

Editors' Introduction

"Calling the Law into Question"

Confronting the Illegal and Illicit in Public Arenas

Confronting the Politics of Law

Recently, within the United States, it has been difficult to ignore the blunt politicization of history by individuals and groups that identify as conservative and libertarian, in support of promoting "traditional" values and free-market agendas. Members of the Tea Party—a group whose very name derives inspiration from a peculiarly reductive interpretation of American political history—invoke a patriotic duty to restore the US Constitution to its original intent, which in their opinion translates to prohibiting federal health care legislation, minimizing regulation, and lowering or eliminating taxes. As historian Jill Lepore has argued, groups like the Tea Party are engaged in radical interventions; they are not squeamish when it comes to constructing imagined pasts in order to conjure what the "rule of law" should look like in the present.¹ Conservatives and libertarians regularly champion public histories that rewrite to their advantage the law's constitutional, statutory, and administrative capacities. While privileging their own interpretations, they also insist that their vision of legal history does not merely serve a political ideology; instead it provides a more authentic version of how the past should inform the present. These "abusable pasts" are even more disheartening because they are typically accompanied by claims that it is conspiring interests on "the Left" that manipulate history and do disservice to honest inquiry.²

At the same time that right-wing legal histories hold traction, we have seen public funding tightening (and sometimes disappearing), forcing cultural institutions to compete to convince private funders that their work is worthy of investment. In this context, historic sites, museums, and cultural institutions more generally have been

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abuzz with slogans that seek to highlight their importance to the public sphere, often touting their institution's contributions to civic engagement as a neutral and explicitly depoliticized contribution to public discourse.³ Words and phrases like “dialogue,” “tolerance,” and “difficult histories,” are all routinely featured as part of this new (or renewed) commitment to civic engagement. And while it might seem that civic engagement would provide an institutional platform for public history, art, and activism that is critically engaged with how the law contributes to the unequal distribution of power and resources within society, rarely is this the case.⁴ Cultural institutions have, by and large, avoided a reflexive analysis of how civic engagement can easily become empty rhetoric when it is shaped by the imperatives that it ought to challenge.

Based on our own experiences in public history, we feel confident stating that there is a strong need for projects that interpret and grapple with the politics of the law, and the ways in which the hegemonic power of the law is embedded in institutions and social technologies that structure everyday life. We argue that these projects can contribute to a public history and memory of the law that goes beyond simply refuting or complicating conservative and free market interpretations of legal history (although these are certainly important ends in their own right). This issue of *Radical History Review* was therefore organized with the intent to encourage scholars to think about what “calling the law into question” might accomplish as an active form of politics. As historian Ian Tyrrell has convincingly argued, historians in the United States have always been concerned with how history is taught and shared with mass audiences, and have never viewed their profession as a retreat from such dialogues.⁵ Nonetheless, often such interventions take the form of debates over policy, how to alter existing institutions—in short, efforts that are rooted in reform. While this is significant work, it can foreclose upon opportunities in which public audiences are introduced to art, historical interpretation, and activism that is rooted in the radical imagination. We think civic engagement has radical potential when cast in this light, and is no longer merely a platitude or discursive device used to gloss over real inequalities.

By identifying protagonists outside academia who have challenged, or otherwise exposed, the ideological basis by which laws and normative ideas of licit behavior have been constructed, enforced, and discursively supported, this issue explores how public history, art, and activism have been (and can be) infused with a critical approach to the law. The idea of “calling the law into question” refers to a critical engagement with the social and cultural politics of the law in work that is aimed at public audiences.⁶ We are interested in how different publics understand and use the law, what types of public conversations take place about the law, and how these uses and conversations might raise new questions. We examine how scholars, activists, artists, and other members of the public have staked claims to public spaces, in order to posit political and social agendas that confront and question legal and moral regimes in both the past and the present. Collectively, the issue explores a range of sites where confrontations and challenges to the law and prevailing social customs have taken place, whether on urban streets, in the archives, or in museums and

courtrooms. Together, these spaces represent an ever-shifting arena of contested venues and sites where different parties and interests engage in the cultural production of legal and moral meanings that shape the law as an ideology.

