these narratives, I contend, that prevent a nontheistic African religion from achieving the same recognitions and protections as non-theistic European spiritual practices.

In the latter half of the nineteenth century, European travelers, traders, missionaries, and officials increasingly alleged that there was an evolutionary scale to the development of religion, with “animism” or “fetishism” as the most primitive, and monotheism as the most sophisticated form.¹³⁹ For

138 Spiritualism, as described above, involves communication with spirits of departed persons. Similarly, the I Am Movement centers on communications with a being known as Saint Germaine who the Ballards regarded as a sort of venerated human spirit, known as an Ascended Master. The Ballards claimed that they themselves would also become Ascended Masters before the end of their lives. Additionally, both Spiritualism and the I Am Movement focus on individualized relationships between the “medium” (the spiritualist or the Ballards) and the client. For additional information about the historical development of Spiritualism as well as its central beliefs and practices, see Molly McGarry, *Ghost of Futures Past: Spiritualism and the Cultural Politics of Nineteenth Century America* (Berkeley: University of California Press, 2008). For more information about the I Am Movement, see Failing, “United States v. Ballard: Government Prohibited from Declaring Religious Truth,” 33–49.

139 Benjamin Ray, *African Religions: Symbol, Ritual and Community* (New Jersey: Prentice Hall, Inc., 1976), 5–6. For example, in 1877, C. P. Tiele wrote,

It is on various grounds probable that the earliest religion, which has left but faint traces behind it, was followed by a period in which Animism generally prevailed. This stage, which is still represented by the so-called Nature-religions, or rather by the polydaemonistic magic tribal religions, early developed among civilized nations into polytheistic national religions resting upon a traditional doctrine. Not until a later period did polytheism give place here and there to nomistic religions, or religious communities founded on a law or holy scripture, and subduing polytheism more or less completely beneath pantheism or monotheism. These last, again, contain the roots of the universal or world religions, which start from principles and maxims. Were we to confine ourselves to a sketch of the abstract development of the religious idea in humanity, we should have to follow this order.

Outlines of the History of Religion to the Spread of the Universal Religions, trans. J. Estlin Carpenter (Boston: James R. Osgood, 1877), 3.

Similarly, in his study of “primitive religions,” G. T. Bettany categorized two different African ethnic groups based on their spiritual beliefs. The “Bushmen,” he argued, were “perhaps the lowest African race,” who “had

example, in 1877, Dutch theologian C. P. Tiele argued that animism, which he defined as the belief in spirits who “acquire the rank of divine beings, and become objects of worship,” is “not itself a religion, but a sort of primitive philosophy.”¹⁴⁰ Animistic religions, he claimed, because they emphasize magic but not a belief in a god or a supreme being, “rarely rises to real worship.”¹⁴¹

Opponents of African American political participation and proponents of European colonization of Africa manipulated this supposed hierarchy of religions to justify the subjugation of persons of African descent. They frequently posited Africans religions as relegated to the most debased end of the evolutionary scale, as Africans supposedly had no concept of god; instead, they worshipped “fetishes”¹⁴² and practiced “magic.”¹⁴³ For instance, in 1807, a traveler named Joseph Corry wrote a book detailing his personal observations of African life and culture in the Windward Coast, dedicated to Lord Viscount Castlereach of England, one of the king’s chief secretaries of foreign affairs.¹⁴⁴ This work provides not only an example of the common observations that “superstitious” Africans required European intervention to introduce “religion,” but also the equation of African belief systems with witchcraft and devil worship, narratives which, as previously observed, permeated descriptions of obeah during the colonial period and remain common rhetoric in the twenty-first century.

Corry asserted that “idolatry, and fetish worship, is the predominant religion of Africa.”¹⁴⁵ He described Africans as “extremely superstitious,” believing “in witchcraft, incantations, and charms,” and “occasionally worship[ing] and offer[ing] sacrifices to the Devil.”¹⁴⁶ He claimed that African concepts of a Supreme Being, on the other hand, were “confused,” and “an assemblage of indistinct ideas.”¹⁴⁷ He cautioned the Sierra Leone Company, which governed the region at the time, that Africans existed in a “most degrading state, absorbed in superstitious idolatry, inhuman customs, and shut out from the civil arts of life, and the mild principles of Christianity.”¹⁴⁸ To

little or no idea of a god; but they had a great belief in magic.” He asserted that the “Hottentots have considerably more developed ideas. They seem to have a notion of a supreme deity.” G. T. Bettany, *Primitive Religions* (London: Ward, Lock, Bowden, 1891), 63.

