Introduction: Performance, Law, and the Race So Different

Bashir, a former Guantánamo detainee from Pakistan, stands across the stage from Alice, his former interrogator. It is fifteen years after his time in Guantánamo. She does not recognize him, having taken pills to suppress the memories of her work in the prison. The stage is painted white, marked only by patches of distressed grays and scuffmarks from the actors' shoes. Bashir is short, with a slightly round body and thinning hair, and he wears a rumpled suit that lends an air of defeat to his figure. He stands upright and holds a bouquet of rose stems in front of him, after violently decapitating the flowers a few moments before. Alice leans up against the wall, arms drawn inward and her right hand nervously toying with fingers on the left. She is powerful, tall, and imposing, with brown hair pulled into a tight ponytail at the back. She leans back with one foot pushing against the wall behind her. Whereas Alice is healthy, living a comfortable middle-class life as a florist in Minneapolis, Bashir is stateless and ill, his body bearing the symptoms of hepatic encephalopathy. His fluttering hands serve as a constant reminder of a disease contracted and left untreated in the United States' most notorious prison. The light is dim, the sounds ambient, and the world seems suspended. Alice takes a breath and looks Bashir in the eye before she admits, "Iguanas. That's all I remember about Gitmo. Iguanas crossing the road. I was so scared of hitting one and having to pay a fucking ten thousand dollar fine." Bashir casually responds, "The iguanas were lucky. The Endangered Species Act was enforced."[1]

This scene takes place around the midpoint of the 2011 New York premiere of Frances Ya-Chu Cowhig's dark investigation of Guantánamo's legacy, *Lidless*. *Lidless* is a theatrical portrait of Bashir's racialization and subjectivation in Guantánamo. First workshopped in 2009 at the Lab Theatre of the University of Texas at Austin, before productions in Great Britain and Philadelphia, *Lidless* was presented by Page 73 Productions on the downtown Manhattan Walkerspace stage just a few weeks after the tenth anniversary of September 11. The first scene takes place at Guantánamo Bay in 2004 as Alice receives an executive memo authorizing sexual interrogation techniques before she proceeds with Bashir's interrogation. The rest of the play takes place fifteen years into the future, when Alice has placed her past in Guantánamo under erasure. She lives a seemingly normal life, running a Minnesota flower shop with her husband and daughter. This world explodes when Bashir arrives to confront his former interrogator and to demand a new liver to replace his failing organ. In encounter after painful encounter, he struggles to get Alice to remember him as he restages the scenes of their interrogation, places himself in stress positions, and ultimately coaxes Alice into playing her former role as a torturer. This reunion destroys Alice's family and highlights the intimate bonds that tie the two together. Throughout the play, law, performativity, and performance blur, blend, and collapse into each other across Bashir's body. Two scenes, in particular, emphasize the relationship between law and performance in the making of Bashir's racialized subjectivity: the initial interrogation in Guantánamo and Bashir's restaging of this interrogation in Alice's flower shop.

The play begins with the law. Before the interrogation, Alice unfolds an executive memo, which she describes as a "spankin' new strategy, straight from the top. Invasion of Space by a Female.'"[2] When warned by a colleague, "You don't have to do this," she responds, "But I'm allowed to. Dick Cheney says so."[3] Throughout the play, *Lidless* reminds us that the law is much more than a statute or an executive order communicated in a memo. It is a process that comes to life through the interplay of juridical performativity and embodied action: the law's realization is inextricable from the performance of law.

During the interrogation scene, Alice identifies Bashir's racial difference as a Pakistani, Muslim man as a key factor in his detention at Guantánamo. Just before interrogating him, she exposes his genitals and remarks, "It appears those rumours about Asian men are lies your ladies tell to keep you to themselves."[4] The narrative repeatedly suggests that Bashir was innocent, like so many of the detainees at Guantánamo. He

was incorrectly classified as an "enemy combatant" by a system of racial profiling that articulates the often conflated and/or misrecognized racial and religious difference of "Asian men" such as Bashir as tantamount to being a national security threat. As such a threat, Bashir is placed outside the law and rendered vulnerable to exceptional forms of interrogation, culminating in his rape by Alice.[5] Thus, his status as an Asian man circuitously justifies the exceptional legal status attached to his body: subject to the law but with less legal protections than an iguana.