Within academic scholarship, the past two decades have seen important works that have evaluated the origins and development of laws from theories rooted in classical liberalism and the concept of natural law. These works emphasize the law's use as an instrument of power and the cultural and economic values it has served, as opposed to its allegedly natural origins as a rational tool for maintaining social order. Scholars such as Carol Pateman, Charles Mills, and Amy Dru Stanley, for instance, have written about how contracts, central to a liberal ideal of freedom, have sanctioned gendered and racial domination, and controlled labor rather than freeing individuals to determine the terms by which they sold their work.⁷ Margot Canaday, Devon Carbado, Linda Kerber, Mae Ngai, and Nikhil Pal Singh, to provide only a sampling of scholars, have focused on the failure of nations to fully incorporate all subjects equally, in exchange for a more critical approach to the inherently exclusive work that citizenship performs as a state-enforced legal status.⁸ At the same time, in many respects, the implications of these works have not been extended outside the walls of the university.

Although this issue focuses largely on the Americas, and on the United States more specifically, we nonetheless draw from analysis and models of public contestation that come from beyond these regions. We hope that the articles in this issue will provide a basis for thinking about how the act of "calling the law into question" will always benefit from a more comparative focus.⁹ As Marxist and New Left theorists have long argued in challenging the nation-state's monopoly over the exercise of the law—while vehemently debating the specifics—the state and its legal apparatuses constitute part of a superstructure that maintains inequalities in domestic social relations and between nations.¹⁰ The ability to establish and maintain a nation-state has been viewed as a prerequisite for the introduction of legal order, and, at the same time (as Lisa Blee discusses in this issue), a justification for colonial subordination of racial and cultural inferiors presumed to lack the fitness for self-rule. As Lisa Maya Knauer and Daniel J. Walkowitz have demonstrated in two collections of essays on memory, history, and public space that they have edited, there is a diverse and complex legacy surrounding how public space has been used to contest historical change internationally.¹¹ By foregrounding the law as a specific site of ideological contestation, we hope that this issue shows that common themes can be drawn from the otherwise discretely national attempts to "call the law into question."

The Power of Place-Claiming

Many of the historical actors featured in this issue have called the law into question through acts of place-claiming that directly challenge what has been codified as illegal, and cast as illicit. In other words, they have refused to "know their place" as defined through prevailing legal and social customs. The "power of place," Dolores Hayden

writes, is “the power of ordinary urban landscapes to nurture citizens’ public memory, [and] to encompass shared time in the form of shared territory.”¹² A precondition of making visible the shared spaces and pasts that constitute public history is the recognition of all of the individuals and groups who have occupied the temporal and physical landscapes in question. Laws that privatize public spaces, facilitate certain types of development, and attempt to cleanse landscapes of individuals and institutions that have been deemed threatening to dominant economic and social prerogatives often operate out of sight, while also rendering oppositional subjects invisible. Public history and a more inclusive public memory can give form to the processes and people that have shaped the landscapes upon which the illegal and illicit is defined.

The image gracing the cover of this issue expresses place-claiming in stark, visual terms. The photograph, taken during the filming of *Breath of Love* (1969) by director Pat Rocco, shows a man posed naked on Los Angeles’s Hollywood Freeway, an illegal act that reclaims public space as an appropriate venue to express gay male sexuality. In the issue’s inaugural essay, Whitney Strub resituates Rocco’s largely forgotten soft-core porn films as evidence of late-1960s gay activism that captured homosexual desire as a playful and alluring feature of the public landscape, even while such expression was clearly outside legal boundaries. Whether analyzing Rocco’s films of a man running naked on the Hollywood Freeway, or, of gay lovers holding hands on Disneyland’s Mainstreet USA, Strub argues that Rocco’s filmic place-claiming both mapped and expanded the terrain of what constituted gay Los Angeles during the late 1960s and early 1970s, even though the director’s place in gay history heretofore has gone underrecognized. Rocco’s erasure from the queer historical canon says less about his films’ historic significance than about current contexts where the governance of queer identities has been transferred from the power of the state to private, market-driven institutions. Strub argues that place-claiming acts working to call the law into question in the late 1960s, as Rocco did, carried a different cultural and legal significance than similar acts of resistance would take on today. Several essays in this volume similarly prompt us to contemplate how radical acts of place-claiming take on new meanings as contexts and public memories shift.

