

The Compass

Volume 1 | Issue 9

Article 1

August 2022

The Compass, Issue 9

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Recommended Citation

(2022) "The Compass, Issue 9," *The Compass*: Vol. 1: Iss. 9, Article 1.

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Compass

ARCADIA UNIVERSITY'S SCHOLARLY JOURNAL



ABOUT

The Compass is an online scholarly journal edited and produced by students in the Arcadia University Honors Program. It is dedicated to providing a platform for undergraduate research and insight so that it may inspire, intrigue, and inform an audience. The journal's primary aim is to cultivate scholarly community and intellectual curiosity by featuring multidisciplinary perspectives, accepting articles from subjects including, but not limited to: Anthropology, Art, Biology, Business, Chemistry, Communications, Education, English, Modern Languages, Gender Studies, Sciences, Sociology, International Studies, Law, Mathematics, Philosophy, Psychology, and Religious Studies. The Compass endeavors to build an intellectual collaborative community that promotes the circulation of research and ideas.

FORWARD

Welcome to this year's edition of The Compass. Inside you will find a mind-bending range of student research conducted across topics as diverse as rural gentrification, the legal arguments for masking requirements during a global pandemic, and shifting perceptions of national identity in Mexico. While the focal points of these three pieces of scholarship are far-flung, they share some common traits that are worth briefly highlighting here.

First, they are each exceptionally well researched, building on the work of various contributors. The wide availability of source material today presents special opportunities and challenges for researchers who are early in their scholarly careers. Each author here skillfully navigates those complexities by constructing balanced and grounded arguments that, in the end, provide the best possible jumping off point for further study.

Second, they effectively balance the needs of specialized audiences - those who are likely "in the know" on their particular topic, and general readers - those who are perhaps just getting started with their own exploration of legal reasoning, media theory, or the abuse of power. By taking this approach, each author presents work that is both interesting and nuanced.

Third, they contemplate the biggest of all questions: how do systems that are designed to protect themselves shape the realities of individual human existence? How do we understand ourselves and our institutions, and how do we understand the process of social change?

I hope you enjoy this sample of the outstanding work our students are doing here at Arcadia.

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Taylor Carrico, *Arcadia University*

Cottagecore and Rural Gentrification

By: Zoë Johnston, *Arcadia University*

The internet has become filled with images of stone cottages covered in ivy, sepia-tinted tea parties abundant with home-baked pastries, women in peasant dresses trailing their fingers across tall grasses, and flower bouquets set into mason jars. Each of these scenes is categorized under the aesthetic of “cottagecore,” which is growing in popularity. This aesthetic movement draws upon people’s desires for simplicity and a nostalgia for a pre-industrial lifestyle.¹ However, an unexamined consequence of this idyllic fantasy is the subsequent gentrification of rural communities. Gentrification is the process of funneling capital into low-income neighborhoods to make them more attractive to middle and upper-class consumers, often displacing previous low-income residents.² This process is most often associated with cities, but over the past few decades, it has spread further out from the urban center.

One of the driving factors of gentrification is people attempting to buy into a particular lifestyle. This is amplified in the rural sphere as migrants’ goals are often not to extract profit monetarily from the land but rather to collect values from experiences. While urban gentrification pushes out previous residents, rural gentrification is more often observed as a change in land use.³ As Gotham notes, “gentrification is not an outcome of group preferences nor a reflection of market laws of supply and demand. Consumer taste for gentrified spaces is, instead, created and marketed.”⁴ In the age of the internet, this taste for a simple agrarian lifestyle is fostered by cottagecore. The aesthetic movement of cottagecore encourages rural gentrification by providing a cultural frame of reference for

middle-class migrants of how the landscape can be cultivated to fit their romanticized agrarian lifestyle.

For the majority of people that would be considered “rural gentrifiers,” they have no previous experience living outside of urban or suburban areas.⁵ Their migration is not driven by reality, but rather by the opportunity to project their own desires onto a landscape outside of the rigidity of the city. Given its proliferation online, cottagecore standardizes and aestheticizes this desire with images that adhere to a bucolic ideal of the countryside, facilitating a new cultural frame of reference of what an agrarian lifestyle looks like. This frame of reference serves to create a popularized expectation and understanding of rurality. Even before the rise in popularity of cottagecore, researchers Smith and Holt found in their case study of Hebden Bridge, England that “migrants... seek a very distinct representation of rurality, which encompasses a particular type of rural aesthetic [specifically]... the valley topography.”⁶ Many of the households that they interviewed cited the visual beauty of Hebden Bridge as its drawing factor. Further, when questioned as to why they did not settle in neighboring countryside towns, the households said that the alternatives were “uglier” and “not as stunning.”

Cottagecore has led its consumers to believe that a specific country landscape is most desirable; one characterized by an abundance of greenery, wildflowers and berries, and perhaps an idle river flowing across the land. This may explain why Hines finds the presence of “rural gentrifiers” to be more abundant in picturesque towns in the Western United States rather than anywhere in the sprawling prosaic plains of the

1. Rebecca Jennings, “Once Upon a Time, There Was Cottagecore,” *Vox*, August 3, 2020, <https://www.vox.com/the-goods/2020/8/3/21349640/cottagecore-taylor-swift-folklore-lesbian-clothes-animal-crossing>.

2. Kevin Fox Gotham, “Gentrification,” in *The Concise Encyclopedia of Sociology*, ed. George Ritzer and J. Michael Ryan (Malden: Wiley-Blackwell, 2011), 255.

3. Martin Phillips, “Rural Gentrification and the Process of Class Colonization,” *Journal of Rural Studies* 9, no. 2 (April 1993): 124, [https://doi.org/10.1016/0743-0167\(93\)90026-G](https://doi.org/10.1016/0743-0167(93)90026-G).

4. Gotham, “Gentrification,” 255.

5. Dwight J. Hines, “Rural Gentrification as Permanent Tourism: the Creation of the ‘New’ West Archipelago as Post Industrial Cultural Space,” *Environment and Planning D: Society and Space* 28, no. 3 (June 2010): 510, <https://doi.org/10.1068%2Fd3309>.

6. Darren P. Smith and Louise Holt, “Lesbian Migrants in the Gentrified ‘Valley’ and ‘Other’ Geographies of Rural Gentrification,” *Journal of Rural Studies* 21, no. 3 (July 2005): 317, <https://doi.org/10.1016/j.jrurstud.2005.04.002>.

