

Wall to Wall

Law as Culture in Latin America and Spain

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Curating and Interpreting Culture



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Introduction: Cantinflas's ass, before the law

The essays in this book deal with themes such as authoritarian sovereigns, violent policing, the carceral industrial complex, marginal subjectivities, racist institutions, and gender violence. Nonetheless, allow us to illustrate some of the tensions in this book with a comedy: the 1968 Western parody film *Por mis pistolas*. The movie is one of those critically panned, late-career Cantinflas vehicles. Early on, Cantinflas rides his horse, Fierabrás, with his donkey, Bucéfalo, nearby, to the US border: merely an isolated wooden gate in the middle of the Arizona desert. Around it, there are no walls, only a cowbell and a distracted border officer in a sentry box, clearly marked as the “US Customs and Immigration Service.” When Cantinflas finally gets the officer’s attention with the cowbell, he answers the routine border questions in typical Cantinflas fashion: “¿Sabe leer y escribir?” Cantinflas does, but he empathizes with what he imagines to be an illiteracy crisis in the US. “¿Tiene usted intenciones de derrocar al gobierno de los Estados Unidos?” Cantinflas is dumbfounded at the idea: what a question, not only is he just some guy, everybody knows that Americans hoard all the guns anyway. “¿Tiene alguien que lo pueda identificar?” Well, there is the horse, but he would not trust the ass, who is a recent acquaintance. During the dialogue, Bucéfalo calmly walks into US sovereign territory to gnaw on some bush. The discussion over whether Cantinflas or his donkey should pay the customary one-dollar fine ensues, but the officer eventually caves. When he grants Cantinflas’s visa but cannot find the keys to the gate, Cantinflas suggests just taking the two steps around it that would place him on US territory. The officer emphatically objects that it would break law 1858b, section 3, paragraph 4. As is the case throughout the film, Cantinflas prevails *por sus pistolas* (figuratively, “because he says so”): he promptly picks the gate’s lock. If only Kafka had been a bit handier...

The least realistic part of the film’s representation of the Mexico-US border is not the absence of a border wall. To this day, it is not realistic to raise a wall along the Mexican border, nor is it practical in any logistic sense (there may be a point to the security theater it involves if a hardly defensible one). Most migrants, tourists, and passersby will recognize the officer’s questions to the letter (the editors of this volume joked about the question about overthrowing the government themselves when they first answered it on a form). That the singularity of Cantinflas’s case poses a problem to the protocol at the border is also boringly standard, even if, sadly, a donkey as a fellow traveler is not. In a way, the donkey’s short-lived undocumented status in the US shows the absurdity not

of this scene, but of borders: there are no meaningful differences between this or that corner of the desert, other than a scrawny bush. Bucéfalo, possibly a Derridian, shows that there is only so much sovereignty that you can exercise over the most docile animal, including the human animal. The invisible walls of Cantinflas's border made the rigidity of the law all the funnier, the kind of rigidity that tends to be dramatic outside of films.

The least realistic part of this representation is instead the unspoken metarules that govern the interaction. Slavoj Žižek points out that the abstract universalism of the law vanishes in its enactment. Capital-*L* Laws, as written and signed by democratically elected representatives (at best), only exist in our everyday life as framed by habitual, unspoken lowercase-*l* laws that tell you which laws and rights to abide by, to enact, to avoid, to transgress, and when. The exchange between Cantinflas and the officer shows a Habermasian goodwill, the effort to shift one's place to achieve an understanding, from both interlocutors' clumsy Spanglish to the exchange of warnings and a gift (a pepper for the officer's chili) when Cantinflas goes on with his travel. Such goodwill is notoriously absent from the experience of most visitors to most countries. However, realism comes back in the film in unintended ways, also implicit in the unspoken metarules. 1968 humor assumes of its audience a sense of complicity regarding Cantinflas's indignation at being confused with a mere "bracero," touristic gender commodification (Cantinflas asks the donkey about *burritas* in the US), and the racialization of the "pulgas güeras" that the (implicitly non-*güero*) animal immediately contracts. Ultimately, you lose much humor about the law (and beyond) in this scene without a sense of the metarules: snarky, self-assured Cantinflas may be of humble origins, but he has the upper hand against an agent of the state. His street smarts prevail over the great machinery of the state. All of this is, of course, a male, populist power fantasy. However, it only makes sense if we take into account the often humiliating experience of going through customs bearing the race, class, gender, disabled markers of otherness and facing the representation of a state law that disavows the particular interests that mobilize it against you. The scene's humor implies a never-ending process by which particular societies develop norms and rules to shape themselves and their shared rituals and meanings. Laws regulate culture, but spoken and unspoken cultural metarules shape the enactment of such regulation; novels, films, news media, songs, etc., may well represent, shape, and challenge our understanding of the laws that regulate them specifically. Cultures modify themselves through the law; the law shapes the cultures that make it.