The second feature essay in this volume, written by Kirsten Weld, looks to the state archives of Guatemala as a site for place-claiming. In her essay, physical access to knowledge is an essential tool in a struggle to reclaim the physical evidence of the past and to rewrite public history. Using an ethnographic approach to explore individuals’ encounters with archives and documents, Weld leads us into Guatemala’s Project for the Recovery of the National Police Historical Archives, home to more than eighty million pages of documents “written in the state’s own hand.” The archives detail the inner workings of the rightist state-led counterinsurgency and the everyday atrocities committed during Guatemala’s thirty-six-year civil war. Uncovered in 2005, in only a short period of time the archives have inspired Guatemalans whom the state once deemed enemies to seek modern-day justice, and the evidence contained within the archives has led to indictments of police and state

officials. Former opponents of state power now use the archives as a tool to identify and explain the actions of individuals who were victims of the militarist regime. Weld offers a glimpse of the tenacity required of the archivists (many of whom are tormented by the voices speaking through the contents in their care)—who work to ensure that the archives rewrite histories of criminal subversion and leave a legal transcript in ways that “dignify the *guerrillero*, not the assassin.”

Joey Plaster introduces us to homeless GLBT (gay, lesbian, bisexual, and transgender)¹³ youth in San Francisco’s Tenderloin district, who in 2011 armed themselves with brooms and ventured into city streets. Demonstrators deliberately called into question the city’s “sit/lie” ordinance, which criminalized sitting and lying on city sidewalks. Symbolically, protesters’ brooms called attention to police “sweeps” of the area, and to simultaneous cuts in social services for San Francisco’s homeless population. Visible to the public at large, the protesters also had in mind a specific constituency. They were confronting wealthier GLBT neighbors in the Castro and asking them to not sweep away their own history. The 2011 sweep self-consciously reenacted and evoked a demonstration staged by GLBT homeless youth in 1966, forty-five years prior. Ultimately, Plaster challenges us to consider how the public activism of those who are not considered “economically productive citizens,” and who lack access to more formal legal channels, might be further fostered and encouraged. Connecting the Tenderloin protests to neoliberalism, Plaster pushes us to think about how social movements and other political actors have sought to encourage only the “right type” of subjects to take on a public role, and what this does to the memory of activism in the past.

Not surprisingly, the politics of what might be called neoliberal public memory make numerous appearances in this issue. Stefano Bloch’s essay, presented in the issue as a curated space, examines why unsanctioned and technically illegal graffiti murals depicting rebellious chickens and *Zapatistas*, which in the past would have been classified as vandalism, have been left undisturbed in the gentrifying Los Angeles neighborhood of Echo Park since they were initially created in 2004. Situating the present-day Echo Park murals within a larger history of political and public art in Los Angeles, Bloch explores the complicated ways in which these graffiti murals have been recast as edgy cultural capital and neighborhood branding that only recently have Echo Park shop owners and transplanted residents become willing to embrace, and how laws have been selectively enforced in this instance. Despite the murals’ subversive themes, they are also, ironically, good for business.

Demanding Historical Context: Making the Power of the Law Public

Left legalism—the process that Wendy Brown and Janet Halley define as “projects of the left that invoke the liberal state’s promise to make justice happen by means of law”—encourages subjects to seek redress within the existing parameters and established rules of the legal system, especially around rights. Yet as Brown and Halley add, “rights are not the only form in which the left has sought to mobilize

the implicit promise of the liberal state that it will attempt to make justice happen by means of law.”¹⁴ Efforts to secure legal gains that are evaluated in terms of civil rights and liberties expose what Nancy Fraser has described as the tension of “cultural injustices versus economic injustices, recognition versus redistribution.”¹⁵ In public history and memory, legalism has traditionally provided the principal narrative in which public historians, artists, and activists are shown engaging with the law. As an alternative, we want to look at the terms in which public history and memory can support radical politics that seek redistributive and economic justice from the law, while addressing the deeply intersectional relations that exist between race, gender, sexuality, and class. Rather than merely appealing to the law, how can radical politics use public arenas, histories, and memories to advance new ideas about the very purpose of the law?