Midwest.⁷ Prime examples of these towns include: Durango, Colorado; Bozeman, Montana; and Taos, New Mexico. Hines also corroborates the findings of Smith and Holt by noting that the rural West “offers newcomers a territory that is (perceived/described by them as) cleaner, quieter, less populated, and more possessed of the possibility for valued experiences than the places they have previously known.”⁸ It is this perception of possibility that drives people to these communities, and cottagecore affirms that these desires can become a reality.

Integral to this desire is the lure of freedom and community, and the safety and security that this provides. While popular across demographics, cottagecore has primarily been followed by members of the LGBTQ+ community. Although the impact on the land remains the same, it is necessary to acknowledge that queer people are rarely moving with the explicit malintent of gentrification. Instead, cottagecore’s removal from densely populated areas offers queer people the freedom to pursue gender expression and romantic relationships. The case study of Hebden Bridge was undertaken because the town was dubbed the “Sapphic Capital” of England due to the large migration of lesbians there in the 1990s and early 2000s. Many of the lesbian households that were interviewed there in 2005 cited a desire for an accepting community and a comforting lifestyle as their reason for migration.⁹ This correlation between sexuality and movement to rural communities can be explained by the longing to have the freedom to come out without the restraints of heteronormative expectations.

Evienne Yanney, a young lesbian, explains she was drawn to cottagecore because “many of us aren’t really accepted in the modern world, so the thought of running away to a cottage is really, I guess, kind of soothing.”¹⁰ This is an interesting perception, especially since rural communities in the United States tend to be more socially and politically conservative. However, this is the role that cottagecore plays: it reframes the cultural understanding of landscapes

with a promise of safety and the opportunity to express sexuality. Although cottagecore presents itself as an escape from social normativity, it is not the land itself but the cultural frame of reference that has been facilitated that offers this escape. In the Hebden Bridge field study, the households explained that they did not actually want to live isolated in nature and preferred having a community around them. As the community was established, it began to draw more lesbian migrants to Hebden Bridge as they knew they would find people with similar values and desires for life.¹¹ This demonstrates the necessity of sharing these spaces with people who have the same cultural frame of reference of what the landscape is meant to provide. Without this shared understanding of the environment, migrants are more likely to experience a cognitive dissonance between their expectations and the reality that they come to face. Conversely, the presence of shared cultural references and similar intentions of building community in agrarian landscapes magnifies the possibility and impact of gentrification.

Seeking safety and security is not limited to only the LGBTQ+ community, especially not in 2020. One of the reasons that cottagecore is considered an aesthetic or an aspiration is because it offers something so disparate from the current reality. Despite the subculture’s initial emergence on Tumblr in 2014, it was not until 2018 that the aesthetic was officially christened “cottagecore,” and only in 2020 that the aesthetic broke into the mainstream. This surge in popularity has a direct correlation with the increasing instability of the world: the disarray of the political sphere, ever-mounting climate crisis, and the coronavirus pandemic. During the early months of the pandemic, “the cottagecore hashtag jumped 153 percent, while likes on cottagecore posts were up by 541 percent.”¹² Amanda Brennan, a Tumblr trend expert, extrapolates that “every time there’s been a spike in Covid cases, there’s a spike in cottagecore right along with it.”¹³ Cottagecore offers people an escape from the uncertainty of politics and the vulnerability of the

7. Hines, “Rural Gentrification as Permanent Tourism,” 509.

8. *Ibid.*, 512.

9. Smith and Holt, “Lesbian Migrants,” 318.

10. Jennings, “Once Upon a Time, There Was Cottagecore.”

11. Smith and Holt, 318.

12. Jennings.

13. *Ibid.*

coronavirus pandemic. Despite lacking a comprehensive understanding of what rural life is realistically like, people are driven by the hope that they will reap the benefits of a stable, secure cottagecore lifestyle.

Gentrification in the urban sphere is often associated with an influx of capital and financial gains for middle-class and upper-class gentrifiers. On the rural stage, middle-class gentrifiers are not seeking monetary profit, but rather experiential value.¹⁴ As the middle class has grown and the economy has shifted to be post-industrial, symbols have become an important marker of socioeconomic status rather than material goods. Hines gives Karl Marx credit for his work in observing that people deployed cultural commodities to discern their relative standing to one another, particularly within the nebulous middle class.¹⁵ These symbols include experiences like traveling internationally, going to summer camp, and even attending college. Despite cottagecore maintaining primarily an online presence, the ability to actually live the lifestyle is the ultimate form of status in the world of experiential value.

One reason the middle class values the cottagecore lifestyle is because it signals that they were successful enough within capitalism to maintain an illusion of being able to opt out of it and remove themselves from the hustle culture that seems synonymous with urban centers. In the postindustrial, consumerist culture of the United States, success is sometimes understood in the context of having bought everything that is necessary and transcending to a life of simplicity. While cottagecore is the epitome of simplicity, this also explains why it is dominated by whiteness and middle-class migrants.¹⁶ For people with economic and racial privilege, cottagecore signifies a conscious choice to opt out of capitalism but for those that don't hold that historic power, it is instead perceived as a failure to reach societal expectations of success. Hines explains that the middle class is no longer a definitive position, but rather a performance that is put on by gathering experiences, signifying to others the level of status and success that has been claimed.¹⁷ Therefore, cottagecore is highly appealing to white, middle-class

migrants as it offers an ongoing performance to cement their role.

While these migrants are driven to the countryside by perceptions, middle-class performativity, and a desire to collect experiences, they enact a very real change of the landscape. Gentrification in the urban context is often associated with a change in architecture, businesses, and services. However, Hines describes rural gentrification "as producing what it seeks to consume, i.e. the displacement of industrial working/middle-class people and the creation of a post industrial landscape of experience."¹⁸ In the process of rural gentrification, migrants change the economic function of the environment, moving from the extraction of resources to create material results to prolonging the aestheticism of the landscape to produce experiential profits.