Identification and interpretation of the metarules is cultural work. The arbitrary kernel of the law, the point at which a decision in an uneven field of forces settles social conflict through a prescription, makes it one of the crucial realms of culture. In texts whose impetus is unarguably political-philosophical, the law

cannot help but pose aesthetic problems. In *Nomos of the Earth*, Carl Schmitt underscores the intimate connection between law and territory: “nomos is the immediate form in which the political and social order of a people becomes spatially visible” (70). Michel Foucault’s complementary point is that “[t]he successes of history belong to those who are capable of seizing these rules, to replace those who had used them, to disguise themselves so as to pervert them, invert their meaning, and redirect them against those who had initially imposed them” (“Nietzsche, Genealogy, History” 86). Cultural forms do play a crucial role not only in the visibilization of space but in its regulation. However, the agents and institutions of the law may deploy it to reaffirm or to unsettle domination. Aesthetics and the law are imbricated in their world-shaping force, which bears significant consequences for the conceptualization and implementation of the relatively autonomous norms of cultural fields; the local, national, international, and transnational balance of cultural, economic, and political power; and the tense negotiation between action, representation, performance, and judgment.

This was the reasoning behind “Spaces of Law. Fourth International Conference in Transatlantic Studies,” which the Transatlantic Literatures research group at the Real Colegio Complutense at Harvard put together back in 2018. Most of the contributors to this volume presented their work at the conference. For this book, we narrowed down the broad geographical and disciplinary scope of that gathering to approaches to the conflictive relation between law and aesthetics in Latin America and Spain. The essays that follow probe the spaces that correspond to, imagine, or activate specific forms of justice and, often, their sacrificial logic. They examine visual and literary representations, fiction, and historical events throughout modernity. We made the point to invite conceptual-theoretical work from Latin American specialists, rather than exclusively applying supposedly universal (mostly Franco-American) theories to vernacular objects produced and circulating within the context of Hispanophone states. The book is divided into two large sections that, rather than addressing distinctly separate themes, should be thought of as focusing on the same problem from two different perspectives: the multiple ways in which the law shapes and constrains literary, visual, and social practices; and the unabashed excess of cultural forms that overflow eluding all attempts to contain them. It is somewhat intuitive that neither of those approaches takes place in isolation from the other. To think of the law as part, cause, and consequence of culture means that the relation between the two is always in flux.

In the first part of the book, **Writings on the Wall** we have collected pieces that address how the law aims to shape and contain diverse social practices, from the literary to imprisonment to ethics and self-understanding. We begin with the analysis of a previously unstudied case of a legal disciplinary process that took

place during the decline of the Spanish Empire in “From Penal Colony to Colonial Village: The Biopolitical Laboratory in the Philippines for the Protection of Race, Family, and the Promise for a Renewed Spanish Empire,” by Aurélie Vialette. Based on the not so distant time’s understandings of gender and race, labor and procreation became critical to the project of late colonialism. The idea to have prisoners build colonial structures in the Philippines relied heavily on the racialization of colonial bodies and their hierarchization: white Spanish felons were deemed morally superior over indigenous peoples. Vialette’s archival work reveals that the supposedly liberal project of agricultural penal colonies went hand in hand with a biopolitical and racial discourse involved in the conquest of the indigenous people of the Philippines. The penal colony was a particular instrument at the service of the subjectivation and the control of the bodies and capacities both of the displaced prisoners, and the local population. This is but one example of how nationalist, cosmopolitan, and imperialist desires shaped modernization processes removed from global financial and political centers in Spain and Latin America and how they foregrounded the uneasiness of the implicit and explicit rules governing culture. In Daniel Aguirre-Oteiza’s “Remarking (on) the Law of Genre in Exilic Poetry: The Politics of Poetic Memory in León Felipe,” it is a genre, poetry, that risks getting caught in this sort of disciplining power of the nation-state. He examines the connection between Spanish national literary history and the memory of poetry produced by Republican exiles in the aftermath of the Spanish Civil War. Echoing Jacques Derrida’s “The Law of Genre,” Aguirre-Oteiza takes León Felipe’s poem “Reparto” and shows how it marks and remarks (on) itself generically, demarcating itself to the reader’s ears, but also attempting to set itself apart from other forms of political discourse, such as José Antonio Primo de Rivera’s speeches. Nonchronological, border-crossing, and plurivocal threads shape the poem’s verbal texture—what can be termed as its “poetic memory.” Through poetry, Aguirre-Oteiza urges us to challenge the prevailing narrativization of the nation in cultural and academic production about the Spanish Civil War, despite the uneasy familiarities that his approach may evoke. Poetry, which was central to the construction of voice, people, and nation during the war, can be read as continuous with, but also generically, uncannily discontinuous from, the fascistic nationalist politics proclaimed in Primo de Rivera’s speeches. The law also intervenes in the complicated dialogue between culture, national culture, and modernization. In “Law or Desire: Politics of Eroticism in Argentinean Art and Literature (1959–1989),” by Daniela Dorfman, the banning of a novel, the trial of another, and the trial surrounding a film, pose the problem of defining, legislating, and intervening over culture’s obscenity. Illustrious modernist Argentineans debated in *Sur* the merits of the first Spanish-language edition of Vladimir Nabokov’s *Lolita* (1959) and of the scandal around it; deciding over the morality of Germán García’s novel *Nanina* (1969) places the judge as (failed) literary critic, whereas the lawsuit