In this spirit, Claire Bond Potter’s essay examines the efforts of Women Against Pornography (WAP) activists in the 1980s to reclaim New York City’s Times Square as a safe space. Potter shows us how activists created what she defines, building on the work of Charles Tilly, as “feminist repertoires.” These repertoires underscored how pornography in Times Square represented the commercial and physical exploitation of women’s bodies, and acted as an affront to the ability of all women to move through the city in an unmolested fashion. In this context, activists looked to “transform political society rather than to activate the power of the state alone.” Potter’s argument supplies new insights into how feminists affiliated with WAP were not just engaged in calls for state censorship—as public memory and historical scholarship often claims—but documented and enacted complex public histories of pornography’s relationship to capitalism and the public tolerance of violence against women. Contests over pornography in Times Square were not simply about denying pornography as a form of “free” expression. Potter urges historians and audiences in the present, who might assemble their own radical repertoires, to look beyond any reductive conclusion.

Rebecca Schreiber similarly draws our attention to the voices of undocumented migrants, whose subjectivity as workers and community members calls into question the illegal status that informs their formal relationship to the state. Here, demands for legal rights encounter a fundamental problem of recognition that can perhaps be resolved only by a new and radical framework in regard to how citizenship is defined. The city of San Francisco took tentative steps in this direction, by passing an ordinance that made it a “Sanctuary City” or “Ciudad Santuario.” Although the ordinance called for protections for all residents of San Francisco, regardless of their legal citizenship status, the efficacy of the law was limited. Schreiber’s essay examines an art installation by Sergio De La Torre and collaborators, which transformed court testimony detailing painful experiences of raids and deportation in San Francisco into political works of public art displayed in everyday spaces. Schreiber highlights how the discourse surrounding the threat of “terror” legitimizes anti-immigration policy and action, and violations of the city’s sanctuary ordinance. But she also shows how

creative public interventions into the administration of the law might repudiate the political and moral arguments that seek to justify its enforcement. Schreiber reveals an inclusive and artistic vision of citizenship, at odds with how the federal government defines who is eligible or ineligible for legal protection.

Testimony, as both a language of the law and a means by which to speak to issues of historical justice, also takes center stage in this issue. Lisa Blee addresses a creative example of what a critical public history of the law might look like: the historical court. In her essay, Blee discusses a 2004 retrial of the Nisqually Chief Leschi, who was convicted of murder and executed in Washington State in 1857 in the aftermath of the Puget Sound Indian War. In calling on the past to seek contemporary historical justice, for some, the historical court provided closure when the court exonerated Leschi on the grounds that he should not have been tried for murder because historically he should have been classified as an enemy combatant in a legal war. Blee argues that the reexamination of evidence in the historical court upheld a type of symbolic faith in the ability of the rule of law to correct or reform itself. More critically, however, she notes that the retrial (and symbolic exoneration of Leschi) avoided tangling with the larger cultural logic that the law reflected: in this case the idea that nonstate actors, engaged in “savage” warfare—or, from the cultural logic of the present, terrorism—are exempt from legal protection.

Re-Mining the Museum

The imperative to apply critical legal theory to scholarship, art, and other forms of activism aimed at public audiences does not appear to be an institutional one.¹⁶ In the United States, museums, memorials, and historic sites overwhelmingly favor interpretive themes and programming that focus on what historian Stephanie Yuhl describes as “building consensus around the legitimacy of the nation and its democratic institutions in the present.”¹⁷ Pedagogically, these sites encourage visitors to think about the law as a neutral technology that encompasses the basic values and principles necessary to foster reform and accommodate difference. As a shining exception, several of the articles in this issue consciously reference the innovative work and format of Fred Wilson’s 1992–93 exhibit *Mining the Museum*. Hosted by the Maryland Historical Society in Baltimore, Wilson rearranged and reinterpreted the Society’s collection to provoke visitors into thinking about the difficult histories of slavery, race relations, and class that existed in the institution’s history and its collections, below the surface, all along.¹⁸ Twenty years later, Wilson’s exhibit continues to provide a model for public history work. In this issue, scholars suggest ways in which interpretive histories might be mined with the goal of extracting the cultural, social, and political history of the law.