One example of this shift is the case study of Georgetown Lake in southwest Montana. The lake was built in 1901 to produce electricity for the local mining companies, and the runoff benefitted cattle farmers in the area. However, in the late 1980s, there was a surge of ex-urbanites who moved to Georgetown Lake and quickly bought up lakefront property. As previously explored, these migrants held specific perceptions and expectations of the landscape. Their expectations are articulated in the purpose statement of the homeowner's association covenant:

"[To] ensure use of the Property for attractive recreational and residential purposes only; to promote health and happiness; to prevent unnecessary impairment of the environment; to maintain the tone of the Property in its native form and preserve its natural beauty as far as possible."¹⁹

These migrants placed the highest value on the long-term visual beauty of the land. While the lake was exploited for economic purposes for decades, the new residents demanded that the level of outflow from the lake be decreased significantly, consequently harming the mining companies and cattle farmers. One reason for their demand was to keep the water level high enough to cover the shoreline, ensuring an

14. Phillips, "Rural Gentrification," 125.

15. Hines, 516.

16. Phillips, 131.

17. Hines, 516.

18. *Ibid.*, 515.

19. *Ibid.*, 518.

aesthetic view of the lake from their properties. Another reason was to maintain a habitable environment for trout in the lake, allowing residents and tourists to continue sport fishing. A compromise was eventually reached, but a shift had occurred in Georgetown Lake, changing it from a working-class, industrial mining community to a middle-class, ex-urbanite destination. Hines succinctly summarizes the process of rural gentrification as the assertion of “class-based ideals of proper land use.”²⁰ While it is not identical to the gentrification that occurs in cities, rural communities still experience the change in businesses, the development of landscape to be visually appealing, and the ignorance of working-class needs that are associated with gentrification.²¹

Both Hebden Bridge and Georgetown Lake demonstrate the tangible reality of how aestheticized emotional desires can eventually inspire migration to and cultivation of rural areas. Jennings notes that cottagecore “is just one of dozens of iterations of movements fetishizing the countryside and coziness over the past few hundred years,” but it is also “the first that has existed almost exclusively online.”²² As an online movement, cottagecore has accumulated a significant audience and instilled a new ubiquitous cultural assumption that an agrarian lifestyle is ideal to pursue beauty, art, and the joyful simplicity of home-making. While the bulk of cottagecore exists online, there is still a portion of people that will move to rural areas with the intention of changing the landscape to match the photos they have collected on a Pinterest board. A small percentage of people are realistically able to move to rural landscapes and implement the cottagecore lifestyle, yet there is the danger of these communities growing and fortifying the impact of gentrification. As was the case with Hebden Bridge, the early presence of lesbians in the area led to an exponential influx of more queer migrants.²³ The same could be predicted of emerging cottagecore communities. However, these rural areas are not blank canvases, and often have a long history of industrial communities who are reliant on the natural resources of the land. Therefore, the in-migration of cottagecore followers echoes the gentrification of urban areas; they

displace working-class residents in order to remake the land into an idyllic scene and market it for experiences. Cottagecore began online but has since seeped into the collective consciousness, and encourages its more privileged consumers to engage in rural gentrification disguised as an embrace of simplicity and agrarianism. The cozily decorated cottages hide the reality of working-class displacement, and the aesthetic photos in nature mask the dwindling economic opportunities. In trying to escape the woes of city living, these cottagecore migrants brought the process of gentrification with them.

20. Ibid., 523.

21. Phillips, 125.

22. Jennings.

23. Smith and Holt, 318.

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Make Pennsylvania Free Again

By: Margaret Riley, *Arcadia University*

FORWARD

The author created this paper for a class assignment testing students' knowledge of constitutional law. The assignment was to write a legal brief addressing the constitutionality of a statewide mask mandate during the COVID-19 pandemic. COVID-19 is an airborne disease that can be transmitted from person to person up to six feet apart. The hypothetical facts provided for this brief were that a suit was filed in Pennsylvania state court by a group of individuals in opposition to the state's mask mandate that was enacted to address the COVID-19 pandemic. The goal of this brief is to demonstrate knowledge of how courts address constitutional issues, how fundamental rights are established or violated, and how to write persuasively and concisely. The data in this brief was accurate as of May 2021. With those goals in mind, the following brief was the result.

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Buck v. Bell, 274 U.S. 200, 951 (1927).
Loving v. Virginia, 388 U.S. 1, 909 (1967).
Stanley v. Illinois, 405 U.S. 645, 930 (1972).
Moore v. City of East Cleveland, 431 U.S. 494, 938 (1977).
Grutter v. Bollinger, 539 U.S. 306, 807 (2003).
Redhail v. Zablocki, 434 U.S. 378, 910 (1978).

EXECUTIVE SUMMARY

The petitioners in this case argue that there exists a fundamental right to refuse to wear a mask during the ongoing COVID-19 pandemic. The Commonwealth of Pennsylvania, the respondent in this case, enacted a statewide mask mandate in July 2020 in order to reduce the spread of the virus. Petitioners'

asserted right in this case does not fall into what the Supreme Court of the United States has upheld as a fundamental right. Even if the Court does find that there is a fundamental right to refuse to wear a mask, the Commonwealth's mask mandate meets both the pandemic regulation standard established in *Jacobson v. Commonwealth of Massachusetts* and strict scrutiny. *Jacobson* established a test that provides regulations are constitutional if they are (1). Enacted to promote public health and (2). Have a real and substantial relation to those promotions. The Commonwealth's mask mandate's express purpose is to prevent the spread of the virus, and mask-wearing has been shown to achieve that goal by covering the sources of the respiratory droplets that carry the virus. As such, the *Jacobson* standard is satisfied and the mask mandate withstands this constitutional challenge. Additionally, the mask mandate satisfies the standard of strict scrutiny. This model of review is applied to infringements of fundamental rights and consists of two parts: (1). The regulation must be in pursuit of a compelling government interest and (2). The means selected to achieve that interest must be narrowly tailored. Pennsylvania's mask mandate is meant to protect public health and is directed at the precise way that the virus is spread. Masks and face coverings provide a barrier between the areas of the face that produce respiratory droplets and others who may be vulnerable to breathing in those droplets. The mandate's goal and means of achieving that goal satisfy both parts of strict scrutiny and can withstand even the most rigorous constitutional model for review, even if it is found that there is a fundamental right to refuse to wear a mask.