¹⁴⁰ Tiele, *Outlines of the History of Religion to the Spread of the Universal Religions*, 9.

¹⁴¹ *Ibid.*, 10. One continues to see strong reflections of this kind of hierarchy in modern descriptions of obeah. In particular, in Margarite Fernandez Olmos and Lizabeth Paravisini-Gebert’s book *Creole Religions of the Caribbean*, they describe obeah as “a set of hybrid or creolized beliefs dependent on ritual invocation, fetishes, and charms,” which “is not a religion so much as a system of beliefs rooted in Creole notions of spirituality, which acknowledges and incorporates into its practices witchcraft, sorcery, magic, spells, and healing.” Olmos and Paravisini-Gebert, *Creole Religions*, 131.

¹⁴² Ray, *African Religions*, 5. Fetish worship means “endowing natural things (trees, mountains, waters, pieces of wood) with sacred and divine power.” *Ibid.*

¹⁴³ John Mbiti explained, “Since every African society has magic and religion, it was inevitable to conclude that Africans had not evolved beyond the state of detaching religion from magic. Some writers even tell us that Africans have no religion at all and no magic.” John S. Mbiti, *African Religions and Philosophy* (New York: Frederick A. Praeger, 1969), 9. He also discounts the use of the labels dynamism, totemism, fetishism, and naturism to describe African religions stating that these “terms show clearly how little the outside world has understood African religions.” *Ibid.*, 10. Okot P’Bitek said Christian “missionaries came to preach the gospel as well as to ‘civilize’, and in their role of ‘civilizers’ they were at one with the colonizing forces; indeed they were an important vehicle of Western imperialism.” P’Bitek, *African Religions in Western Scholarship* (Nairobi: East African Literature Bureau, 1970), 54. See also Ray, *African Religions*, 2–5.

¹⁴⁴ Joseph Corry, *Observation upon the Windward Coast of Africa* (London: G. and W. Nicol, 1807).

¹⁴⁵ *Ibid.*, 60, 97.

¹⁴⁶ *Ibid.*, 60.

¹⁴⁷ *Ibid.*

¹⁴⁸ *Ibid.*, 69.

allow Africans to become “enlightened” and “its mysteries developed to the civilized world,” Corry maintained that the Windward Coast, specifically the region that would become the colony of Sierra Leone, must be subjected to British governance.¹⁴⁹

These narratives of religious difference between Africans and Europeans intensified in the late nineteenth century, after Darwin proposed his theories that human beings were not distinct from animals and that various races occupied different positions on the evolutionary scale. Darwin asserted that there were numerous races of “savages,” who “have no idea of one or more gods, and who have no words in their languages to express such an idea.”¹⁵⁰ This, he argued, was proof that not all humans had “religion” and thus religion and belief in god could not be a distinguishing characteristic between humans and higher mammals. Belief in a “Creator or Ruler of the universe,” on the other hand, Darwin claimed was an idea that “has been answered in the affirmative by the highest intellects that have ever lived.”¹⁵¹

After Darwin’s research, and that of other like-minded scientists, popularized a purported scientific basis for viewing races on a hierarchical scale, with some more “evolved” than others, narratives about religious differences between Africans and Europeans flourished. Perhaps most infamously, in the late nineteenth and early twentieth century, stereotypes about religion in the independent black nation of Haiti became fodder for the argument that persons of African descent needed to be subjugated under white rule and that newly freed persons were unprepared for political participation in the Western Hemisphere. As Diana Paton has discussed in detail, several of these works drew explicit connections between purported “voodoo” practices in Haiti and “obeah” in the British Caribbean and, in doing so, continued these stereotypes of fetish worship, witchcraft, and veneration of the devil among practitioners of both these faiths.¹⁵² For example, James Froude in his infamous work, *The English in the West Indies*, published in 1888, claimed that African spiritual practices in the Caribbean, which he glossed as “obeah,” consisted of a combination of animism (specifically the worship of snakes, rocks, and trees) as well as witchcraft and poisoning.¹⁵³ In a chapter entitled “Future of the Negroes,” Froude argued “[i]n spite of schools and missionaries, the dark connection still maintains itself with Satan’s invisible world, and modern education contends in vain with Obeah worship. As it has been in Hayti, so it must be in Trinidad if the English leave the blacks to be their own masters.”¹⁵⁴

In 1900, in a book titled *Where Black Rules White: A Journey Across and About Hayti*, British traveler Hesketh Prichard made similar arguments.¹⁵⁵ He asserted that “Vaudoux” (Voodoo) religion in Haiti consisted of “West African superstition, serpent-worship, and child-sacrifice,”¹⁵⁶ practices that, he argued, were “so degrading [they] must have [their] source deep in the character of the race.”¹⁵⁷ Prichard concluded that this supposed barbarism in Haiti was evidence that proved

149 Ibid., 86. At this time, the region was governed by the Sierra Leone Company and was not formally a British Colony. Ibid.

