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Creative Methodologies and the Reconfiguration of Legal History

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Creative Methodologies and the Reconfiguration of Legal History

In October of last year, we brought together scholars from diverse disciplinary backgrounds and at different stages of their careers to reflect on what is often described as »creative methodologies« and their implications for the study of law in the past. Widely used in the social sciences and in arts-based research, the term is intentionally expansive. We approached the concept as an entry point for critically interrogating the epistemic foundations of legal history itself.

This forum starts from the premise that legal history is defined by how normative knowledge is produced. It understands law as emerging through practices of interpretation, circulation, embodiment, and mediation across time. Rather than locating legal meaning exclusively in official textual archives, state institutions, or juristic authority, we approach it as something also constituted through performance, collaboration, visual and oral forms, digital infrastructures, and public engagement. By bringing these practices into conversation, the forum foregrounds the epistemic commitments that shape the field and explores how different methodological choices reconfigure what counts as law and as legal knowledge today.

The guiding question, »*Are creative methodologies allies or adversaries in legal history?*«, was framed provocatively to clarify what is at stake. Across their respective fields, the contributors examine different dimensions of law in the past through distinct conceptual languages and research traditions. Their essays, grounded in diverse research and narrative practices, approach creativity as a methodological intervention that reshapes the production, circulation, and experience of legal knowledge, rather than as stylistic innovation.

The following three sections reflect an interpretive effort to bring heterogeneous interventions into analytical conversation and are organized according to three thematic constellations: 1) Performative Legal Histories: Imagination, Method, and Justice; 2) Collaborative Legal History: Collective Knowledge and Legal Transformation; and 3) Law in Circulation: Media, Infrastructure, and the Politics of Public Knowledge. They foreground, respectively, the archive and its limits; the researcher's positionality and the production of normative knowledge; and the mediated and political life of legal-historical scholarship beyond the academy.

Performative Legal Histories: Imagination, Method, and Justice

This section brings together a series of contributions that, drawing on performance and other performing arts, propose approaching creative methodologies as fertile ground for historical-legal inquiry. Rather than offering a repertoire of techniques, these works look to displace traditional questions concerning the archive, evidence, and the reconstruction of the past, inviting us to reconsider the links among history, emotion, and community. Within this horizon, the work of Kira Smith and David Dean advances a provocative claim: There is no history without imagination. Through performance and speculative writing – what they term *blended writing* – they propose reading legal texts performatively and subsequently scripting and staging them. This methodological gesture cultivates practices through which historians can confront and rework the constraints of archival material and the biases that shape it. In cases where certain voices prove difficult to trace – such as those of women or children – staging renders visible the mediated, incomplete, and often hostile character of institutional sources. In this context, the combination of close reading and performance does not abandon interpretive rigor, as one might assume, but rather radicalizes it.

The hybrid writing proposed by Smith and Dean explicitly introduces the emotional dimension both as an object of analysis and as a mode of knowledge. Their work suggests that a practice of responsible speculation makes it possible to imagine thoughts, emotions, and sensory experiences that were never recorded, thereby opening a field of possibilities capable of restoring humanity and agency to those reduced to case files. This exercise is conceived as a reparative act requiring sincerity, humility, empathy, and, above all, a candid reflection on the researcher's own subjectivities. In this

sense, historical imagination becomes a political act: By building a bridge between present and past subjectivities, it reformulates the whys, wherefores, and hows of historical-legal reconstruction. The question is no longer limited to what happened, but extends to for whom and with what effects we reconstruct the past in the present.

From a different disciplinary field, yet in dialogue with these concerns, Adela Goldbard examines the relationship between the performing arts and the pursuit of popular justice in contexts marked by state violence. Her proposal to conceive art as counter-law draws attention to the importance of creating alternative spaces of justice in which corporeality, affect, and collective memory configure an expanded field of accountability. In such scenarios, practices such as the burning of papier-mâché effigies or the embroideries crafted by women documenting violence function as tactile and multisensory counter-archives, capable of producing a »poetics of violence« in which destruction is transformed into catharsis and communal projection of desire.

The justice that emerges from these processes does not take shape within the normative abstraction of state law but within a sensory and relational register that Goldbard describes as a »multisensory field of justice«: an aesthetic and communal space where responsibility is enacted through memory, affect, and collective creation. Although such experiences have received limited attention within historical-legal scholarship, their force lies precisely in compelling us to recognize that justice is also produced in practices that exceed the formal languages of law and that can directly challenge its limits.