ARGUMENT

I. The choice to wear or not wear a mask is not a fundamental right.

The petitioners in this case contend there is a fundamental right to refuse to wear a mask in public during a pandemic, and as such, that right must be protected by the State. The Constitution does not recognize a right to refuse to comply with state-mandated

public health measures to protect oneself and others from a contagious disease. Simply put, petitioners' asserted right in this case to refuse to wear a mask does *not* rise to the level of importance of other fundamental rights recognized by the Supreme Court. The Supreme Court of the United States has provided that a fundamental right is one that is "central to individual dignity and autonomy... [that] requires courts to exercise reasoned judgment in identifying interests of the person so fundamental that the State must accord them its respect." The process of identifying a fundamental right cannot be reduced to a formula and requires reasoned judgment by the Court, however "*history and tradition* guide and discipline this inquiry."¹ (emphasis added). While history and tradition do not set the outer limits of what can be defined as a fundamental right, petitioners' assertion is wholly unsupported by the Supreme Court: "The possession and enjoyment of all rights are subject to such reasonable conditions as may be deemed by the governing authority of the country essential to the safety, health, peace, good order, and morals of the community It is, then, liberty regulated by law."² Even when there is an infringement upon an individual's rights, those infringements may be justified under the circumstances which they were imposed. The people are sometimes asked to make small sacrifices or bear small burdens in order to protect some greater common interest such as national security or promotion of the general welfare because "citizenship has its responsibilities as well as its privileges and in time of war the burden is always heavier" and "we have seen more than once that the public welfare may call upon the best citizens for their lives. It would be strange if it could not call upon those . . . for these lesser sacrifices."³ The notion of being asked to sacrifice some liberty for the promotion of a larger goal is the basis of the Court's reasoning in *Jacobson*, and it should be the basis of the decision in the instant case as well. The petitioners' assertion that there is a fundamental right to refuse to wear a mask during a pandemic is categorically untrue.

The case on point in regards to the power of

the state government during a pandemic is *Jacobson v. Commonwealth of Massachusetts*. The plaintiff, in that case, refused to comply with a statewide vaccination mandate during an outbreak of smallpox. *Jacobson* argued "that a compulsory vaccination law is unreasonable, arbitrary, and oppressive, and, therefore, hostile to the *inherent right* of every freeman to care for his own body and health in such [*sic*] way as to him seems best." At 361 (emphasis added). *Jacobson* contends that the government's action infringed upon his right to make decisions about his health on his own volition, free from interference from the government. However, the Court reasoned that "the liberty secured by the Constitution of the United States to every person within its jurisdiction does not import an absolute right in each person to be, at all times and in all circumstances, wholly freed from restraint."⁴ The Court held in this case that Mr. *Jacobson* did not possess the right to flout public health regulations during a disease outbreak, and as such, it must not be protected the way fundamental rights are to be. The Supreme Court of the United States has recognized many important aspects of American life as being so fundamental to civil society that they must be afforded the protection of the State. Among these aspects are marriage, child custody, and the notion of "keeping the family together." (See *Loving v. Virginia*, 388 U.S. 1, 909 (1967) recognizing a fundamental right to marriage; *Stanley v. Illinois*, 405 U.S. 645, 930 (1972) provided that the right to custody of one's children may not be infringed without due process of law; *Moore v. City of East Cleveland, Ohio*, 431 U.S. 494, 938 (1977) determined that a city ordinance's definition of "family" was too narrow). None of these recognized rights involve a right to ignore state regulations regarding health and safety during a pandemic. The rights recognized in the above cases are *applicable* to many situations in which a state is regulating the people. The rights stated above are also premised on the fact that they are deeply rooted in the history and tradition of the United States. The right to marry "has long been recognized as one of the vital personal rights essential to the orderly pursuit

1. *Obergefell v. Hodges*, 135 S. Ct. 2584, 915 (2015).

2. *Crowley v. Christensen* 137 U.S. 86, 89 (1890), quoted in *Jacobson v. Commonwealth of Massachusetts*, 25 S. Ct. 358, 359 (1905).

3. *Korematsu v. United States*, 323 U.S. 214, 721 (1944); *Buck v. Bell*, 274 U.S. 200, 951 (1927). While the rules of law from *Korematsu* and *Buck* are being used in this brief to support the notion of the State mandating a sacrifice from the people to protect "the greater good," it should be noted that the holdings of both of these cases (internment of Japanese-Americans and the sterilization of the mentally ill, respectively) are reprehensible.

4. *Jacobson*, 25 S. Ct. 358, 359.

of happiness by free men,” custody rights cannot be “suppl[ie]d nor hinder[ed]” by the state, and keeping the family together has been recognized as a “basic value that underlies our society.”⁵ The right asserted by petitioners, that they do not have to wear a mask in public during a pandemic, is only applicable to the once-in-a-lifetime circumstances of the COVID-19 pandemic. If the right to refuse to wear a mask during a pandemic is recognized as a fundamental right by this Court, the next logical question is: where does it stop? Do surgeons have the right to refuse to wear a mask during surgery? Do people have a right to refuse to wear shoes in public? There is no basis for the right asserted by petitioners except for the fact that they are inconvenienced by the mandate. However, just because something is inconvenient does not mean that it deserves to be struck down by the Court.

II. Even if the court finds the infringement of a fundamental right, the Governor satisfies the *Jacobson v. Commonwealth of Massachusetts* pandemic standard.

A statewide mask mandate is, without a doubt, supported by both science and the Constitution. *Jacobson v. Commonwealth of Massachusetts* developed a test that is applicable to regulations made by a state during a pandemic before the development of other models of review such as strict scrutiny. A state regulation is unsupported by the Constitution if it has not “been enacted to protect the public health, the public morals, or the public safety, [and/or] has no real or substantial relation to those objects or is, beyond all question, a plain, palpable invasion of rights secured by the fundamental law.”⁶ Pennsylvania’s mask mandate meets this standard, and therefore should be upheld even if the right to refuse to wear a mask is determined to be a fundamental right. The pandemic

standard established in *Jacobson* is satisfied in the instant case because of the large amount of evidence showing that masks are effective means of mitigating the spread of the virus. COVID-19 is a virus that attacks the respiratory system, and as such it “spreads mainly from person to person through respiratory droplets These droplets can land in the mouths or noses of people who are near you or they may breathe these droplets in.” Masks have been shown to protect others and oneself from contracting the disease by placing a barrier between areas where respiratory droplets are released (the nose and mouth) and one’s surroundings.⁷ Thirty-eight states currently enforce mask mandates for public places in order to slow the spread of the disease as cases rise to 78 million nationally, affecting over two million Pennsylvanians, with deaths at over 900 thousand nationally, 42 thousand of which are Pennsylvanians.⁸ Public health experts largely support mask-wearing in order to mitigate community spread of the disease: “Masks are now recognized as one of the most effective available tools to mitigate the spread of COVID-19. This intervention decreases transmission of the coronavirus and is a readily scalable measure to ensure the public’s health.”⁹ Statewide mask mandates have been put in place for the sole purpose of protecting the public health, a power which falls squarely within a State’s police power to protect the health, safety, and welfare of its citizens. The Supreme Court “has distinctly recognized the authority of a state to enact quarantine laws and ‘health laws of every description;’ indeed, *all laws* that relate to matters completely within its territory” Pennsylvania’s mask mandate clearly falls within the definition of “health laws of every description” and relates only to matters within the territory of the Commonwealth. It is beyond question that the mask mandate was enacted in order to protect the public health and safety and has a real and sub-

5. *Loving v. Virginia*, 388 U.S. 1, 909 (1967); *Stanley v. Illinois* 405 U.S. 645, 930 (1972); *Moore v. City of East Cleveland*, 431 U.S. 494, 938 (1977).

