A black handgun is hanging from a tree trunk by a rope. A dark jacket is also hanging from the tree. The background is a desert landscape with mountains in the distance.

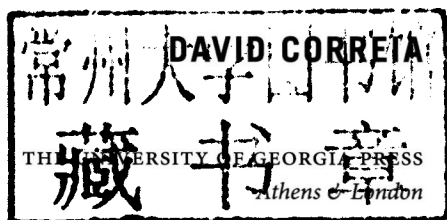
Properties of Violence

LAW AND LAND GRANT STRUGGLE IN
NORTHERN NEW MEXICO

DAVID CORREIA

Properties of Violence

LAW AND LAND GRANT STRUGGLE
IN NORTHERN NEW MEXICO



© 2013 by the University of Georgia Press

Athens, Georgia 30602

www.ugapress.org

All rights reserved

Designed by Walton Harris

Set in 10/13 Minion Pro

Printed and bound by Sheridan Books, Inc.

The paper in this book meets the guidelines for permanence and durability of the Committee on Production Guidelines for Book Longevity of the Council on Library Resources.

Printed in the United States of America

17 16 15 14 13 P 5 4 3 2 1

Library of Congress Cataloging-in-Publication Data

Correia, David, 1968–

Properties of violence : law and land grant struggle in northern New Mexico / David Correia.

p. cm. — (Geographies of justice and social transformation ; 17)

Includes bibliographical references and index.

ISBN-13: 978-0-8203-3284-0 (hardcover : alk. paper)

ISBN-10: 0-8203-3284-4 (hardcover : alk. paper)

ISBN-13: 978-0-8203-4502-4 (pbk. : alk. paper)

ISBN-10: 0-8203-4502-4 (pbk. : alk. paper)

1. Land grants—Law and legislation—New Mexico—Tierra Amarilla—History. 2. Alianza Federal de las Mercedes. 3. Tierra Amarilla (N.M.)—History. I. Title.

KFN4055.C67 2013

333.309789'52—dc23

2012034306

British Library Cataloging-in-Publication Data available

Properties of Violence

GEOGRAPHIES OF JUSTICE AND SOCIAL TRANSFORMATION

SERIES EDITORS

Deborah Cowen, University of Toronto

Nik Heynen, University of Georgia

Melissa W. Wright, Pennsylvania State University

ADVISORY BOARD

Sharad Chari, London School of Economics

Bradon Ellem, University of Sydney

Gillian Hart, University of California, Berkeley

Andrew Herod, University of Georgia

Jennifer Hyndman, York University

Larry Knopp, University of Washington, Tacoma

Heidi Nast, DePaul University

Jamie Peck, University of British Columbia

Frances Fox Piven, City University of New York

Laura Pulido, University of Southern California

Paul Routledge, University of Glasgow

Bobby Wilson, University of Alabama

For Toni, Willa, and Harper

ACKNOWLEDGMENTS

MOST ACKNOWLEDGMENTS, PARTICULARLY ONES written for scholarly books, start with something about how writing a book takes the support of a lot of people. It's true, of course, and I have plenty of people to thank and debts I can't possibly repay. But in writing this book I learned something else about this work. It can be awfully lonely. It requires months combing through archives alone; untold afternoons and evenings reading books, articles, and reports in seclusion; years drafting chapters behind a desk and a closed door; even more time revising, editing, and then revising again. And it's all done alone. Writing is a lonely thing indeed. Thankfully, along the way, I've had the privilege and joy of meeting, befriending, and benefiting from the companionship and help of some amazing friends, activists, and scholars.

Nik Heynen is an inspiring scholar and activist and the series editor for the *Geographies of Justice and Social Transformation* series, of which this book is a part, at the University of Georgia Press. This project would never have seen the light of day without Nik's interest in my work.

My colleagues in the Department of American Studies at the University of New Mexico have been nothing but supportive and inspiring. Amy Brandzel, Jennifer Denetdale, Alyosha Goldstein, Laura Gomez, Rebecca Schreiber, Michael Trujillo, Alex Lubin, Gabriel Meléndez, Vera Norwood, Irene Vasquez, Gerald Vizenor, and Peter White constitute an inspiring and wonderful faculty. In particular, I've had many conversations about this book with Alex. He's a good friend and a great scholar, and I hope this work reflects the kind of rigorous, politically committed scholarship that he practices. Alyosha and Rebecca have become good friends and mentors, and this book is better because of them. Special thanks to the chair of the department, Gabriel Meléndez. I've also had the good fortune to work with some fantastic graduate students at UNM, particularly Berenika, Miles, Sam, and Summer, whose intelligence and intellectual curiosity I greatly admire.