150 Charles Darwin, *The Descent of Man, and Selection in Relation to Sex*, vol. 1 (New York: D. Appleton, 1872), 62–63.

151 Ibid., 63.

152 Paton, *The Cultural Politics of Obeah*, 128–42.

153 James Anthony Froude, *The English in the West Indies, or The Bow of Ulysses* (London: Longmans, Green and Co., 1888), 111.

154 Ibid., 86.

155 Hesketh Prichard, *Where Black Rules White: A Journey across and about Hayti* (Westminster: Archibald Constable, 1900).

156 Ibid., 74–75.

157 Ibid., 81.

that the black man “certainly cannot rule himself,”¹⁵⁸ and he also cautioned that obeah in the British Caribbean had “kinship in a puny degree with the hideous Haytian sect,” and if it were decriminalized in Jamaica, “it would only too easily merge into the enormities and crimes which distinguish true Vaudoux worship.”¹⁵⁹

These debates contributed to the suppression of obeah and created a distinct dialogue about obeah than what would have circulated about spiritualism and I Am Movement in the first part of the twentieth century. While the latter were also often regarded as “superstitions,” the alleged absence of any “real” religion among persons of African descent was posited as a distinguishing factor between the races. Indeed, these supposed distinctions between “religion” on the one hand and “voodoo” or “obeah” on the other became such a central thread in the narratives about race, civilization, and spiritual practice that nationalist, Pan-Africanist, and independence movements had to reimagine African diaspora belief systems in ways that refuted these popular denunciations.

These new constructions of African-diaspora faiths typically centered on drawing comparisons with Christianity or other religions of the Western world. For example, in 1928, as the US occupation of Haiti (1915–1934) fueled the systematic denigration of the country’s spiritual practices, Haitian ethnographer Jean Price-Mars argued in *Ainsi Parla l’Oncle* that “Voodoo” was a valid religion, because it possessed characteristics analogous to those found in Western faiths.¹⁶⁰ Most significantly, he claimed, adherents worship spiritual beings that “constitute an Olympian pantheon of gods.”¹⁶¹ In addition to the veneration of deities, which Price Mars likened to those of ancient Greek mythology, he explained that “Voodoo” worshippers are bound by strict ethical principles of right and wrong, which he compared to “Christian moral law.”¹⁶²

Price-Mars, however, even while making the historic leap to argue that “Voodoo” was a religion, succumbed to European hierarchies of faiths. Like European theologians had argued for more than a century before him, he asserted that all religions originated from a base form but evolved over time toward “higher and more spiritualized beliefs.”¹⁶³ As a religion progressed toward this more “civilized state,” he claimed, it “disengages itself very slowly” from the use of “magical powers.”¹⁶⁴ Because practitioners believe in “sorcery and magic” in addition to their worship of “gods” or “spiritual beings,” Price-Mars argued that one may conclude that “Voodoo” is a “very primitive religion.”¹⁶⁵ Thus, Price-Mars founded his assertion that Haitian “Voodoo” was a religion on its similarities with recognized Western faiths, in particular on the veneration of deities, while relying on European hierarchies of religion to classify the faith as “primitive” due to its adherents’ belief in “magic.”

Similarly, in the mid-twentieth century, as many African nations achieved independence, a new wave of scholars published studies of African and African diaspora religions in an effort to counteract the stereotypes circulated in previous decades.¹⁶⁶ To refute longstanding depictions of Africans as animists and fetish worshippers, these scholars argued that all African societies believed

158 Ibid., 284.

159 Ibid., 96.

160 Jean Price-Mars, *So Spoke the Uncle /Ainsi Parla l’Oncle*, trans. Magdaline Shannon (Washington, DC: Three Continents Press, 1983), 39 (first published in 1928, in French, by Imprimerie de Compiègne).