The role of performance in Bashir's racialization and legal subjection is narrated with a theatrical vocabulary. At different points in the play, both Alice and Bashir refer to Alice's job at Guantánamo as "playing a role."[6] And when Alice cannot remember Bashir, he achieves recognition from her when he too begins to play his proper role. He assumes the choreography and even costume of the state: he covers his head with interrogation hoods, forges his body into stress positions, and offers to play a part in restaging the interrogation. Perhaps most horrifying, as Bashir later declares, he comes to identify with the very terms of the violence done to him in Guantánamo: "But the only way I kept from going crazy was by making myself love what they did to me."[7] Bashir's first performance of submission in Guantánamo is violently coerced, but the second, in the flower shop, exists in the confused space between coercion and a voluntary return to a script of subjection.

In *Lidless*, the state profiles, misrecognizes, and apprehends Bashir based on his racial difference as a Muslim and Pakistani man. His exceptional legal status is not entirely novel. It shares a familiar resemblance with the racialization of Asian immigrants and Asian Americans as potential national security threats who are subject to legal regulation while existing outside the universal assurances of the law.[8] In many ways, *Lidless* figures as a point of connection between the historical racialization of Asian Americans in the previous two centuries and contemporary forms of racialization in the era of the global war on terror (GWOT). *Lidless* is thus well situated within a tradition of Asian American plays that use the stage to document, interrogate, and complicate the processes of racialization in US law.[9]

A Race So Different is a study of the making of Asian American subjectivity. I argue that this process occurs through the intersection between law and performance in and on the Asian American body. As Robert S. Chang once wrote, "To bastardize Simone de Beauvoir's famous phrase, one is not born Asian American, one becomes one."[10] But what are the mechanisms by which this process takes place? In order to answer this

question, this book takes seriously Michael Omi and Howard Winant's contention that "race is a matter of both social structure and cultural representation" but does so in a fashion that does not maintain the divide between the two.[11] A central contention of this book is that formations such as the law, politics, history, nation, and race are structured by and produced through overlapping and often contesting narrative and dramatic protocols akin to aesthetic forms of cultural production, representation, and popular entertainment. This book submits that aesthetic practices directly contribute to the shaping of these formations by serving as vessels for the mediation of legal, political, historical, national, and racial knowledge. *A Race So Different* analyzes racial formation through the lens of performance in order to historicize and explicate the legal and cultural mechanisms responsible for the production of racial meaning in and on the Asian American body. Bringing a performance studies perspective to bear on the study of Asian American racial formation, I suggest that it is in the places where "social structure" (the law) and "cultural representation" (performance aesthetics) become most deeply entangled on the body that they assume their greatest significance.

Interdisciplinary scholarship about law and performance has, to date, often distinguished the realm of legal ritual from the domain of aesthetic practices. Legal scholarship about performance traditionally focuses narrowly on First Amendment jurisprudence, copyright, or entertainment contract law, while theater and performance scholarship usually frames the law as either a narrative theme or part of the social/historical background against which performance occurs.[12] This book joins an emerging body of performance studies literature that focuses on the intersection between state politics, law, and performance, most recently in the pathbreaking work of Tony Perucci and Catherine Cole.[13] Perucci's study of Paul Robeson's testimony before the House Committee on Un-American Activities demonstrates the ways in which performance can be mobilized by the state as "the field upon which politics is enacted" as well as the means by which a figure such as Robeson can deploy performance in order to disrupt "the containment of the theatrical frame secured and held at bay by" the government.[14] While the relationship between aesthetics and the performance of politics is important to Perucci's analysis, his primary focus is on the staging and disruption of political power, rather than the law as such. In turn, Cole observes that theater and performance scholars have generally approached the study of legal phenomena, such as South Africa's Truth and Reconciliation Commissions, by focusing "on theatrical or aesthetic representations of

the commission rather than on the commission itself as performance."[15] She calls on performance studies scholars to bring their expertise to the study of law *as* performance in order to open up a more robust understanding of legal procedure's social function. At the same time, by doing so, Cole largely (and understandably) moves away from the analysis of aesthetic objects.[16]

The present study insists that partitioned critical approaches that focus on either legal ritual *or* aesthetic practices cannot adequately account for the fact that (1) there is an aesthetics to the law, including performance conventions and theatricality, and (2) performance, theater, and art often function as agents of the law. Because performances are embodied acts that occur in quotidian and aesthetic arenas, regularly blurring the spaces between them, the performance studies approach of *A Race So Different* allows us to understand the process of legal racialization without privileging the law over cultural production, or vice versa. That is, through the lens of performance theory, we can begin to see how racialization occurs in the critical space where law and performance coexist across the individual subject's body and in the cultural bloodstream of the body politic. As such, this book demonstrates how a performance studies approach to racial formation that accounts for the concurrence of law, politics, and performance aesthetics can contribute to a more robust understanding of the construction of social and racial realities in the contemporary United States.