Beyond the Department of American Studies, I'm lucky to have colleagues at UNM like the folks in geography, particularly Mindy Harm Benson, Scott Freundsuh, and Maria Lane. Kate Lenzer did terrific cartographic work. The maps are her accomplishment. Bill Fleming, David Henkel, and Teresa Cordova in community and regional planning are old friends and mentors.

Thanks to Matt McCourt, Brad Dearden, and Cathleen McAnneny from the University of Maine, Farmington. Jennifer West and the *Santa Fe New Mexican* were generous in permitting me to use their photos in the book.

This book has benefited from the support and encouragement of friends and colleagues. I owe a debt of gratitude that I'll never be able to repay to Kay Matthews. She read and commented on every sentence that appears in this book, and it's better because of her. Andy Doolen carefully read several chapters. He's a great scholar and a great writer with the all-important critical eye. I always turned to him when I needed a tough appraisal. Jake Kosek's work and support have been an inspiration. He has been a friend and a cheerleader for this project. Lorena Oropeza is an incredibly generous and brilliant scholar and great friend. At least twice along the way, she sat me down, and together we mapped out a way to complete this book. Derek Krissoff at the University of Georgia Press has been remarkable for his patience and confidence in this project. Thanks also to Tad Mutersbaugh, who has served as a mentor of incomparable generosity. I learned from watching Tad that good scholarship, like so much else in life, is about putting in the hard work, every day, all the time. You need a few good ideas too, and Tad has those in spades. I hope this book rises to the level he expects of me.

Thanks to many current and former New Mexicans: David Benavides, Ike DeVargas, Em Hall, (honorary New Mexican) Eric Perramond, Richard Rosenstock, Jakob Schiller, Eric Shultz, and the late, great Mark Schiller.

I've presented portions of this project over the years at conferences of the Association of American Geographers, the Critical Geography Conference, and the Western Social Science Association, and at invited lectures and seminars at the Office of the New Mexico State Historian, the UNM history department lecture series, the UNM geography department colloquium, the University of Kentucky geography colloquium and the Environments and Societies workshop at the University of California, Davis. I thank Felipe Gonzalez, Matt Huber, Mazen Labban, Paul Matthews, Richard Nostrand, Rich Schein, Louis Warren, Diana Davis, Jody Emel, Jonathon London, Gavin Bridge, Saed Engel-DiMauro, John Hintz, former state historian Robert Torrez, and many others, for comments, conversations, or close reads at those and other events.

Thanks to my sister-in-law, Liz Bisbey-Kuehn, and my mother-in-law, Gretchen Kuehn, for their support, often in the form of child care, and encouragement. My sisters, Amy and Alison, and my parents, Robert and Elisa: thanks for your love and support.

I've spent months in archives all over New Mexico. Nancy Brown-Martinez, Beth Silbergleit, and Ann Massmann at the Center for Southwest Research at

the University of New Mexico are terrific at what they do, and I'm grateful for their support on this project. The beleaguered staff at the New Mexico State Records Center and Archive in Santa Fe have suffered budget cuts and staff shortages and yet still manage the Sisyphean task of smoothly running a remarkable repository of New Mexico history. Many thanks also to the staffs of Fray Angélico Chávez Library in Santa Fe, the National Archives and Records Center in Denver, and the Rio Grande Archives at New Mexico State University in Las Cruces.

This project would not have been possible without the financial support of a number of institutions. Tobias Duran of the Center for Regional Studies at the University of New Mexico generously provided funding to hire a graduate student to transcribe interviews and help translate documents. Patricia Perea was the hard-working student who did just that. Former New Mexico state historian Estevan Rael-Gálvez and former assistant state historian Dennis Trujillo supported this project from the very beginning with money and enthusiasm. New Mexico is a better place for having had such sharp, dynamic, and creative leaders running the Office of State Historian.

Parts of chapter 5 were included in "Rousers of the Rabble' in the New Mexico Land Grant War: Alianza Federal de Mercedes and the Violence of the State" (*Antipode* 40 [2008], 561–583). I received helpful feedback on this chapter from Melissa Wright and two anonymous reviewers. A section of "Making Destiny Manifest: United States Territorial Expansion and the Dispossession of Two Mexican Property Claims, 1824–1899" (*Journal of Historical Geography* 35 [2009], 87–103), appears in chapter 2. Graeme Wynne and two anonymous reviewers helped improve this article.