161 Ibid. Today, scholars would likely write this as “Vodou” to distinguish it from the negative stereotypes embodied by the term “Voodoo,” but this 1983 English translation of Price Mars’s work uses the earlier spelling.

162 Ibid., 39–41.

163 Ibid., 43.

164 Ibid.

165 Ibid., 43–44.

166 Mbiti, *African Religions and Philosophy*, 7–8.

in a creator god that was analogous to those worshipped in Abrahamic faiths and that this belief in god was indigenous to every African society.¹⁶⁷

In 1944, a West African philosopher, J. B. Danquah, wrote an entire book explaining the meaning of god among the Akan people of the Gold Coast (modern-day Ghana), in which he criticized prior European scholarship on the subject, explaining that most of it has been based on misinterpretations of individuals who had lived with the Akan for only a short time.¹⁶⁸ In particular, Danquah lamented that “among Europeans, the popular idea of Akan ‘religion’ is as part of West Africa’s ‘fetish’ cult.”¹⁶⁹ In actuality, Danquah claimed, the “Akan religious doctrine knows only one God.”¹⁷⁰ While Danquah acknowledged that there are other beliefs among the Akan, he disregarded these as mere “superstitions,” which were held by “the cults of the private man desirous for short cuts to satisfy the natural craving for some religion,” but “should not be ascribed to the Akan as their racial and national conception of God.”¹⁷¹

A decade later, Geoffrey Parrinder wrote a more expansive survey of African religious beliefs, in which he made several generalizations that are significant to this study.¹⁷² First, like Jean Price Mars and many other advocates of African diaspora religion, Parrinder asserted that African beliefs about god resemble that of ancient European civilizations. He explained “in West Africa, in particular, men believe in great pantheons of gods which are as diverse as the gods of the Greeks or the Hindus.”¹⁷³ Thus, he argued “These gods generally have their own temples and priests, and their worshippers cannot justly be called Animists, but Polytheists, since they worship a variety of gods.”¹⁷⁴ But among most Africans, he claimed, there is a belief in a Supreme Being, and “all flows from him and inheres in him. Godlings and ancestors are intermediaries; prayers and offerings made to them may be passed on to the source of all.”¹⁷⁵

Similarly, writing in 1969, John Mbiti explained that early approaches to the study of African religions placed them “at the bottom of the supposed line of religious evolution. It tells us that Judaism, Christianity and Islam are at the top, since they are monotheistic.”¹⁷⁶ But Mbiti argued that we cannot place African peoples on a sliding scale of religious development because they are “aware of all these elements of religion: God, spirits, and divinities are part of the traditional body of beliefs.”¹⁷⁷ He asserted that in every African society “without a single exception, people have a notion of God as the Supreme Being.”¹⁷⁸

As these examples demonstrate, theologians and anthropologists from Africa and its diaspora spent the greater part of the twentieth century refuting European stereotypes of African religions as “primitive” and “uncivilized.” While these scholars may have succeeded in distinguishing theistic religions from animism and fetishism, their methods typically reinforced the European hierarchies

167 Ray, *African Religions*, 14–15.

168 J. B. Danquah, *The Akan Doctrine of God: A Fragment of Gold Coast Ethics and Religion*, ed. Kwesi Dickson, 2nd ed. (1968; repr., Abingdon: Routledge, 2006), 39 (first published in 1944 by Lutterworth Press).

169 Ibid.

170 Ibid.

171 Ibid.

172 Geoffrey Parrinder, *African Traditional Religion*, 3rd ed. (Westport: Greenwood Press, 1976).

173 Ibid., 24.

174 Ibid.

175 Ibid. On page 32, Parrinder reiterates that “The fact is that most African peoples have clear beliefs in a Supreme God.” Ibid., 32.

176 Mbiti, *African Religions and Philosophy*, 7.

177 Ibid., 7–8.

178 Ibid., 29. He emphasized, however, that these concepts of God cannot be traced to Christianity, Judaism, or Islam because “African soil is rich enough to have germinated its own original religious perception.” Ibid., 30.

of religion that were frequently espoused in the nineteenth century. Rather than attacking the notion that religions had to conform to a particular structure, defenders of African diaspora faiths asserted that African beliefs about god resembled those in Western societies such as the recognition of a Supreme Being or the veneration of a pantheon of deities analogous to those worshipped in ancient Greece. Most scholars did little to rehabilitate public perceptions of nontheistic practices such as spirit conjuration and the production of charms, or defend these as “religious” practices, though some researchers, unable to deny the existence of such beliefs, claimed that they were analogous to recent European fears of “magic” and “witchcraft.”¹⁷⁹