In the remainder of this introduction, I articulate the key terms and concepts that frame this study. I show how the law is (1) performative, (2) structured by acts of performance, and (3) mediated through aesthetic performance pieces. Like Bashir, Asian Americans are interpellated into a form of legal subjectivity that is figured as simultaneously included within and excluded from the normative application of the law. I describe this as a state of racial exception. I show how the law does more than project this curious juridical status onto Asian American bodies; it calls on the Asian American subject to perform in a fashion that confirms his or her exceptional racial subjectivity. To be clear, this book does not aim to prove the existence of racial exception. Theories of a simultaneously interior and exterior national subjectivity have already been established in the previous literature on Asian American racialization.[17] Rather, I take the racially exceptional status of Asian Americans as a point of departure in order to demonstrate the mutually implicated role of law and performance in the making of Asian American subjectivity as such. In doing so, I hope to show how the lens of performance can

help us to better understand Asian American racial formation in three key ways: (1) it gives us a frame for the historicization of the process of Asian American racialization; (2) it provides us with tools for complicating and contesting Asian American subjectification and subjection; and (3) it highlights the critical role that the racialization of Asian and Asian American subjects continues to play in the racial, political, and legal order of the United States.

Performance Variations

Throughout what follows, I use the term *performance* in an expansive fashion to describe embodied acts of self-presentation. This use is aligned with Erving Goffman's definition of *performance* as "all the activity of a given participant on a given occasion which serves to influence in any way any of the other participants."[18] This broad definition allows us to think of a wide range of presentational and communicative behaviors as performance. This is particularly useful in a study of the law, given the law's reliance on forms of ritual or legal habitus. Of course, the law is also performative, which is to say that the law is structured by series of speech acts that produce a *doing* in the world. But this *doing* ties the performativity of the law to performance insofar as legal performativity is given form when the law manifests itself in and on the body through expressive acts. The spaces of everyday life are stages on which people perform for the law and, as such, become subject to the law. But if we are to think of performance in such a broad fashion, how can we differentiate between specific modalities of performance? How can we account for the difference between the representational acts of a lawyer before a military tribunal in Guantánamo and Cowhig's fictional representation of one Guantánamo detainee's life?

Even in the expansive use of the term *performance*, it carries a trace of its commonsense root: dramatic or theatrical aesthetics. This book does not set out to clarify the difference between quotidian forms of performance and aesthetic forms. Rather, it shows how the confusion between the two plays a significant role in the exercise of the law and in the making of legal and racial subjectivity. For definitional clarity, I describe everyday acts of self-presentation, including legal habitus, with the term *quotidian performance*. In turn, performances that are characterized by their nature as aesthetic works of cultural production are referred to as *aesthetic performances*. This includes theatrical works such as *Lidless* as well as performance art and popular music. The term is also used to

discuss objects normally assessed within the frame of visual culture, such as a website or a series of photographs. Such objects may serve to document past performances or function as performances in their own right. Aesthetic performances are usually a step removed from everyday forms of self-presentation and are often self-consciously representational in nature. Audiences and spectators are meant to encounter them *as aesthetic experiences*.

This book is made up of a series of critical cross-maneuvers, navigating through various phenomena including legal performatives and legal rituals, acts of political and legal self-presentation by Asian American subjects, and Asian American aesthetic practices. In moving between and across these spaces, the reader will note that the distinction between quotidian performance and aesthetic performance is at times muddied and collapses entirely at other times. *A Race So Different* emphasizes the points at which the distinction between the legal and the aesthetic break down, pushing against the strict division or opposition of the two that is sometimes maintained by traditional disciplinary approaches in both the humanities and the social sciences. By organizing my study under a broad definition of performance, while attending to the specific impact of different modalities of performance, I aim to demonstrate not simply that the law has both a performative and an aesthetic dimension but that aesthetic performances often take on a legal function by serving as agents of the law. Before I can move forward with a discussion of the intersection of law and aesthetics (or performativity and performance) in the making of Asian American subjectivity, it is important first to articulate the specific conditions that define Asian American racialization.

