

**Luca Falciola, *Up Against the Law: Radical Lawyers and Social Movements, 1960s–1970s***

Chapel Hill, University of North Carolina Press, 2022, 412 p.

**Gerd-Rainer Horn**

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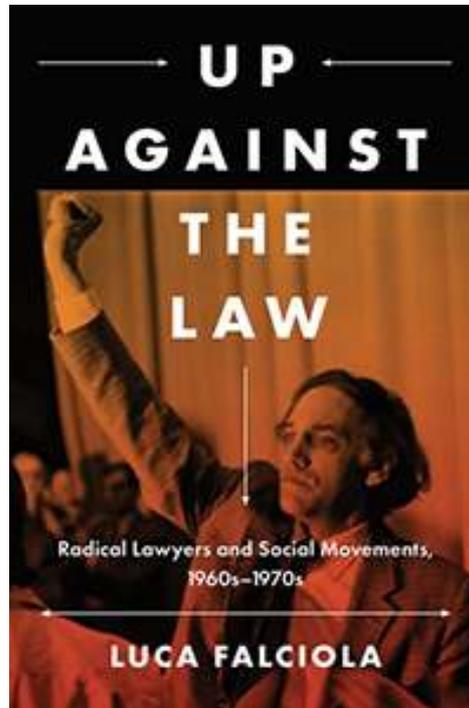
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1 For anybody who has studied US-American social, political and cultural history of the Long Sixties or, better yet, who has lived through these momentous years, which shook up not just North America but much of the Western world, this book is a trip through memory lane. The Civil Rights Movement, the anti-Vietnam War movement, prisoners' rights movements, second-wave feminism, the Black Panthers, the American Indian Movement and other radical causes form the backdrop to this eminently readable book, which should find a place in the library of anyone interested in American Studies.



- 2 The concrete subject of this book, which admirably combines analysis and description, is the premier radical lawyers' association at that time, the National Lawyers Guild (NLG), an organization founded in 1937 and which continues to exercise a distinct influence all the way up to today. Always involved in quintessentially progressive causes, from the mid-1960s to the mid-1970s, the NLG came under the spell of intensified radicalism in a great variety of forms, similarly to the way that parallel organizations of radical lawyers left an imprint on any number of closely related organizations in many Western European states<sup>1</sup>, though the author never mentions these astounding transnational links.
- 3 It was in the early years of the American Civil Rights Movement when the NLG developed increasingly critical attitudes towards traditional practices of the legal profession, as well as experiencing a serious weakening of the belief in government and the state as a wellspring of good. Involvement and identification with radical social movements now became the lodestar of NLG practice, and from 1964 onwards the NLG continuously worked in the orbit of what were then the most dynamic social movements. Up to the mid-1960s, the NLG had usually attempted to depoliticize court proceedings. The idea was thereby to obtain a greater atmosphere of neutrality and correspondingly improved chances for legal successes by the defense teams. From the mid-1960s onwards, NLG lawyers and their support teams changed tactics and consciously began to strive to empower social movements by openly using political arguments to strengthen their case.
- 4 From a few hundred members in 1965, the NLG grew to encompass 6.000 by 1977, eventually admitting legal aid workers alongside lawyers as fully-vested NLG activists in its ranks. The identification with ongoing radical social movements was symbolized to near-perfection when the NLG headquarters was moved into the same New York City building which already housed the National Mobilization Committee to End the War in Vietnam. Courtroom behavior by NLG lawyers changed beyond recognition as well, including the relevant atmospherics. Especially young lawyers "began dressing

casually, keeping their hair long, and growing beards.” (86) Elected as a judge onto the Detroit criminal court in 1972, NLG member Justin Ravitz refused to stand for the Pledge of Allegiance at his swearing-in ceremony. His courtroom bailiffs would not say “all rise for the judge” to the audience but “all rise for the jury”. (87) Such procedures turning legal practice and discourse upside down, led amongst other things to a distinct generational shift within the NLG itself as well. Older civil rights lawyers, beholden to less iconoclastic behaviors, felt alienated within the very organization they had helped to prosper and grow, in many cases letting their membership lapse.