6. *Ibid.*

7. “*Considerations for Wearing Masks*,” *Coronavirus Disease 2019 (COVID-19)*, Center for Disease Control and Prevention (CDC), accessed December 7, 2020, <https://www.hill.af.mil/Portals/58/documents/Corona%20Virus/WearingMasks.pdf>.

8. Andy Markowitz, “State-by-State Guide to Face Mask Requirements,” AARP, last modified March 14, 2022, accessed December 17, 2020, <https://www.aarp.org/health/healthy-living/info-2020/states-mask-mandates-coronavirus.html>; “United States Coronavirus Cases,” Worldometer, <https://www.worldometers.info/coronavirus/country/us/>; “Pennsylvania Coronavirus Cases,” Worldometer, <https://www.worldometers.info/coronavirus/usa/pennsylvania/>.

9. Rebekah E. Gee and Vin Gupta, “Mask Mandates: A Public Health Framework For Enforcement,” *Health Affairs Forefront* (blog), October 5, 2020, <https://www.healthaffairs.org/doi/10.1377/forefront.20201002.655610>.

stantial relation to that goal because of the amount of evidence providing that masks do, in fact, reduce the spread of COVID-19. It may be true that one possesses a right to care for one's own health as one chooses, but that right does *not* supercede the rights of others to be secure in their health and does *not* entail the ability to disregard state actions that fall squarely within the police power to regulate the health, safety, and welfare of citizens. The Supreme Court "has more than once recognized it as a fundamental principle that 'persons and property are subjected to all kinds of restraints and burdens in order to secure the general comfort, health, and prosperity of the state.'"¹⁰ As stated in the first section of this argument, it is a settled principle that the State may, in certain circumstances, ask the people to make a sacrifice or bear a burden in order to protect the citizenry as a whole. The COVID-19 pandemic is one of these circumstances and, as such, the State may ask the people to temporarily sacrifice the comfort and freedom to be in public without a mask in order to protect themselves and others from the virus. The mask mandate satisfies *Jacobson's* test because the law is substantially related to the protection of the public's health. As such, even if one does possess a fundamental right to refuse to wear a mask, the standard for regulations during a pandemic is met and therefore the mask mandate withstands constitutional challenge.

III. Even if the court finds the infringement of a fundamental right, the Governor satisfies strict scrutiny.

Pennsylvania's mask mandate can withstand even the most "fatal" constitutional challenge. Strict scrutiny is the model for review used by the Court in circumstances of specific types of discrimination or infringement of a fundamental right. The model was first utilized in *Korematsu* when deciding whether or not restrictions on the movement of Japanese-Americans during World War II was constitutional.¹¹ The test consists of two parts: (1). Is the government's regulation

in pursuit of a compelling government interest? (2). Is the means selected to pursue that interest narrowly tailored to accomplishing it? Pennsylvania's mask mandate is both in pursuit of a compelling governmental interest and is narrowly tailored to achieve that goal.

It is a compelling interest of the government to protect its citizens from catching and spreading a deadly disease. According to the text of the order itself, the purpose of the mask mandate is to "protect the public from the spread of COVID-19," which, as described in the prior section of this brief, has claimed the lives of more than 300,000 Americans and 13,000 Pennsylvanians.¹² Protecting the public from a disease as contagious and deadly as this virus rises to the level of importance of other assertions by governments that have been upheld by the Court as a "compelling government interest." The Court has determined that matters such as protecting national security and promoting diversity in schools are compelling enough government interests to justify an infringement upon a fundamental right.¹³ The proliferation of this virus through the country and the state of Pennsylvania, and the amount of harm that it has caused, amounts to a threat of national security. Respondents in this case are simply trying to protect the people of this Commonwealth from the enemy that is COVID-19. The police powers of the states already empower state governments to enact laws promoting the health, safety, and welfare of the people. The police powers of the state combined with the special circumstances of a virus killing more Americans than those killed in the Vietnam War make it especially compelling that the state be allowed to enact this mask mandate.¹⁴ Protecting Pennsylvanians from spreading or contracting a deadly disease is a compelling interest of the government and satisfies the first part of the strict scrutiny test.

A statewide mask mandate is the most effective and the most narrowly tailored to the government interest stated above. As discussed in the above section, the virus is transmitted through respiratory droplets

10. *Jacobson*, 25 S. Ct. 358, 359.

11. *Korematsu*, 323 U.S. 214, 721 (1944).

12. Rachel Levine, *Order of the Secretary of the Pennsylvania Department of Health Requiring Universal Face Coverings*, Pennsylvania Department of Health (Jul. 1, 2020).

13. *Ibid.*; *Grutter v. Bollinger*, 539 U.S. 306, 807 (2003).