In the Colombian case, the work of Pilar Mendoza shows how these articulations among art, memory, and research have operated within the institutional framework of transitional justice, particularly in the experience of the Truth Commission. Mendoza demonstrates that following the 2016 Peace Agreement, the Commission not only systematized an extensive body of documentation produced by victims' organizations – including reports, testimonies, photographs, textiles, musical pieces, and theatrical works – but also created spaces of listening between victims and perpetrators, whose accounts were cross-checked against a vast archive of research on the armed conflict. Here, unlike the poetics of violence described by Goldbard, art is not primarily oriented toward channeling anger or denunciation, but toward constructing symbolic orders that make reconciliation and the restoration of social bonds possible. These initiatives contributed to defining responsibilities, identifying victims, and advancing processes of symbolic reparation, demonstrating how collective creation can enter into dialogue with rigorous research to produce a transformative social experience.

If legal history is to remain responsive to the complexities of the present, it must remain open to interventions that originate beyond its conventional disciplinary boundaries. The approaches examined in this section invite legal historians to reconsider their methods and the assumptions that underwrite them. They point toward a field capable of embracing methodological plurality, acknowledging the affective dimensions of knowledge, and recognizing the ethical stakes of reconstructing the past. In doing so, they suggest that rigor and imagination need not stand in opposition, but can jointly expand the horizons of historical-legal inquiry. From this vantage point, the question of how knowledge about law's past is produced – and by whom – becomes unavoidable. The next section turns to these dynamics directly, examining participatory practices that reshape the contours of authority in legal-historical research.

Collaborative Legal History: Collective Knowledge and Legal Transformation

These methodologies, as they unfold in the works gathered in this section, situate us within a specific historical and political moment: the 1970s and 1980s in Colombia, when diverse intellectual and social movements in the Global South sought to rupture the classical subject–object relation of knowledge production. A key reference point for this reorientation is Joanne Rappaport's engagement with the concept of *sentipensamiento*, associated with the participatory action research tradition advanced by Orlando Fals Borda. For Fals, to be *sentipensante* entailed fusing art and science not merely as an instrumental strategy for data collection – as it is often reduced to – but as a practice through which political community and collective knowledge are forged. In experiences such as sociodramas and historical comics, the artistic process recreates both the logic of research and the subjects who participate in it.

This reconfiguration of research as a collective, embodied, and politically situated practice provides the backdrop for the collaborative methodologies examined here. Extending this trajectory, Karla Escobar analyzes the case of Cauca, particularly the production of the *Mapas Parlantes* (Talking Maps) and the role this collaborative research process played. It not only enabled the reconstruction of territorial memories but also contributed to the later formulation of the concept of *Derecho Mayor* (Major Law) and, in the longer term, to debates that would eventually culminate in constitutional transformations such as those that occurred in Colombia in 1991 and beyond, particularly in relation to Indigenous autonomy and self-governance. Escobar thus demonstrates how what began as a collective practice of historical knowledge production oriented toward social transformation ultimately informed far-reaching legal debates. This trajectory reveals that collaborative methodologies generate community not only in a symbolic sense but may also serve as seedbeds for concrete normative change.

Escobar argues that the *Mapas Parlantes* constituted, in a certain sense, an exercise in historical reconstruction that rendered graphically the centuries-long relationship between the Indigenous peoples of Cauca and state law. By drawing attention to these »apocryphal« legal histories – produced by scholars who did not necessarily identify as legal historians – she invites us to broaden the disciplinary field and to recognize the formation of epistemic communities oriented toward social and legal transformation. At the same time, she underscores the performative potential of collaborative historical-legal research and the possibility of more firmly embracing the idea that research does not merely interpret the normative world but also intervenes in it, however cumbersome such exercises may be.

The challenges inherent in collectively producing research-based artifacts also traverse the work of Tania Triana and Juan Antonio Restrepo, who, from the vantage points of literature and pedagogy, reflect on the difficulties of constructing arguments jointly: What becomes visible and what is erased in the process of shared writing? Which voices are amplified and which remain at the margins? Their experimental essay explores precisely what is often left unnamed in academic production, linking this omission to debates on memory and post-memory. Although at first glance this reflection may appear distant from legal history, it speaks directly to one of the central questions of contemporary historical-legal historiography: How is normative knowledge constructed, and what conditions of production determine what we regard as legally relevant?

Triana and Restrepo's aesthetic and argumentative wager resonates, in certain respects, with the intuitions of legal realism by interrogating which seemingly banal or marginal aspects configure the normative orders in which we live. What conditions make certain questions possible and not others? What silences sustain our categories? Within the frameworks of memory and postmemory, that which formal law has relegated – emotions, embodied experiences, fragmentary narratives – emerges as a fundamental dimension for understanding contemporary claims to historical justice. For legal historians, the conceptual framework offered by postmemory studies proves crucial for linking present-day demands to traumatic pasts and for reincorporating affect and corporeality as constitutive elements of normative orders.

