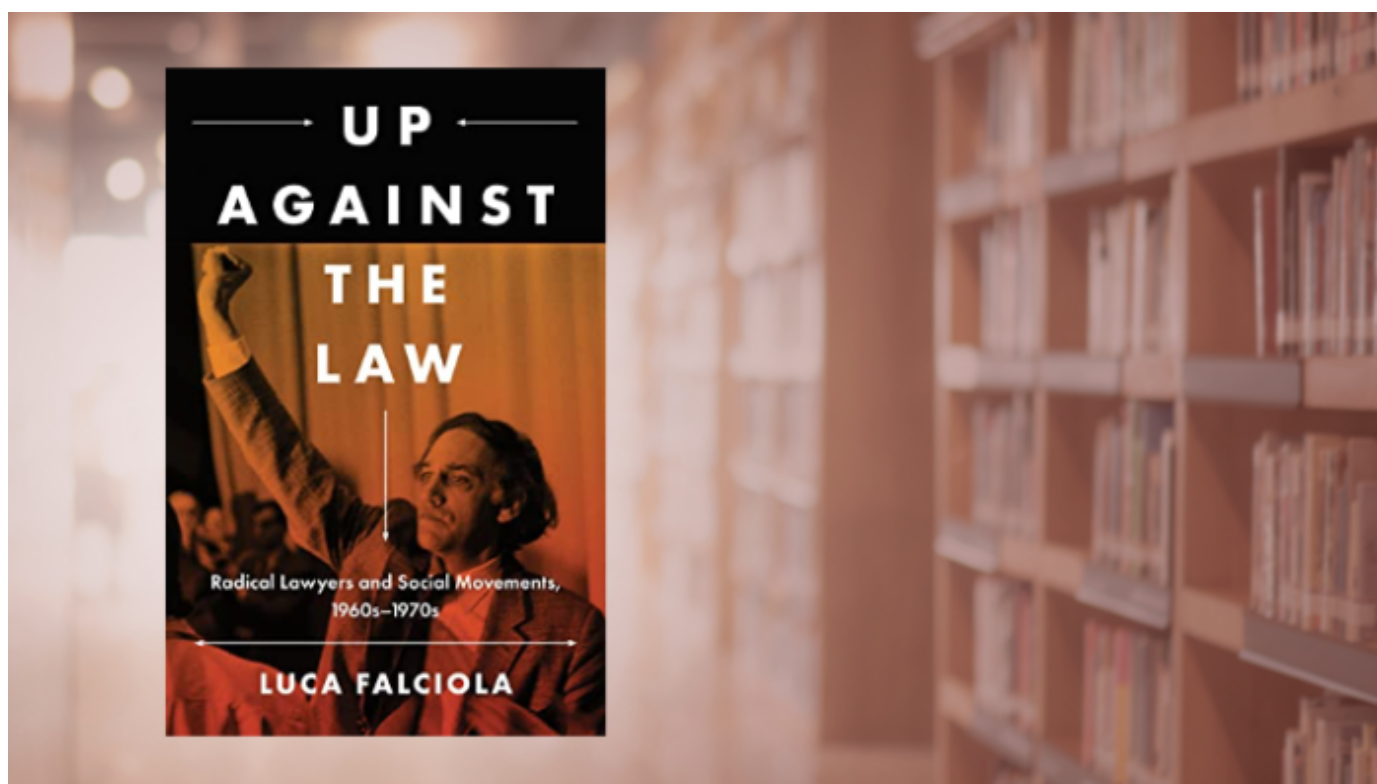


A Good Read >

Co-Conspirators? Radical Lawyers Who Chose to Work in and beyond the Law

by Linda Mulcahy | 29 March 2023

Socio-legal scholars have long been interested in conducting research into the working lives of lawyers. We now have a wealth of research about the ways in which lawyers interact and translate the language of their clients, develop litigation strategies and protect their professional and financial interests. Despite the many insights offered by this literature it remains the case that work on certain types of lawyers tends to be marginalised. Research has only relatively recently looked at in-house, government lawyers, lawyers in the largest commercial practices and the many distinctions between them. Also worthy of note in this context is the relatively small amount of in-depth research on radical lawyers.