against Jorge Polaco's never-premiered film *Kindergarten* (1989) mobilized narratives and fiction over scenes that may or may not have ever existed. The article traces a history of censorship in Argentina from the 1950s to the present. Print, film, and digital media progressively expanded the limits of what could be represented and state law moved accordingly to redefine and limit it. In the judicialization of these three cases, Dorfman shows how a society is in fact struggling over its own desires and their regulation. María Fernanda Lander discusses one of the most important contemporary Venezuelan writers in "Y recuerda que te espero by Juan Carlos Méndez Guédez: Seeing and Being Seen in Revolutionary Venezuela." The all-seeing, ubiquitous eyes of the late president Hugo Chávez Frías (1953–2013) haunt the protagonist of the novel—part prescriptive travel guide, part descriptive travel book—. Public spaces and signs suggest to Venezuelans that Chávez is still present, is still watching through political and emotional delegate Nicolás Maduro. Where political supporters see a charismatic leader watching out for them, political detractors see only an exercise in power and surveillance. The narrator challenges this gaze against the background of the shortcomings of the Bolivarian Revolution. Gloria Chacón contemplates the tensions arising from two interlocking sets of laws and their failures to live-up to the dignity of indigenous Mesoamerican women. In her essay, "Fictionalizing Indigenous Rights: Exploring Reparations in *Chen tumeen chu'úpen/Sólo por ser mujer* by Sol Ceh Moo," the Mayan novel illustrates the fraught intersection of reparations, justice, and fiction. The novel prods triumphant narratives of progress that disavow the trauma of memory and the shortcomings of the present, disclosing an alternative articulation of gender solidarity whereby decolonial articulations of the law may become the model. Finally, philosopher Iván Trujillo dissects the multifarious commitments of European philosophy around issues of representation, fiction, and law and legitimacy. Rather than Lyotard's rigid anti-aestheticism in the name of a sublime beyond representation, or Benjamin's association of unsayability with the mythical violence of right, Trujillo follows Derrida in denouncing the decontaminating tendency that seeks to resolve the tension between the law of each case's singularity and the universalist essence of the law. He locates an appeal to fiction (in the form of an "as if") within the law that undermines all pretension of a pure realm of law absolutely exempt from representation and violence.

The second part of the book, **Walls Come Tumbling Down**, emphasizes the other side of the coin: attempts at stretching, if not moving entirely beyond the constraints of the actual enforcing of existing state laws. This implies the foregrounding of new, nonconforming subjectivities (often aligned with systemically disenfranchised individuals), the carving out of heterotopic sites and temporalities of resistance. For instance, the emergence of new subjectivities poses a challenge to the surrounding legal culture. In