From a historiographical perspective, the collaborative methodologies discussed here intervene in long-standing assumptions about objectivity and distance in legal-historical research. By foregrounding research as embodied and relational, they draw attention to the social and political processes through which normative knowledge is assembled. Research-creation renders these processes explicit, exposing the infrastructures that sustain what later appears as doctrinal or historical authority.

Collaboration transcends the role of methodological supplement and instead reorients the discipline's epistemological commitments. It compels legal historians to reflect on their embeddedness within scholarly communities and on the shared processes that generate authoritative knowledge. While the earlier section extended interpretive reach, this one addresses the institutional architecture of the field.

Legal History in Circulation: Media and Public Authority

If the preceding sections examine the archive and the collaborative conditions of knowledge production, this final section turns to circulation as a constitutive dimension of legal-historical inquiry. Legal history does not exist in isolation; it

unfolds within particular media ecologies, institutional infrastructures, and public arenas that shape how knowledge about law is generated, transmitted, stabilized, and challenged. Circulation is not simply a downstream effect of scholarship but one of its enabling conditions, that is, it is central to the processes through which legal-historical narratives gain visibility, legitimacy, and public authority.

Several contributions explore how media formats structure historical credibility. In the field of Indian constitutional history, Srijan Sandip Mandal revisits the methodological significance of oral history in the work of Granville Austin. Austin's extensive interviews for *The Indian Constitution: Cornerstone of a Nation* demonstrate the centrality of testimonial sources in shaping canonical accounts of constitutional development. Mandal argues that oral evidence operated within a broader evidentiary arrangement through which constitutional meaning was consolidated. When this scholarship later informed the television series *Samvidhaan: The Making of the Constitution of India*, its narrative authority migrated into a different register. Dramatization, seriality, and broadcast circulation extended constitutional memory beyond the archive and into the domain of performance, where authority became inseparable from staging, voice, and visual composition.

This movement from archive to screen acquires a more deliberate methodological orientation in Medina and Montaña's »Public Television as a Research-Creation Tool: The Case of Water Diaries«. Reflecting on their work for Colombian public television, they treat the medium as part of the research process itself. Organized around problems rather than topics, the series fosters comparison across territorial experiences of water governance and situates viewers within those inquiries. In this configuration, television shapes the questions that can be asked, the actors who can intervene, and the forms of knowledge that gain visibility. Customary and innovative practices of territorial planning appear in mutual illumination, their recent histories refracted through a format that binds investigation and public engagement.

Raquel Sirotti's engagement with colonial legal history in Mozambique carries these concerns into the acoustic domain. In contexts where normative practices historically circulated through oral and embodied forms, sound offers a medium attuned to the materiality of the sources themselves. The podcast *Tramas Coloniais* weaves archival recordings, interviews, and ambient sound into the fabric of analysis. Listening brings forward cadence, hesitation, and interaction – dimensions that written transcription often flattens. Through this acoustic practice, evidentiary weight shifts: Tone and presence acquire analytical relevance, and historical inquiry aligns more closely with contemporary juridical arenas in which testimony continues to operate as proof. Circulation through sound thus situates colonial legal history within ongoing debates about responsibility and recognition, while recalibrating the sensory conditions under which historical knowledge is assembled.

Within this expanded field of mediated circulation, the visual register emerges as another site in which historical meaning is organized and conveyed. The works of Muriel Laurent and Sebastián Vargas approaches circulation through graphic narrative, though from distinct analytical vantage points. Working within social history, Laurent examines how the comic format enables the representation of contraband practices in 19th-century Colombia. Through sequential panels and visual juxtaposition, her work situates economic actors, state officials, and everyday practices within the same frame, rendering visible the layered interactions through which regulatory authority operated. The graphic medium produces spatial and narrative simultaneity, allowing complex social relations to appear as historically grounded configurations of normative tension.

Vargas, writing from the perspective of history education and memory studies, reflects on comics as historical documents, pedagogical instruments, and collaborative practices. His analysis foregrounds the circulation of graphic narratives within classrooms, museums, and public debates, where they participate in processes of historical interpretation and memory formation, particularly in societies marked by political violence. Comics thus operate as mediating artifacts that connect scholarly research, collective remembrance, and broader publics, shaping how legal and normative orders are perceived beyond academic settings.