14. "America's Wars," Office of Public Affairs, Department of Veterans Affairs, May 2021, https://www.va.gov/opa/publications/factsheets/fs_americas_wars.pdf.

that are produced from the *nose and mouth*, both of which are covered by a mask or other face covering. The mask creates a barrier that prevents an infected person from spreading those droplets to others and a non-infected person from breathing in those droplets. A mask mandate for public spaces directly targets how the virus is spread from person to person and has been proven to reduce community transmission. It is more narrowly tailored than general social distancing measures, such as six-foot distancing markers in stores or hand sanitizer dispensers, *because* it is in direct relation to how the virus is transmitted. In order to meet strict scrutiny, it must be proven that the means selected to achieve the compelling government interest are the least restrictive possible. The Court has held that some means to compelling ends, such as ensuring that child support is paid or avoiding overcrowding in public schools, are not the least restrictive and therefore are unconstitutional.¹⁵ (A Wisconsin law prohibited marriage under circumstances where a member of the couple was responsible for child support payments from a previous marriage.¹⁶ A city housing ordinance limited the definition of “family” to only the nuclear family.) In the instant case, a mask mandate is without a doubt the least restrictive means to achieving the compelling interest of protecting the public’s health, and it is narrowly tailored to achieving this end. Other, less restrictive means of preventing the spread of the virus do not adequately achieve the end asserted by the respondents. Encouraging people to stay home, remain at a six-foot distance from others, and discouraging socialization do not mitigate the spread as effectively as mandated mask-wearing because they do not directly target the source of the virus. For example, Florida is one of the twelve states that does not have a mask mandate and has implemented almost no restrictions whatsoever as the state government allows “bars, restaurants, theaters and theme parks to operate at full capacity. [And the governor] has vowed the state would never again implement lockdowns.”¹⁷ While this has allowed Florida’s economy to continue to heal, there are currently 1.2 million cases in the state and 20 thousand deaths.¹⁸ Simply telling people

that the virus is dangerous is not enough to actually <https://www.arcgis.com/apps/dashboards/2c9ba0a8d-6374555bc4bc620be916bae>. achieve the goal of protecting citizens from it, and this is clear from Florida’s laissez-faire approach. On the other hand, mask-wearing has been proven to reduce the spread of the virus, as explained in the previous section of this argument, and actually allows citizens to safely grocery shop or work in an office space. It is less restrictive than a complete lockdown as what was seen in the early months of the pandemic, but more effective than an approach such as Florida’s. Taking into account how dangerous this virus is and how other, less-restrictive approaches simply do not work, a mask mandate is the least restrictive means of achieving the goal of protecting public health. Pennsylvania’s mask mandate is the least restrictive, most effective, and most narrowly tailored measure in order to prevent the spread of COVID-19.

15. *Redhail v. Zablocki*, 434 U.S. 378, 910 (1978).

16. *Moore v. City of East Cleveland, Ohio*, 431 U.S. 494, 938 (1977).

17. Arian Campo-Flores, “As COVID-19 Surges, Florida Sticks to No Statewide Restrictions,” *Wall Street Journal*, November 17, 2020, <https://www.wsj.com/articles/as-covid-19-surges-florida-sticks-to-no-statewide-restrictions-11605625421>.

18. “Florida COVID-19 Data Surveillance Dashboard,” USF Libraries, Florida Department of Health, accessed December 18th, 2020.

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Wings of Change: A Visual and Cultural Analysis of *Mujer Ángel*

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In the middle of the twentieth century, Mexico sought to reestablish its national identity. Following on the heels of the Mexican Revolution, an extended period of social upheaval and regional conflicts that transformed the country, artists and visionaries alike struggled to determine how the reborn nation would distinguish itself. While many movements in this period looked towards the future and sought utopia, there was one which concentrated instead on exploring the precolonial past and distilling the essence of "Mexicanity" from there. This movement was known as the *Mexicanidad* in Spanish; or, in the precolonial Nahuatl language, the *Mexicayotl*. In particular, the *Mexicanidad* believed that surviving indigenous civilizations had maintained a cultural identity which was independent of and reclaimed from the aggressive industrialization and *de facto* despotism that preceded the revolution, and thus ought to serve as a template for Mexico's modern identity.



Figure 1: Graciela Iturbide, *Mujer Ángel*, 1979

This template was created through the documentation of populations, specifically through the medium of photography. There were two primary

perspectives that informed the creation of these photographs: the anthropological approach, which sought to understand and evaluate indigenous cultures, and the artistic perspective, which elevated a more romantic interpretation of the culture. One such image that reflects this conflict is *Mujer Ángel* (1979), by Graciela Iturbide, which depicts a woman from the Seri community crossing the Sonoran Desert in a mimicry of flight (fig. 1). In *Mujer Ángel*, Iturbide relies on the dynamic interplay of foreground and landscape, a contrast of the traditional and the modern, and a timeless atmosphere to capture the paradox of the Seri people in the contemporary era. Just as her photograph demonstrates juxtaposition, so does its dueling function as both a piece of anthropological documentation and artistic expression.

Predominant interpretations of *Mujer Ángel* align to either the anthropological or artistic category, and thus assign either a documentarian or expressive interpretation to the image. There is rarely a synthesis between the two, which makes it an anomaly in the larger scholarship of Iturbide. The prevailing consensus is that Iturbide's works focus upon intellectual and spiritual life, instead of cultural life; thus, Iturbide's works are inclined towards artistic, rather than anthropological, expression.¹ Any incongruencies between the artistic majority and *Mujer Ángel's* themes are attributed to the fact that it is an earlier work, and Iturbide had only just begun to explore whether she wanted to practice magical realism—an artistic genre popular in Latin culture that combines naturalism with surrealism, or engages in a more socially oriented photographic style.² *Mujer Ángel*, however, suggests that there was no intent to create diametric opposition between these two approaches. For this reason, an intervention within the scholarship is necessary to demonstrate how respective interpretations work together to convey the theme of the photograph.

In order to understand the intent behind the image, it is crucial to first examine the image itself. *Mu-*

1. Ratik Asokan, "Charting the Inner Landscape," *Art in America* 107, no. 6 (June 2019): 37.

2. Nathaniel Gardner, "Visual Witness: A Critical Reading of Graciela Iturbide's Photography," *Studies in Latin American Popular Culture* 35 (January 2017): 174-75.

jer *Ángel* is oriented along a landscape, with the far-off mountain range serving as a lowered horizon line. The lowered horizon aggrandizes the female figure as she struggles across the rocky outcropping; the title of the photograph plays into this mythologizing by declaring her the “Angel Woman.” Such dramatization plays into the happenstance of the image’s creation. Iturbide reports that she was entranced by the woman and captured the image in an instant, rather than through preparation and positioning, thereby making the image “like a gift life gave.”³ The effortless serendipity enhances the idea that the image is miraculous and that its subject matter exceeds mundane ken.