All that work, however, means, of course, that the price for this project has been paid largely by my family. I've dragged my wife, Toni, and our two beautiful daughters, Willa and Harper, from family and friends on multiple occasions as we've moved all over the United States. By the time we landed back in New Mexico in 2008, Willa and Harper had lived in four states, attended five schools, and moved in and out of six houses in seven years. Toni left her family, twice, and had to find, and quit, five jobs. They allowed me to disrupt their lives so that I could write this book. And they gave me this gift willingly (well, Willa was pretty mad about leaving Maine). This book is for them.

Properties of Violence

CONTENTS

	List of Illustrations	<i>ix</i>
	Acknowledgments	<i>xi</i>
INTRODUCTION	Property and the Legal Geographies of Violence in Northern New Mexico	1
PROLOGUE	Yellow Earth	15
CHAPTER 1	Colonizing the Lands of War	28
CHAPTER 2	“Under the Malign Influence of Land-Stealing Experts”	47
CHAPTER 3	The Night Riders of Tierra Amarilla	69
CHAPTER 4	An Unquiet Title	84
CHAPTER 5	The New Mexico Land Grant War	120
CHAPTER 6	Terrorists and Tourists in Tierra Amarilla	146
EPILOGUE	Rare Earth	167
	Notes	181
	Bibliography	207
	Index	215

ILLUSTRATIONS

William F. M. Arny	42
Map of El Rancho del Poso	89
Map of the Brusselbach Ranch	96
Map of the Mundy Ranch	107
“No trespassing” sign erected by La Corporación de Abiquiú	127
Colonia Mejicana ad	132
Handcuffed José María Martínez being led into the Tierra Amarilla jail	138
Tijerina after his arrest following the courthouse raid	139
The official FBI “Rabble Rouser Index” form for Tijerina	141
Amador Flores during a court hearing	161
Amador Flores and his son, Vincent Flores	162
Rafael Flores reacting to news about his son’s legal issues	163
Sign with image of Zapata along the road into Tierra Amarilla	165
Entry gate to Canyon Ridge	168
View north from Canyon Ridge over the Cañon Creek Gorge	170
View east from Canyon Ridge development	171
Trail sign marking the site of Shepherd’s Monument	172
Map of the Jicarilla Apache land acquisition	179

INTRODUCTION

Property and the Legal Geographies of Violence in Northern New Mexico

WHEN SPAIN IN THE SEVENTEENTH CENTURY and later Mexico in the early nineteenth century pushed colonial settlements north into lands controlled by powerful Indian nations in what is today northern New Mexico and southern Colorado, they did so by distributing millions of acres in scores of large common property land grants to landless sheepherders and agriculturalists. Over the course of more than two hundred years, Spain and Mexico launched thousands of settlers into a remote territory dominated by the Utes, the Navajo, the Comanches, and the Apaches. Colonial administrators did this because they viewed these borderland settlements as human shields that could guard valuable mining regions south of Santa Fe from powerful Indian nations.

When all of what is today the state of New Mexico was made part of the United States following the end of the U.S.-Mexican War in 1848, the United States agreed to recognize these land grants as preexisting property rights. Despite guarantees enshrined in the war-ending treaty, the late nineteenth century in New Mexico was a chaos of land speculation marked by dubious legal decisions that contributed to the dispossession of millions of acres of Spanish and Mexican common property land grants.

The history of the loss of common property land grants in northern New Mexico was largely unknown until the late 1960s, when Chicano activists and the heirs of numerous land grants came together to form an organization called La Alianza Federal de Mercedes. Alianza rejected the then commonly held notion that the only lands lost during the period of postwar property adjudication were illegitimate claims. Instead they advanced the explosive idea that millions of acres were stolen outright from legitimate owners and that the United States government was complicit in this wholesale property dispossession. The charismatic leader of Alianza, Reies Lopez Tijerina, organized the group through a series of provocative tactics. He threatened to seize private lands from ranchers, organized sit-ins on former land grants controlled by the U.S. Forest Service—an agency he described as an occupying force in New

Mexico — and attempted to make citizen's arrests of prominent political figures, including Warren Burger, the chief justice of the U.S. Supreme Court.