The term radical is an ambiguous one, often treated as synonymous with progressive, pro bono or cause lawyering; all

terms which signify lawyers who work outside of mainstream private practice for at least some of their time (see [Kinghan's new book](#)). [Abel and Scheingold's impressive work](#) illustrates the global reach of these terms and the many forms that 'alternative' lawyering takes. Lawyers included in this loosely defined group include those who work in profitable private practice during the day and give up their time for free in the interests of disadvantaged clients during the night and those who operate within the confines of neo-liberalism; working within the system to achieve the remedies made available by it.

Up Against the Law: Radical Lawyers and Social Movements 1960s-1970 disrupts this account. Written by Luca Falcicola, a lecturer in history at Columbia University, it positions radical lawyers as a particular brand of progressive lawyers who joined forces with the United States' most confrontational activists during the 1960s. The lawyers he is concerned with, in this beautifully researched and crafted work, went beyond part time involvement in litigating for social movements or lobbying the legislature for change. Instead, they dedicated themselves to overthrowing existing societal structure in order to become part of the militant social movements they worked with, abandoning any claim to neutrality and actively promoting left-wing politics. Opposed to gradual change, they made numerous personal sacrifices, including being branded as some of the most dangerous subversive individuals in the United States, and even societal outcasts.

This ten-chapter book largely draws on the archives of the National Lawyers Guild, first established in 1937, which had a broad transformative agenda that went beyond particular civil rights causes and sought economic and social justice for a range of marginalised groups. They represented workers, communists, people of colour, prisoners, Native Americans, feminists, migrant workers, soldiers, lesbians and gays. The chapters predominantly chart a chronological history of the Guild which explores their involvement in the civil rights movement; the subsequent development of mass defence strategies and militant litigation that politicised individual causes; periods of reflection on the purpose of legal education; the outpouring of left-wing sentiment during the wars in East Asia and the involvement of the Guild in the prison reform movement. The final two chapters draw away from this chronology to reflect at a more abstract level on the type of interventions and strategies the Guild pursued over time.

While the politics of civil rights movements in the US have been much charted, Falcicola makes a convincing case that the role of lawyers as activists who shaped the movement and enhanced its confidence has been much neglected. Arguing that mobilisation was much more profound and diffused than previously understood, he describes the various projects, campaigns, experiments, conquests, victories and tragedies that a generation of combative lawyers stood behind as frontline militants. What makes this book special is the way in which it connects radical movements and exposes the ways in which Guild lawyers moved across them, bringing strategies which they honed, refined and revisited as they did so. It is argued that the nationwide and structured network created by the Guild defeated the potential for causes and people to become isolated and the underlying structural problems that cause inequality and discrimination ignored. Lawyers made these points within the legal system by ensuring that politics was injected into courtroom discourse, by unveiling the social causes of crime, justifying disorderly behaviour, orchestrating out of court sympathy and adopting a defiant stance in proceedings. Outside of the courtroom they raised consciousness and funds.

This elegantly written book brings an energy to the field and is not a book that can be absorbed in one sitting. The intensive archival research undertaken, supplemented by an analysis of the private papers of a group of lawyers and contemporary interviews, is full of details that deserve to be returned to repeatedly. One example is the material in chapter nine about the internal dissent within the Guild prompted by second wave feminists, the Guild Sisters. Such critiques from within, almost inevitable in any social movement, are sometimes glossed over in the interests of the chronology. I would have liked more reflection on the nature of the sources being used: to have heard more about what

was contained in the archive, how decisions were made about what to preserve and what to destroy, how analysis was undertaken and the gaps and silences that existed in what has been retained. The limitations of archival research are hinted at in the conclusion but the potential for myth-making within the movement is rarely addressed head on. Despite this the project, which has many parallels with research on [law centre lawyers being undertaken at the Oxford Centre for Socio-Legal Studies](#), is a welcome addition to the field which focuses on the tensions implicit in being a radical partisan lawyer using the legal system whilst also rejecting it.

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