- 5 With the decline of radical social movements in the United States from about 1975 onwards, however, the two generations linked up again. And, on balance, Falciola suggests, a combination of traditional and provocative tactics worked best for most cases on trial. Between the late 1960s and the mid-1970s, some spectacular victories were obtained by NLG lawyers operating under the assumption that open advocacy of the causes of their clients, exclusively employing non-traditional methods of courtroom defense work, would likely be successful. As long as the atmosphere in American society at large appeared to move in similarly radical directions, such gambles often paid off. When the societal support mechanisms and the political and cultural atmosphere in the United States as such began to tilt in decidedly more moderate directions by the mid-1970s, dual defense mechanisms, not rejecting out of hand traditional approaches while still often indulging in inflammatory rhetoric, paid off better than the exclusive reliance on insubordinate actions and behaviors of lawyers in Mao-style jackets, cheered by a boisterous and unrestrained courtroom audience.
- 6 Luca Falciola’s reconstruction of the life and times of the NLG is a remarkable contribution to the repertoire of American Studies texts focusing on radical social movements in the United States. If there is one critique this reviewer would like to raise, it is the tendency to avoid critical discussions and assessments of certain aspects of progressive American politics in the years sometimes called the Long Sixties, at the same time that the author on occasion expresses questionable and unwarranted critical observations on the behaviors of some of his protagonists. Two examples may suffice.
- 7 In a remarkable ten-page section of his book on NLG involvement in labor movement activities, Falciola reports on the interactions between one of the most non-traditional labor unions emerging in those years, the United Farm Workers (UFW) under the leadership of Cesar Chavez, and their legal representatives in the NLG. The NLG had initially fully embraced the cause of Mexican-American migrant workers toiling in the grapefields and orchards of California. With tacit collusion by the Immigration and Naturalization Service, employers had habitually recourse to cheap illegal migration across the Mexican-US frontier to undercut Californian migrant workers’ unionization drives. When the UFW began to demand that government authorities step in to stop such importation of strikebreakers from south of the border, the NLG rather rapidly disengaged from further UFW support work, justifying such a move by claiming that illegal immigrants need to be defended too –not to be condemned. This could have been an excellent moment for the author to discuss the ramifications and controversies for radical politics arising out of the globalization of migration streams, which have massively increased (and not just in the United States) in the last half century.
- 8 One instance where, in the eyes of this reviewer, Falciola is unnecessarily harsh with some subjects of his research, appears towards the end of his generally very informative dozen-page section on the American Indian Movement (AIM), founded in

July 1968 in South Minneapolis, then the largest urban community of Native Americans in the United States. “Its leaders, Clyde H. Bellecourt, Dennis Banks and Russell C. Means, who all had prison records, were charismatic agitators and persuasive speakers. They shrewdly mastered both their relationship with traditional tribesmen and their connections with the younger generations. Wearing long hair and ceremonial garments but also blue jeans and sunglasses, they played the role of selfless warriors and unrepentant outlaws, forging a political language and a seductive aesthetic that captivated plenty of activists.” (229) Falciola, uncharacteristically, given his otherwise generally evenhanded descriptions, tempers such assessments in his subsequent overall appreciation of AIM, suggesting that “AIM’s self-aggrandizing rhetoric and flamboyant style increasingly appeared phony to many outside observers.” (234)

- 9 It so happens that this reviewer knew a number of AIM's leading activists in the Twin Cities at that time, and I thus feel that a personal observation might cast some additional light on this particular conjuncture and milieu. Perhaps I was too spellbound by the 'seductive aesthetic' of Clyde and Vernon Bellecourt, Dennis Banks and John Trudell; but, to this day, I have never again encountered such powerful and intelligent personalities as AIM's Minneapolis-based network of key activists – with the possible exception of some members of certain religious orders engaged in Latin American Solidarity Movements in the course of the 1980s. Moreover, AIM's controversial strategies, devised in close cooperation with the NLG and similar associations of supportive lawyers, were highly successful. The flagship court case handled by the Wounded Knee Legal Defense/Offense Committee ensure an extremely low “7.7 percent conviction rate, whereas the average in the circuit was 78.2 percent.” (238)
- 10 Aside from such relatively trivial dissenting observations, my overall assessment of Luca Falciola's important work remains steadfast and certain. It is a rare gem in the literature on social movements in the Long Sixties.

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## NOTES

1. See, for instance, Jörg Requate (ed.), *Recht und Justiz im gesellschaftlichen Aufbruch (1960-1975). Bundesrepublik Deutschland, Italien und Frankreich im Vergleich*, Baden-Baden, Nomos Verlagsgesellschaft, 2003.