In the issue’s “Forum” section, historian Amy Chazkel (who organized this conversation) introduces three essays by scholars of Latin America that examine how police museums in Cuba, Argentina, and Mexico have been organized in ways that guard—pun intended—against critical inquiry. Essays by Alejandra Bronfman, Lila Caimari, and Robert Buffington (who specialize, respectively, in the history of

Cuba, Argentina, and Mexico) show us how police museums work to naturalize law enforcement as an essential social function (and not a disciplinary technology) by displaying carefully selected objects to tourgoers, and by limiting alternative readings through curation. Despite similarities that cut across these essays, the authors offer unique vantages drawn from their case studies. Bronfman examines a 1930 museum catalog from the Museum of the Department of Legal Medicine at the University of Havana. Through her close reading of the objects contained therein, Bronfman argues that museum practice and policing collaborated to foster racialized prejudice against Afro-Cubans. Caimari takes us on a tour of the Buenos Aires Police Museum, where displays document the history of the city's police and lend insight into the hidden cultural practices of members of the public who were objects of police surveillance. As Caimari argues, the Buenos Aires Police Museum functions as an institutional temple for members of the police force; it is a place where they celebrate their role in producing such specialized knowledge. Finally, Buffington examines three Mexican police museums, and presses us to consider the importance of viewing these museums as tools for controlling public memory, as they work to carefully craft the rose-colored lenses through which stories about law enforcement can be viewed within the museums' walls. Evading the complicated histories of Mexico's failed efforts to control narcotráfico, these museums must relay how the state relates to crime through other means.

Police museums and prison museums are linked by a desire to display the personnel and physical institutions of law enforcement and to make visible and validate their social function. Seth Bruggeman charts a new direction in how the public might reflect on mass incarceration through a critical public history of prisons, by looking at Philadelphia's 180-year-old Eastern State Penitentiary. Bruggeman shows that although Eastern State Penitentiary's public programming has provided at times a critical lens on how prisons relate to and are implicated in a startling growth in mass incarceration in the United States, the space's ability to put forth critical interpretations has been limited by experience economy imperatives, and, as Bruggeman puts it, "the spirit of preservation that saved it from oblivion in the first place." Transforming the penitentiary into a Halloween haunted house, for example, was considered a crucial financial strategy to underwrite preservation. Visitors seek "authentic" experiences from their touristic encounters with the prison, and preservationists (despite occasional attempts to do otherwise) have largely accommodated them with an uncritical vision of an aging fortress romantically preserved in perpetual ruin. The voices of those with living memories of the prison such as former inmates and African American residents of surrounding neighborhoods, the constituencies that have been most directly affected by mass incarceration, have not had a presence.

Also writing about the political economy of mainstream museums, Jill Austin, Jennifer Brier, Jessica Herczeg-Konecny, and Anne Parsons, co-curators of the exhibit *Out in Chicago*, lend insight into institutional realities and limitations when

an exhibit's content could challenge the law or might redefine normative conceptions of the sexually illicit. Reflecting on their experiences curating a LGBT history exhibit at a mainstream museum, the curators identify a pervasive anxiety about exhibiting and interpreting some of the material culture and oral narratives relating to LGBT experiences traditionally "hidden from history."¹⁹ The authors show how "erotic" items became redefined as "illicit" in the wake of fears about pushback from mainstream museumgoers. Despite having to curate to these expectations, the authors maintain that for a mainstream museum, the resulting history exhibit did challenge the usual parameters of museological display by exhibiting LGBT sexualities in ways that did not simply reify heterosexuality as normative.

Presenting a view from the classroom, Jennifer Tyburczy declares that "all museums are sex museums," even in spaces where such interpretations run counter to curatorial and institutional intentions. In the blockbuster exhibit "Body Worlds," for example, plasticized female corpses are shaped and displayed in the style of modern pinup girls, whereas plasticized male corpses are portrayed in athletic stances. Reflecting on the popular obsession with obscenity, which confines sexuality to explicit displays, Tyburczy provides a more expansive reading of how a politics of sexuality plays out in mainstream museums. Lifting the veil on such curatorial moves, Tyburczy demonstrates how she challenges her students to read current museum spaces in new ways, but also to imagine how future museum spaces could call categories of sexual "normalcy" or "perversity" into question.