His tactics and rhetoric resonated with the thousands of living land grant heirs who populated scores of tiny hamlets and villages in the mountains of northern New Mexico. With that constituency Tijerina built Alianza on a promise that he alone could lead the heirs in their fight to reclaim the land grants. Through Alianza they would prove, he convinced many, that the large private ranches and huge federally owned forests that dominated, and still dominate, northern New Mexico were the illegal spoils of a colonial invasion. Rather than respecting treaty obligations, federal officials stood by, and sometimes joined in, as a vast land grab dispossessed hundreds of communities of their rightful property. According to Tijerina, because of the conspiratorial machinations of a gang of commercial speculators, duplicitous federal officials, corrupt public servants, and greedy territorial lawyers, the poor Spanish-speaking land grant communities of New Mexico had been robbed of their history. Their poverty was a monument to colonial greed. By the late 1960s Tijerina claimed that more than ten thousand dues-paying members had joined Alianza, including the wife of New Mexico's Republican governor.

Alianza's tactics culminated on June 5, 1967, when nineteen of its members, armed with pistols and shotguns, stormed the Rio Arriba County Courthouse looking for a district attorney named Alfonso Sanchez. Just days earlier Sanchez had ordered the arrest of eleven Alianza leaders after the group threatened to take over the nearly six-hundred-thousand-acre Tierra Amarilla land grant in northern New Mexico. The raiders, Tijerina would later explain, planned to liberate those arrested and place Sanchez under citizen's arrest. The raid turned into a pitched gun battle inside the courthouse. A New Mexico state police officer and the county jailer were shot, and two men, including a reporter covering the arraignment, were briefly kidnapped. Neither Sanchez nor the eleven arrested Alianza members, however, were in Tierra Amarilla that morning. Tijerina and the other raiders fled into the rugged mountains surrounding Tierra Amarilla. In the weeks after the raid, state police helicopters buzzed northern New Mexico's land grant villages, while National Guard tanks prowled the dirt roads of the Carson National Forest looking for the raiders.

The raid thrust New Mexico's colonial ("ancient," according to many in the press) property disputes into the national consciousness. Journalists, fascinated by Tijerina, rushed in to explain to an unbelieving public what was happening in northern New Mexico. Did the courthouse raid herald the start of a peasant revolution in the United States? Was Tijerina an agent of foreign powers? What motivated the thousands who joined Alianza and the select few who

took up arms? The media microscope placed the raid — its causes and consequences — under intense scrutiny. Before June 5 few but the staunchest supporters of Tijerina knew much about Alianza and its explosive claims. After the raid Tijerina became a national figure in the Chicano movement and a sought-after speaker on civil rights.

Alianza's tactics impressed the most radical social activists, Tijerina's rhetoric galvanized the most conservative land grant heirs, and his fantastic claims of land loss eventually convinced the most skeptical scholars. The law, however, took another view. A growing repressive reaction against Alianza that had been building slowly prior to the raid gained momentum afterward. Alianza and Tijerina became central obsessions of FBI director J. Edgar Hoover and COINTELPRO, his covert counterintelligence program. FBI agents doggedly tailed Tijerina everywhere. When Stokely Carmichael invited Tijerina to speak at a Black Panther "Free Huey Newton" rally in Oakland, the FBI tagged along to record the event. When Nation of Islam leader Elijah Muhammad invited Tijerina to Chicago, FBI agents fed Hoover constant updates. When the Poor People's Campaign invited Tijerina to fill in for a slain Martin Luther King Jr. and join Ralph Abernathy and Jesse Jackson in the Poor People's March in Washington, D.C., in 1968, plainclothes agents snapped photos and recorded speeches. Hoover briefed federal agencies, including the CIA, on Alianza's exploits and dubiously claimed that Tijerina was a subversive foreign agent. Eventually Tijerina landed on the FBI's notorious Rabble Rouser Index, an elevation that made him an official target of Hoover's counterintelligence apparatus. Not to be outdone, the New Mexico State Police organized and deployed a secret paramilitary squad of agents provocateurs to infiltrate, undermine, and destroy Alianza.

The covert war waged by law enforcement agencies against Alianza and the land grant movement unfolded alongside a different, public response. Federal agencies lined up to offer solutions to what many considered the intractable poverty that defined life in northern New Mexico. Antipoverty programs, idled after the Depression, were restarted. The Office of Economic Opportunity expanded projects in New Mexico. The State of New Mexico commissioned a report called the *Land Title Study*, which carefully examined the question of fairness in the adjudication of preexisting Spanish and Mexican property claims in New Mexico. The report concluded that much of what Tijerina and Alianza had been saying was true. Corrupt federal officials aided in a pattern of land speculation that began during New Mexico's territorial period (1848–1912) and ultimately dispossessed scores of land grant holders of their common property.¹