Furthering this sensation that *Mujer Ángel* is not confined to reality is its apparent timelessness. The central figure is wearing a traditional Seri dress, but she bears a cassette player that Iturbide recalls as playing contemporary music. To the uninitiated, this appears to be incongruous: the Seri were lauded as a society independent of colonial influence. To imply that they were solely mired in the past deprives them of the very autonomy represented in *Mujer Ángel*. Some modernization was practical and necessary to survive, although it had been hastened by the intervention of the Mexican government in the immediate aftermath of the Mexican Revolution. Iturbide’s image, therefore, “endeavors to transcend the image of the worthy *pelado*.”⁴ The *pelado*, or pauper, narrative was a pre-*Mexicanidad* belief that indigenous populations lacked the ability to develop or flourish on their own. In depicting the falsity of this belief with the reality of the Seri woman, Iturbide indirectly challenges the condescension towards indigenous peoples.

The atmospheric timelessness of the image further enhances its credibility and juxtaposition. *Mujer Ángel* is monochrome, thus making it more difficult to identify at which point in Mexican history the image was taken. This is a deliberate choice by many of the photographers of the *Mexicanidad*, who took inspira-

tion from Dorothea Lange’s rhetorical reportage of the Great Depression and imbued their own images with a similar narrative.⁵ As with rhetorical reportage, the monochrome appearance of *Mujer Ángel* emphasizes the solemnity of the image, while also crafting an illusion of impartiality.⁶ The solemn implications of the atmosphere state that the Seri way of existence is a reality but whose reality that is, and the point at which it occurs, is left for the audience to discern.

The way in which Iturbide allows the audience to determine the Seri’s ambiguous reality speaks to the historical context of the time. As aforementioned, there was a revived interest in documenting indigenous cultures. The intellectuals of the *Mexicanidad* were often upper middle class, with connections to the government, and were thus far removed from the plight of the Seri. Documentarian efforts sought to establish a commonality between the average Mexican citizen and the indigenous populations. One of the most frequently used mediums to accomplish this goal was photography, specifically of women. It is fitting, then, that Iturbide’s first solo project was part of the *Mexicanidad*, as her areas of interest included the intersection of womanhood and national identity. *Mujer Ángel* embodies this as part of the study *Los que Viven en la Arena (Those Who Live in the Sand)*, which was a photographic series Iturbide completed alongside anthropologist Luis Barjau.⁷ *Los que Viven en la Arena* would go on to be one of the primary constructions of local Seri identity in the global culture (the anthropological intent), as well as the start of a recurring motif in Iturbide’s work, which is that reality is relational to the individual viewer (the artistic intent).

Viewing *Mujer Ángel* through the former, anthropological lens means synthesizing its artistic elements with the broader cultural mores of the time. While the image itself is enigmatic and creative in its appearance, the narrative that surrounds it is inextricable from sociological curiosity.⁸ The aforementioned

3. Ramón Reverté, “Graciela Iturbide: Dreams and Visions,” *Aperture*, no. 236 (Fall 2019): 30.

4. Marina Pérez de Mendiola, “Mexican Contemporary Photography: Staging Ethnicity and Citizenship,” *Boundary* 231, no. 3 (Fall 2004): 140.

5. Mary David MacNaughton et al., *Revolution and Ritual: The Photographs of Sarah Castrejón, Graciela Iturbide, and Tatiana Parceró* (Los Angeles: Getty Publications, 2017), 15.

6. Asokan, 39.

7. Deborah Dorotinsky, “It is Written in Their Faces: Seri Women and Facial Painting in Photography,” in *Visual Typologies from the Early Modern to the Contemporary: Local Contexts and Global Practices*, ed. Tara Zanardi and Lynda Klich (New York City: Routledge, 2019), 166-82.

8. Stanley Brandes, “Graciela Iturbide as Anthropological Photographer,” *Visual Anthropology Review* 24, no. 2 (November 2008): 96.

indigenous tribes of Mexico were considered to be paragons of Pre-Colombian culture, and the exaltation of their livelihoods functioned to codify national identity. Such beliefs drew upon the avant-garde tradition of *indigenismo*, an ideology that arose in the waning days of the Mexican Revolution, and which placed its emphasis on the balance of power between indigenous populations and the state. Notably, however, the anthropology of the *Mexicanidad* did not reject the tensions of *mestiza* (mixed) identity, unlike *indigenismo*. Instead, the *Mexicanidad* revealed an interest in how pure indigeneity can survive modernity. Civilizations that maintained precontact traditions were “by no means a common occurrence in Mexico, nor in any other Latin American countries that had significant indigenous populations.”⁹ Both the rarity of their traditionality and their position as the last remnants of precontact civilization led the Seri to be placed on a pedestal. By exalting the Seri to such a degree, a stringent anthropological or artistic understanding of the culture risks an erroneous presentation of the people; a synthetic approach, such as Iturbide’s, minimizes such reductivity.

This reduction of the Seri to a traditional culture is not entirely accurate. In the companion text for *Los que Viven en la Arena*, the Seri are depicted as familiar with modernization. During their time enmeshed with the Seri, Iturbide and Barjau observed that “far from constituting a remote, isolated tribe, [the Seri] evidently lived, in part, from tourism.”¹⁰ As such, the presence of the radio cassette player in the hands of *Mujer Ángel*’s subject helps to dispel the mystique that surrounds the Seri. The paradox between the public perception of the Seri and their cultural reality is further emphasized when the origin of the seemingly traditional clothing is explored. It was born out of late nineteenth-century suppositions on what the indigenous Seri would have worn and thus serves to emphasize both the myth of tradition and the reality of modernization.¹¹ *Mujer Ángel*, therefore, ful-

fills an ethnographic purpose through its characterization of cultural customs in the midst of rapid change. It is a reality of acculturation and progress, albeit not the sole reality.

Figure 2: Graciela Iturbide, *Nuestra Señora de las Iguanas*, 1979

Interwoven between anthropology and Iturbide’s artistic intent is the concept that reality is relative. Her stated ethos is that “photography is not truth. The photographer interprets reality, and, above



all, constructs his own reality according to his own awareness or his own emotions.”¹² Judging by this statement, the concept of *Mujer Ángel* as an anthropological image alone is made suspect. The timeless unreality of the image, with its monochromatic juxtaposition of the traditional and the modern, is a characteristic that would come to define many of Iturbide’s later works. Although Iturbide argues that “time is of secondary importance” to her, in comparison to motion, the majority of her images highlight chronological uncertainty in indigenous angels.¹³ A compa-

9. “De ninguna manera está una ocurrencia común en México o en ninguno de los demás países Latinoamericanos que cuentan con poblaciones indígenas considerable.” David Foster, “Género y Fotografía en *Juchitán de las Mujeres* de Graciela Iturbide,” *Ámbitos: Revista de Estudios Sociales y Humanidades* 11 (2004): 63. All English translations are the author’s own unless otherwise stated.