Finally, Rebecca Amato and Jeffrey Manuel encourage us to reimagine existing public history walking tours so as to reveal hidden stories of urban legal history. Maintaining that many tours tend toward one of two extremes when dealing with urban histories of crime (either by dwelling on sensational narratives of crime in the form of notorious gangsters and vice districts, or by sweeping crime under the rug altogether), Amato and Manuel offer suggestions on how urban history tours could become tools for activism and critical inquiry, as well as concrete suggestions for integrating this new way of seeing into the classroom. They propose teaching activities and student-generated tours that highlight how property and zoning laws legally enable the displacement of the poor and how the law organizes environmental risks in urban areas in racially and class specific ways. We believe these pedagogical activities would have met the approval of David Montgomery, the late historian whose scholarship, activism, and legacy are addressed in an obituary in this issue. In reference to Montgomery's own blacklisting after being labeled a communist dissident, we also hope that the struggles documented in this issue show why a public consciousness concerning how the law and normative conceptions of the licit operate ideologically is so crucial.

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In bringing a diverse grouping of essays together, this special issue bridges important conversations about the licit and the legal already taking place inside and outside

university walls. By highlighting public arenas where activists, artists, and public historians have self-consciously confronted conceptions of the illicit and the illegal, this issue embarks on a journey through a range of sites (such as sex museums, historical courts, and California freeways) in order to see the myriad ways the law has been, and can be, called into question.

—Amy Tyson and Andy Urban

Notes

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1. Jill Lepore, *The Whites of Their Eyes: The Tea Party's Revolution and the Battle over American History* (Princeton, NJ: Princeton University Press, 2010). This is not to ignore that the so-called conservative legal revolution predates the Tea Party by many years. On conservative legal organizing, see Steven Teles, *The Rise of the Conservative Legal Movement: The Battle for Control of the Law* (Princeton, NJ: Princeton University Press, 2008).
2. The term “abusable past” was the inspiration for the column written by Jean-Christophe Agnew and Roy Rosenzweig, under the pseudonym R. J. Lambrose, for *Radical History Review*. As the authors noted in the 1984 inaugural edition of the column, it was intended to “note and comment on recent news stories that have a direct bearing on the work of historians and on the character of popular memory.” R. J. Lambrose, “The Abusable Past,” *Radical History Review*, nos. 28–30 (1984): 511.
3. See, for example, Ruth J. Abram, “Kitchen Conversations: Democracy in Action at the Lower East Side Tenement Museum,” *Public Historian* 29, no. 1 (2007): 59–76.
4. For a critique of “tolerance” and “dialogue” as concepts that mask political agendas, see Wendy Brown, *Regulating Aversion: Tolerance in the Age of Identity and Empire* (Princeton, NJ: Princeton University Press, 2006).
5. Ian Tyrrell, *Historians in Public: The Practice of American History, 1890–1970* (Chicago: University of Chicago Press, 2005). Our use of *public* or more accurately, *publics*, is meant to distinguish between the production of knowledge that takes place in scholarly journals and academic settings, and knowledge produced for general audiences and accessible in more public arenas. Nonetheless, this is not to claim that there should be a stark divide between how public and academic historians define their audiences.
6. The phrase “politics of law” is derived from the field of Critical Legal Studies (CLS). While CLS scholars represent a range of political views, and many came to identify with more specific fields such as Critical Race Theory, Feminist Jurisprudence, and Queer Legal Theory, collectively, critical legal theorists tend to share the view that, “If law was pervasively contradictory, indeterminate, and socially contingent . . . then an uncritical participation by legal academics in a legal discourse that presented itself as coherent, objective, and necessary was objectionable.” Moreover, to deny the law’s subjective position in relationship to its socially contingent nature amounted to “legitimation.” Pierre Schlag, “Critical Legal Studies,” in *Oxford International Encyclopedia of Legal History*, ed. Stanley Katz (Oxford: Oxford University Press, 2009), 296.
7. Carol Pateman, *The Sexual Contract* (Palo Alto, CA: Stanford University Press, 1988); Charles W. Mills, *The Racial Contract* (Ithaca, NY: Cornell University Press, 1999); and