“Unmasking the Other: Strategies of Discourse between the Pícaro and the Inquisitor in *Lazarillo de Tormes* and *El Buscón*,” by Benjamin Easton, the pícaro and the inquisitor are two figures deeply defined by the law, and their dialogue, in the context of the construction of a colonial state, mobilizes literature, ethnicity, identity, and class in the construction of power. The pícaro would be characterized by a subjective disposition particular to the time-period. In turn, Nicholas Eymereich’s *Manual de inquisidores* shows the power of the inquisitor’s “gaze” to shape individuals’ subjectivity. They try to game this system and resist capture by the inquisitorial logic. The pícaro’s *mañas* and *tretas* eventually exploits the structural shortcomings and contradictions of inquisitorial epistemology. In “Narrative as Legal Precedent: Thoughts on Flora Tristan’s Impatience,” Pauline de Tholozany looks into Tristan’s pleas for divorce laws within her autobiographical travel narrative *Pérégrinations d’une paria* (1838). Prevalent views of marriage at the time celebrated women’s patience and condemned their untamed passions, for they deemed these emotions to be at the source of the preservation or dissolution of marriage, respectively, as reflected by current legal dispositions. Where divorce was seen as a crippling social ill, Tristan’s impatience became particularly significant. Following Sara Ahmed and Sianne Ngai, the essay shows impatience to have a potentially more just society, with this kind of frustration as its correlate. This “ugly feeling” resists commodification and compromise and demands fair divorce laws as its only resolution. For her part, Lauren G. J. Reynolds examines hybrid physical and discursive spaces of childhood in the context of totalitarian regimes in “Youthful Transgressions? Youth Reform and Minor Revolutions in Jorge Amado’s *Os capitães da areia* and Cristina Peri Rossi’s *La rebelión de los niños*.” The comparison of the two novels shows how authoritarian governments conventional generational norms were in fact instrumental to the legitimation of a violent transformation of society. The young characters in these narratives bear witness to this process from their particular standpoint. Their social position and their first-hand experience to disciplinary dispositifs pushes them to a singular social place. They come to occupy complex sites of meaning, layered and contradictory, that may in fact allow for forms of resistance.

At the national level, the Catalan independence process and the immediate, and at times violent, attempt to demobilize it by the Spanish state is the most overt challenge to the legal framework of the Spanish state and to the legal culture that sustains it. As argued by Ignasi Gozalo-Salellas in “Sovereign Spaces: Law and Legitimacy in the Catalan Independence Struggle (2010–2019),” the Catalan pro-independence movement relies on particular legal philosophies and uses of public spaces: the spatialization of constituted power is contested with the rearticulation of contestatory spaces that demand power, resulting in an anxious struggle between a constituted power, the state, and an

incipient form of “destituent power” (Agamben), in the case of the secessionist movement. Relying on Henri Lefebvre, Gozalo-Salellas suggests that there is a more auspicious understanding of public space, beyond traditional forms of representation and participation in the production and negotiation of power in space toward a democracy that enhances the commons, instead of containing it. Finally, Gabriela Balcarce goes back to Derrida in “Democracy to Come: The Importance of Otherness as Different Ways of Living.” She points to the corrosive aspect of the democratic experience, the tense coexistence with others and the plurality of goals, means, and values, that characterizes a political community. Openness to an unpredictable otherness is not rhetoric or a fantasy that disavows what it claims to desire, but a radical demand that cannot wait. Different ways of living and organizing life (such as the *Movimiento de Mujeres Indígenas por el Buen Vivir*) decenter and provincialize Europe, showing that there is a difference that the logic of the existing law works to erase, an Other that escapes capture by the self-serious law of identity and the pretense of the universal coherence of the law.

During the composition of this book, a world-collapsing pandemic broke many rules. One may be an ass to break the rules, but one would also be an ass not to break them when the situation demands. It is commendable that so many people involved continued to work and help us under such duress. Argiris Legatos and Vernon Press were kind and patient when we needed them to be. Many excellent expert readers contributed to improving the arguments of these essays, and Tess Rankin’s efficiency made them conform to style and grammar rules despite themselves. Isabel Durán first suggested the theme for the conference that brought many of us together. José Manuel Martínez Sierra hosted us again at the Real Colegio Complutense at Harvard, and so did Daniel Aguirre-Oteiza and the Harvard Romance Languages Department.

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Gabriela Balcarce (PhD, Universidad de Buenos Aires, 2011), specializes in twentieth-century and contemporary French philosophy. Her work is at the intersection of ethics, political philosophy, and metaphysics in Derridean Thought. Assistant Professor in Metaphysics and Animal Philosophy. Most of her work is focused on the different conceptions of the Otherness in the contemporary world. She has been awarded with several Research scholarships from CONICET (Consejo de Investigaciones científicas y técnicas) and DAAD (Deutscher Akademischer Austausch Dienst). She is currently working as has a permanent Researcher in CONICET. Her most significant publication is the book *Derrida* (Buenos Aires, Galerna, 2016), but she has also participated in collective editorial projects like “Sobre animales y ciborgs. Perspectivas deconstructivas en torno al humanismo” en Cragolini, M. B. (ed.), *Comunidades (de los) vivientes* (Adrogué, La Cebra, 2018), « Étrangers à la philosophie et à la littérature. L’amour pour les marges de Jacques Derrida et Edmond Jabès ,” Llevadot, L., y Vermeren, P. (eds.), *Penser la langue*, Paris, L’Harmattan (2018), as well as in different academic journals such as “Una mirada del pasado. Críticas del Paradigma Present a la idea de ‘fuente histórica,’” *Em Construção. Arquivos de Epistemologia histórica e Estudos de Ciências, Universidade do Estado do Rio de Janeiro* (año 2 n.1, 2018, pp. 45-51), “Algunas reflexiones sobre la espectralidad en el pensamiento de Jacques Derrida,” *Convivium. Revista de Filosofía de la Universidad de Barcelona* (29/30, 2017).