Cartography introduces another visual form through which normative orders have historically circulated. Maps have long served not only as descriptive devices but as instruments for organizing jurisdiction, authority, and spatial claims. In *Power of Attorney in Oaxaca*, Yanna Yannakakis incorporates cartographic visualization as one element within a broader digital research project that

examines how Spanish imperial law operated across space. Developed as an open-access platform, the project enables users to navigate these materials across multiple scales, moving between local Indigenous communities, regional jurisdictions, and imperial centers. Its digital interface organizes sources relationally rather than sequentially, making patterns of mobility and legal representation visible through interactive exploration. Circulation thus appears in two intertwined dimensions: as a historical process of juridical movement and connection, and as a contemporary mode of knowledge dissemination shaped by digital design and open-access principles.

Digital circulation unfolds within legal and economic frameworks that condition its scope and sustainability. Nora Slonimsky addresses this dimension by situating contemporary open-access publishing within a longer history of debates over intellectual labor. Drawing on Thomas Paine's reflections on authorship and dissemination, she traces enduring tensions between broad access to knowledge and legal mechanisms designed to recognize and protect intellectual work. Her involvement in the publication of an open-access digital volume underscores the material arrangements that make digital accessibility possible: funding structures, licensing regimes, institutional support, and copyright law. Digital platforms operate within these regulatory and economic frameworks, which shape how scholarship moves and how intellectual labor is attributed and sustained.

Questions of infrastructure acquire heightened political visibility within public cultural institutions. Jimena Perry examines contemporary debates over museum interpretation in the United States, including pressures directed at institutions such as the Smithsonian National Museum of African American History and Culture. Governmental efforts to reshape exhibitions in the name of patriotic unity demonstrate how historical narratives become sites of ideological contestation. Museum practice unfolds within funding structures, governance models, and political oversight that influence curatorial decisions and interpretive frameworks. Circulation in this context entails struggles over authority, representation, and accountability, linking public history to broader debates about citizenship, race, and national memory. Perry's analysis raises a question that extends beyond museums: How should historians position themselves when the public transmission of historical knowledge becomes entangled with direct political intervention?

José Ragas approaches the present from another vantage point, focusing on technological transformations that reshape normative imagination. The widely publicized symbolic marriage between Akihiko Kondo and the virtual character Hatsune Miku provides an entry into questions of intimacy, recognition, and the shifting boundaries of legal subjecthood. As artificial intelligence mediates social relationships, juridical categories such as marriage and personhood encounter new forms of attachment and social practice. Ragas situates these developments within structural conditions – loneliness, precarious labor, digital economies – that frame contemporary engagements with AI. His intervention directs attention to the ways technological change reconfigures both the subjects of law and the arenas in which legal meaning circulates. Together, these analyses underscore how the circulation of legal knowledge is shaped by economic regulation, political contestation, and technological transformation.

Conclusion: Legal History as Public and Situated Practice

The reflections gathered in this forum suggest that legal history today occupies a position that exceeds retrospective analysis. To study law in the past is also to participate in the present conditions under which legal meaning is produced, contested, and transformed. The discipline operates within epistemic, institutional, and technological environments that shape not only what can be known, but also how that knowledge travels and to whom it becomes available. Recognizing this embeddedness alters the self-understanding of legal history.

Legal history does not merely reconstruct normative orders; it intervenes in the frameworks through which authority, responsibility, and justice are interpreted. Its methods – whether archival, performative, collaborative, or digital – carry implications for how communities imagine their pasts and articulate claims in the present. In contexts marked by political polarization, technological acceleration, and renewed struggles over memory, the historian of law is not an external observer of normative change but a participant in the processes that shape it.

This position entails responsibility. It calls for attentiveness to the infrastructures that sustain knowledge, to the audiences that receive it, and to the inequalities that structure access to both law and history. It also invites humility: The recognition that legal meaning emerges from multiple sites and actors, many of which lie beyond formal institutions and canonical texts. A discipline attentive to these dynamics contributes not only to historical understanding but to ongoing conversations about justice, legitimacy, and collective life.

The question is, therefore, not whether creative methodologies belong within legal history, but what kind of legal history do we seek to practice. One that confines itself to the stabilization of inherited narratives, or one that acknowledges its role within a broader ecology of interpretation and public debate? While the contributors do not set out to offer a unified reflection on the nature of the discipline, the conversations opened by their work help us point toward the latter. They allow us to envision a field that is methodologically plural, epistemically reflexive, and publicly engaged: A field that understands its work as part of the larger processes through which societies negotiate the meaning of law across time.

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