Scholarly interest in Alianza and in the claims partially confirmed by the *Land Title Study* culminated in a body of historical research in the years after the courthouse raid that further ratified the fantastic claims of land loss and property theft. Speculators in the nineteenth century had manipulated the law and federal courts to advance dubious legal theories. Historians found that more than 80 percent of all Spanish and Mexican grants were lost to legitimate claimants.² Historian, lawyer, and land grant scholar Malcolm Ebright showed that U.S. courts confirmed only 6 percent of land grant property claims.³ This new land grant historiography told a story of the wholesale dispossession of Spanish and Mexican land grants at the hands of corrupt bureaucrats and unchecked land speculators. It was a much different history than the tourist-friendly myth of peaceful tricultural coexistence that New Mexico boosters preferred.

Historians, journalists, federal agencies, foundations, and legislators told the story of New Mexico's land grants in the wake of the courthouse raid as one authored by a single group, Alianza, and one man, Tijerina, who apparently single-handedly brought the land grant fight into the mainstream of the larger civil rights movement in the late 1960s. Tijerina remains a significant historical figure in both New Mexican land grant politics and the national civil rights movement, and in the nearly fifty years since the raid, nearly every aspect of the land grant struggle, the courthouse raid, and the Alianza movement has been examined.

But while the media, the government, and civil rights activists were caught up in the historical significance and fantastic possibilities implied by the raid (revolution? communist conspiracy? guerilla war?), the nineteen courthouse raiders were not interested in advancing the cause of national civil rights. Rather, they were engaged in a struggle over local property rights. In the days leading up to the raid, law enforcement officials in New Mexico had become increasingly convinced that Alianza planned a hostile takeover of the Tierra Amarilla land grant.

Of all the notorious conflicts that populate New Mexico's land grant history, Tierra Amarilla ranks among perhaps the most sensational and yet the least known. From early in New Mexico's territorial period, land speculators targeted Tierra Amarilla, a collection of small villages populated by smallholder ranchers and farmers along New Mexico's border with Colorado in a region rich with timber, mineral, and grazing resources. The names of the speculators who pursued Tierra Amarilla during the late nineteenth century read like a who's who of New Mexico's political and economic elite. Their dubious acquisition of Tierra Amarilla in the late nineteenth century created new millionaires, huge land barons, and lasting conflict. Resistance to these patterns of speculation in Tierra

Amarilla has been persistent and fierce. But the story of property dispossession in Tierra Amarilla is usually told as a nineteenth-century tale of land loss punctuated by an explosive but fleeting eruption of pent-up rage by Alianza and Tijerina in the 1960s. As a result, a more complicated history of land struggle and its contemporary manifestations has been obscured.

This book takes a different view. Though Tijerina talked the language of civil rights, the land grant movement that he popularized was a property rights movement. And though credit is usually given to Tijerina, he was not the first to reveal the consequences and contradictions of New Mexico's colonial past. The settlers and heirs of the Tierra Amarilla land grant were among the first to organize on a large scale and fight for the return of lands lost to outside speculators. As this book shows, they were among the first to identify the enclosures as a threat to common property land grant communities during the territorial period, the first to go to court to stop the patterns of privatization, and among the first to take up arms against the state and private ranchers.

Property and the Problem of Spanish and Mexican Land Grant History

Outside of the work of Alianza and a few other sensational stories, the long history of resistance to land loss in northern New Mexico and the particular tactics and rhetoric of that resistance is not well known.⁴ According to most historians and scholars of New Mexico's land grants, the story of land grant dispossession is not one of active, sophisticated, and ongoing struggle. Rather, the land grant story is one of legal dispossession in the past in which the patterns of speculation and land loss during New Mexico's territorial period were a function of the almost impossibly contradictory and unresolvable conflicts that arose with the United States' arrival in the mid-nineteenth century, when the largely fee simple property rubric found in Anglo law collided with the common property relations of Spanish and Mexican law in New Mexico.

Ebright says it most emphatically when he declares, "The main reason for [land loss] was that the land grants were established under one legal system and adjudicated under another."⁵ Historian Maria Montoya makes a similar, though more nuanced, argument. The failure of U.S. courts to properly translate Spanish or Mexican land policies stemmed from the commercial, colonialist motivations of the United States, in which the United States imposed new private property relations as a way to "establish a conquered, colonized, and dependent region."⁶ Dispossession, according to Montoya, occurred because of contradictions in property law. "The U.S. legal system," she concludes, "could