Since black intellectuals only actively advocated for theistic belief systems like Santería/Lukumi, Candomblé, and Vodou, nontheistic belief systems remained vulnerable to the same characterizations and limitations that had once restricted virtually all African diaspora religions. For example, one will recall that opponents of black political participation and independence in the late nineteenth and early twentieth centuries described “Voodoo” and obeah as similar types of “uncivilized” and “sinister” African spiritual practices. Therefore, when scholars like Price Mars attempted to redeem public perceptions of “Voodoo” by emphasizing its pantheon of deities, they created a platform for the eventual recognition of theistic religions like Vodou but provided no theological basis for reinterpreting nontheistic belief systems as “civilized.” Rather than changing the hierarchy between “primitive” religions that purportedly involve “magic,” “witchcraft,” and “devil worship,” and “advanced” religions that center on the worship of god(s), black intellectuals merely placed theistic African-derived religions like Vodou higher on the evolutionary scale than obeah and other nontheistic belief systems. One can see the persistence of these imagined boundaries between theistic and nontheistic religions in the above-mentioned debates about the decriminalization of obeah, where legislators in Trinidad explained that the purpose of the revisions was to protect theistic religions that had been glossed as “witchcraft” or “obeah,” but certainly not to redefine the meaning of religion to recognize nontheistic belief systems, which some lawmakers equated with devil worship. Other legislators enquired whether anyone really supported the legal protection of “non-divine” (meaning nontheistic) worship and clarified that they would not support a law with this interpretation.¹⁸⁰

CONCLUSION

This brief history of obeah legislation and its relationship to evolving proscriptions of supernatural practices in the Anglophone Atlantic is intended to raise more questions than answers about the

179 Parrinder, *African Traditional Religion*, 130 (“In some parts of Africa witches confess freely to witchcraft, as many witches did in ancient Europe. This phenomenon is puzzling to the European observer, who cannot see any clear proof that the accused did really engage in bewitching. Then one remembers the confessions extorted from prisoners in Nazi and Communist trials, in twentieth century Europe.”). As early as 1970, Zahan explained that “it nonetheless remains that through a lack of knowledge of the true nature of a multitude of African practices and a misunderstanding of the role attributed to numerous objects and ingredients used in these rites, we group all of these elements into the categories of ‘magic’ and ‘sorcerer.’ These terms thus become a catchall for our ignorance.” Dominique Zahan, *The Religion, Spirituality, and Thought of Traditional Africa*, trans. Kate Ezra Martin and Lawrence Martin (Chicago: University of Chicago Press, 1979), 4.

180 Paton, *The Cultural Politics of Obeah*, 288. Ironically, Paton argues that obeah was discriminated against even by those who advocated in favor of African religions because, while it was unquestionably derived from Africa, it was not purely African. Obeah was viewed as a “creole” or “hybrid” faith, and thus was a degenerate or impure form of religion that should not be preserved.

existence of this archaic legislation in the modern world. Modeled on two-hundred-year-old vagrancy statutes and nearly three-hundred-year-old witchcraft laws, obeah ordinances are a relic of the colonial era that the British themselves abolished more than sixty years ago. Enacted to protect the institution of slavery and revised to allegedly rescue Africans from their own “superstitions,” obeah laws are unquestionably products of eighteenth and nineteenth century religious and racial hierarchies.

In the public mind, however, after two hundred and fifty years of government suppression, obeah eventually embodied the descriptions that the colonists imposed. Fearful that repealing these laws paves the way for nontheistic practices, which many have equated with devil worship and witchcraft, legislators have been unwilling to eradicate these broad proscriptions on the purported use of any supernatural power or knowledge. Only in four countries, Anguilla, Barbados, St. Lucia, and Trinidad and Tobago, have obeah laws given way to religious freedom.¹⁸¹ When one examines the newly enacted laws in Trinidad and Tobago alongside the long-standing policies in the United States and England, which all require evidence of intentional fraud to prosecute individuals who claim to be able to tell fortunes, communicate with spirits, and manipulate supernatural forces, the enduring obeah laws send a strong message. These nontheistic African spiritual belief systems do not constitute “religion” in Caribbean countries; their practices are perceived as too “primitive” or “uncivilized” to be protected by law or fundamental human rights.

181 Handler and Bilby, *Enacting Power*, xiii.