10. Luis Barjau and Graciela Iturbide, *Los que Viven en la Arena* (México: INI-Fonapas, 1981): 54.

11. Brandes, 97.

12. Graciela Iturbide, “Interpreting Reality,” *World Literature Today* 87, no. 2 (March/April 2013): 121.

13. Fabienne Bradu, “Graciela Iturbide habla con Fabienne Bradu,” in *Conversaciones con Fotógrafos* (Madrid: La Fábrica y Fundación Telefónica, 2003), 55-56.

able work to *Mujer Ángel* would be *Nuestra Señora de las Iguanas* (1979) (fig. 2), taken within the same timeframe as *Mujer Ángel* and addressing a related topic: the indigenous Zapotec culture of Juchitán. A comparison of the two images reveals similar thematic approaches in different contexts. *Mujer Ángel* plays on the folkloric motif of a lone, melancholic woman wandering the desert as either a portent of the future or a stark reminder of the past, while *Nuestra Señora de las Iguanas* draws upon the iconography of the semi-legendary Iguana King to convey a sense of nobility upon its female subject.¹⁴ In both instances, Iturbide employs an artistic approach, such as visual motifs, to explore the nature of the indigenous culture that she has studied.

Iturbide's employment of folklore and temporal ambiguity would, at first glance, appear to be simply artistic. They work, however, to fulfill an anthropological purpose by representing the uncertain position that the Seri experienced in society. Folklore is brought into the modern age, just as the images appear to be suspended in time, and therefore the audience is forced to realize that the Seri, perhaps reflecting Mexico as a whole, cannot exist when torn between tradition and modernization, but must synthesize them in order to survive. The integration of art and self-examination would recur throughout Iturbide's catalogue, but it owes its origins to *Mujer Ángel*.

Furthering this integration is how Iturbide's artistic approach to *Mujer Ángel* is almost ritualistic in its ephemerality. Iturbide once stated that she was inspired by her dreams to seek out birds; notably, birds have a symbolic nature in Latin American culture as both couriers of dreams and harbingers of death.¹⁵ Although there are no birds evident in *Mujer Ángel*, the figure herself is poised on the edge of the desert, her

arms extended as if in preparation for flight. Through her usage of monochrome colors, Iturbide overlays the woman with a cool tone and thus adds to the work's ominous nature. Despite its divine name, the flighty *Mujer Ángel* becomes as equally evocative of trepidation as it does freedom. It is an artistic decision, yet is also representative of where the Seri were at that moment in history: balanced on the edge of assimilation into modernity, while also embodying a rich cultural legacy. Whether that balance is angelic or inauspicious is a reality that Iturbide leaves for the viewer to interpret.

The various and versatile meanings of *Mujer Ángel* illuminate the inherent plurality of the photographic medium, and illustrate how one interpretation is no less accurate than the other. Due to both the documentarian conditions of its creation and the almost spiritual intent behind it, *Mujer Ángel* encapsulates the fluidity and uncertainty of national, local, and personal identity during the *Mexicanidad* movement. In doing so, Iturbide's artistic endeavors fulfill an anthropological examination of cultural dominance and "the schism which [is produced by] living between two antagonistic reference systems," with the antagonism arising from a desire to return to the past while needing to establish a unified future.¹⁶ By addressing, however indirectly, this cultural dissidence, Iturbide has opened avenues for artistic and anthropological truths to coexist alongside one another, rather than in opposition. Therefore, *Mujer Ángel* serves the *Mexicanidad* as part of the "civil contract of photography," where viewers, or "visual citizens," all hold some degree of interpretive control over the image, insofar as the individual interpretation reflects back upon the culture.¹⁷ The reflexivity and multiplicity is further emphasized by Iturbide herself. Iturbide often characterized her approach as creating useful art that captures an existing

14. Graciela Iturbide and Judith Keller, *Iturbide: Juchitán* (Los Angeles: J. Paul Getty Museum, 2007): 8. Published to accompany the exhibition *The Goat's Dance: Photographs by Graciela Iturbide*, held at the J. Paul Getty Museum, December 18, 2007-April 13, 2008.

15. Sharon Kennedy, "Seasonal Celebrations, Daily Life: Photographs by Graciela Iturbide," *Sheldon Museum of Art Catalogues and Publications* 64 (2007): 2.

16. "Graciela Iturbide suscita una reflexión que rebasaría las circunstancias específicas de esa comunidad: trata de las subsistencia de unos sistemas culturales dentro de otros que ejercen una posición dominante y de la escisión que produce vivir inmersos entre dos sistemas de referencias casi antagónicos." Lucas Esteban Lorduy Osés, "Fotógrafas Mexicanas: Imágenes de Disidencia y Empoderamiento," *Espacio, Tiempo, y Forma* 5 (2017): 347.

17. Gardner, 175.

spirit, rather than making any overt efforts to change the world.¹⁸ Similarly, the intent of an ethnography, even a visual one, is to capture a culture at a moment in time, such as the transitory period between tradition and modernity, rather than to force a culture to change. The separation between art and anthropology, or intent and condition, is not as distinct as would initially appear.

Contrast is the defining characteristic of *Mujer Ángel*, but contrast does not necessarily require conflict. Just as the various juxtaposed elements of the image enhance the viewing experience to draw the audience in, the diametrically opposed dialogue that surrounds *Mujer Ángel*'s purpose provokes a consideration all its own. The Seri woman appears caught between the flow of time, just as Mexico was, and yet she seeks her freedom without compromising her identity—the same could be said of the *Mexicanidad*. What occurs within the photograph can be considered a microcosm of what occurs without it, especially when the artist's intent is accounted for alongside the visual elements. Indeed, Iturbide adopts visual and contextual disjunction, before harmonizing this disjunction into self-expression and cultural critique, all without adhering to a singular meaning. It is therefore not only possible, but preferable, to view *Mujer Ángel* as both a representation of Iturbide's intent and the Seri spirit, as well as a commentary on the greater cultural condition of Mexico. Synthesis, not disparity, is the cornerstone to understanding and appreciating such a complex image.

18. Graciela Iturbide, *Eyes to Fly With: Portraits, Self-Portraits, and Other Photographs* (Austin: University of Texas Press, 2006), 34.

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