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Ignasi Gozalo-Salellas is assistant professor at Bryn Mawr College. In the past, he has been visiting assistant professor at Ohio State University. He is currently working on his first manuscript, *Visual Hegemonies in Early Democratic Spain* (Vanderbilt University Press), and co-authored the interviews compilation volume *El síntoma Trump* (Lengua de Trapo, 2019). He specializes in contemporary Iberian cultures, with a strong interest in media studies, politics, and society, focusing on the politics and aesthetics of visual archives. His articles have been published in *MLN*, *Hispanic Review*, *Hispanófila*, and *452°F*, among others. He is currently a board member of the Catalan American Society.

Besides his academic career, Ignasi Gozalo-Salellas is a filmmaker and media contributor with a wide and long experience in television, documentaries, and new media. He has published in Spanish media outlets such as CTXT, Público, La Maleta de Portbou, FronteraD, and l'Espill, among others.

María Fernanda Lander is a Professor of Spanish at Skidmore College, New York, where she has been Director of the Latin American and Latinx Studies program and Chair of the Department of World Languages and Literatures. She has done extensive research on the nineteenth-century Latin American novel, but currently, her scholarly work has focused on examining the representation of social violence in Latin America's most recent literature. Through a close analysis of twentieth- and twenty-first-century novels, she has explored the endurance and revision of social and political violence in countries like Colombia and Mexico but, particularly, Venezuela. Among her most recent work on the topic is the edition of a dossier in the *Revista de Estudios Hispánicos*, dedicated to Venezuela's latest cultural production.

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Pauline de Tholozany is an Assistant Professor at Clemson University. She is a specialist of 19th-century French Literature. Her first book, *L'École de la maladresse* (Paris: Honoré Champion, 2017), is a history of clumsiness in the 18th and 19th centuries. She is now working on a second book that focuses on impatience, a feeling that we tend to decry; she is interested in why we do so. Her work on the topic seeks to examine impatience as it appeared in 19th- and early 20th-century culture. She is particularly interested in exploring the counter-discourses to the classic Judeo-Christian praise of patience: in what ways is impatience a powerful political refusal of the status quo? While she argues that impatience has a revolutionary potential, she also focuses on the role that it plays in patriarchal structures and capitalism.

Iván Trujillo obtained his PhD at the University of Paris X and is a post-doctoral researcher at the University of California, Riverside. He specializes in

contemporary French philosophy, particularly on three fronts: reflections on the political, the aesthetic field, and the Derridean focus of transcendental phenomenology. Concerning the first theme, he has written on the mechanics of the political in Marxism and Post-Marxism (Laclau, Bidet, Žizek, and Althusserianism) and on the universal in nationalism (Derrida, Balibar). Concerning the second theme, he has written on the problem of representation and de-aestheticization (in Hegel, Heidegger, Rancière, Lyotard, Celan, Derrida, de Man, etc.). Concerning the third, he has deployed Derrida's relation with Husserl as the kernel of a number of contemporary issues, including the former two themes of his research. His books address the issue of philosophical filiation (Palinodia, 2009), the relation between historicity and unconditioned literature (L'Harmattan, 2017), the power of fiction (forthcoming at Lom), and national-philosophism or the politics of modern philosophy (in progress), among other philosophical problems. The latter tackles the relation to racism and nationalism in Étienne Balibar's thought, whom he has recently translated with Francisca Gómez and Jacques Lezra.

Carlos Varón González is an Assistant Professor at the University of California, Riverside. His work on the politics of aesthetics in Spain and Latin America, from José Martí to Marta Sanz, has appeared on *Revista de Estudios Hispánicos*, the *Journal of Spanish Cultural Studies*, or *Studies in Twentieth- and Twenty First Century Literatures*. His first book, *La retirada del poema: Literatura hispánica e imaginación política moderna*, addresses post-dictatorial ideas about poetry in Spain and Latin America (2020). His current research project, concerning affective practices and political struggle in Peninsular culture, tentatively entitled "I Feel Your Pain: The Political Mobilization of Affect". Concurrently, he is working on Rubén Darío's work and reception as an equivocal signifier of modernity in transatlantic literary culture.

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