- Amy Dru Stanley, *From Bondage to Contract: Wage Labor, Marriage, and the Market in the Age of Slave Emancipation* (New York: Cambridge University Press, 1998).
8. Their relevant works, which focus on the United States, include Margot Canaday, *The Straight State: Sexuality and Citizenship in Twentieth-Century America* (Princeton, NJ: Princeton University Press, 2009); Devon Carbado, "Racial Naturalization," *American Quarterly* 57, no. 3 (2005): 633–58; Linda Kerber, *No Constitutional Right to Be Ladies: Women and the Obligations of Citizenship* (New York: Hill and Wang, 1999); Mae Ngai, *Impossible Subjects: Illegal Aliens and the Making of Modern America* (Princeton, NJ: Princeton University Press, 2004); and Nikhil Pal Singh, *Black Is a Country: Race and the Unfinished Struggle for Democracy* (Cambridge, MA: Harvard University Press, 2004).
 9. As John Fabian Witt has illustrated, historically American legal culture and activism has not confined its appeals to the nation alone. Witt, *Patriots and Cosmopolitans: Hidden Histories of American Law* (Cambridge, MA: Harvard University Press, 2007).
 10. See, for example, Louis Althusser, "Ideology and Ideological State Apparatuses," in *Lenin and Philosophy and Other Essays* (New York: Monthly Review Press, 1971), 127–88; and Ralph Miliband, *The State in Capitalist Society* (London: Merlin Press, [1969] 2009). For a Marxist humanist critique of theoretical arguments that take for granted the totality of the superstructure, see E. P. Thompson, *The Poverty of Theory and Other Essays* (New York: Monthly Review Press, 1978). On international law and imperialism, see China Miéville, *Between Equal Rights: A Marxist Theory of International Law* (Leiden, Netherlands: Brill, 2004).
 11. Daniel J. Walkowitz and Lisa Maya Knauer, eds., *Contested Histories in Public Space: Memory, Race, and Nation* (Durham, NC: Duke University Press, 2009), and Daniel J. Walkowitz and Lisa Maya Knauer, eds., *Memory and the Impact of Political Transformations in Public Spaces* (Durham, NC: Duke University Press, 2004).
 12. Dolores Hayden, *Power of Place: Urban Landscapes as Public History* (Cambridge, MA: MIT Press, 1997), 9.
 13. While *GLBT* is used here, we use *LGBT* elsewhere in the introduction. This is intentional, following use by each author.
 14. Wendy Brown and Janet Halley, "Introduction," in *Left Legalism / Left Critique*, eds. Wendy Brown and Janet Halley (Durham, NC: Duke University Press, 2002), 7, 9.
 15. Nancy Fraser, "From Redistribution to Recognition? Dilemmas of Justice in a 'Post-Socialist' Age," in *Theorizing Multiculturalism: A Guide to the Current Debate*, ed. Cynthia Willett (Malden, MA: Blackwell Publishers, 1998), 20.
 16. As sites for cultural production, museums have been limited by the ways they are structured and governed as institutions. See, for example, Douglas Crimp, *On The Museum's Ruins* (Cambridge, MA: MIT Press, 1993); Steven C. Dubin, *Arresting Images: Impolitic Art and Uncivil Actions* (New York: Routledge, 1992); Carol Duncan, *Civilizing Rituals: Inside Public Art Museums* (New York: Routledge, 1995); and Timothy Luke, *Museum Politics: Power Plays at the Exhibition* (Minneapolis: University of Minnesota Press, 2002). For a critique of public history's problematic relationship with radical politics, see Cathy Stanton, "Performing the Postindustrial: The Limits of Radical History in Lowell, Massachusetts," *Radical History Review*, no. 98 (2007): 81–96.
 17. Stephanie Yuhl, "Sculpted Radicals: The Problem of Sacco and Vanzetti in Boston's Public Memory," *Public Historian* 32, no. 2 (2010): 16.
 18. For photographs from the exhibition, see Fred Wilson and Howard Halle, "Mining the Museum," *Grand Street*, no. 44 (1993): 151–72.
 19. This is a self-conscious reference to the anthology *Hidden from History: Reclaiming the Gay and Lesbian Past*, eds. Martin Duberman, Martha Vicinus, and George Chauncey (New York: Plume, 1989).