"A Race So Different"

Bashir's contention in *Lidless* that the "iguanas were lucky [because the] Endangered Species Act was enforced" translates the actual legal conditions that occurred in Guantánamo. It is indicative of a state in which the racialized subject is at once drawn into the regulatory apparatuses of the law while the law itself exists in a state of suspension. In the Supreme Court's landmark 2008 case *Boumediene v. Bush*, the High Court disappointed both Congress and the Bush administration by determining that Guantánamo detainees have the right to access and petition US courts for a writ of habeas corpus, or the right to appear before a judge and petition for release from detention.[19] Lawyers for the Justice Department asserted that Guantánamo, which is technically in

Cuba, is not a part of the United States and therefore not subject to US law. Two pages into a lawyer's brief filed on behalf of one of the detainees, a Jordanian national of Palestinian descent named Jamil El-Banna, El-Banna's lawyers refuted the government's position by simply stating, "U.S. law applies at Guantanamo."[20] In order to illustrate this contention, the brief cited the Endangered Species Act and explained, "Animals there, including iguanas, are protected by U.S. laws and regulations, and anyone, including any federal official, who violates those laws is subject to U.S. Civil and criminal penalties."[21] In other words, iguanas had more legal protections at Guantánamo than the prisoners did. So while the law "applies" in the prison, its force is suspended in relation to the bodies of the detainees. Translating this phenomenon into a theatrical medium, Cowhig's play gives this paradox flesh and form, allowing an audience to grasp some of its complex and contradictory implications.

This paradoxical legal status is not an invention of the GWOT. Rather, it has been a central feature of Asian American racialization in US law since the nineteenth century. The Japanese American concentration camps of World War Two, for example, bear a familiar resemblance to the suspension of the law at Guantánamo. Fred Korematsu, whose legal challenge to the Japanese American concentration camps is discussed in greater detail in chapters 3 and 4, states as much in an amicus curiae (friend of the court) brief filed in support of three men detained at Guantánamo in 2003. The brief submits that Korematsu's experience of detention "without a hearing, and without any adjudicative determination that he had done anything wrong," provides him with a "distinctive, indeed, unique perspective on the issue presented by the case."[22] Korematsu then concludes, "Although the specific legal issues presented in these cases differ from those the United States has faced in the past, the extreme nature of the government's position is all-too-familiar."[23] Tracing these familiar resemblances is one of the central critical imperatives of *A Race So Different*.

The title of this book is drawn from another example of the "all-too-familiar" suspension of the law in its application to the Asian / Asian American body. Dissenting in *Plessy v. Ferguson*, the infamous 1896 Supreme Court case in which the Court maintained the constitutionality of legal segregation for African Americans, Justice John Marshal Harlan famously opposed Jim Crow laws by arguing, "Our Constitution is color-blind, and neither knows nor tolerates classes among citizens. In respect of civil rights, all citizens are equal before the law."[24] As many critics of the color-blind Constitution have shown, Harlan's rhetoric of

equality achieved the subordination of difference while maintaining a racial hierarchy that privileged whiteness as a neutrally central legal subject position.[25] But if Harlan believed that African Americans could be provisionally included within the definition of universal legal personhood protected by the Constitution, Harlan was quick to observe that the Chinese were "a race so different from our own that we do not permit those belonging to it to become citizens of the United States . . . [and who are], with few exceptions, absolutely excluded from our country."[26] As such, even with Harlan's limited expansion of constitutional protections to black subjects, the Chinese were produced as juridically exceptional limit figures against which the purportedly universal rights attached to US citizenship could be realized.

The problem, of course, is that Chinese people had not been "absolutely excluded" from the country. Or, more nearly, their legislative exclusion was relatively recent, having only been enacted with the 1882 Chinese Exclusion Act.[27] Chinese and other Asian immigrants had been entering the country for over half a century before the act was passed and upheld by the Supreme Court in *Chae Chan Ping v. United States*, a ruling for which Harlan was in the majority.[28] So while (on its face) the law simply *excluded* a group on the grounds of race and nation, the actual effect was far more complicated for Asian immigrants and Asian Americans *already within* the boundaries of the nation. Harlan's rhetoric posited this "race so different" as at once within the nation while being "absolutely excluded" from it. This juridical status, simultaneously included in and excluded from the privileges and protections of the universal assurances of citizenship on the basis of race, is understood throughout this book as a state of racial exception.[29]

This book does not aim to (re)prove the fact of racial exception, but it is worth explaining the ways in which this concept will function here. I theorize racial exception by drawing together established theories of Asian American racialization with political theories of the state of exception as a space in which the law is in force but suspended. The term *racial exception* is utilized to serve as shorthand for the specifically juridical construction of Asian American subjectivity as shuttling in and out of the law, figured as always already illegal. This theorization of Asian American subjectivity is not novel, in and of itself. However, by using a term that emphasizes the juridical status of Asian Americans as simultaneously located within and outside the law, I am able to maintain focus on the importance of the law as a key factor in Asian American racialization.

The diverse populations that make up Asian America have long been cobbled together by dominant racial discourses that treat Asian Americans as perpetually foreign, always already illegal, or an invading mob *and* model minority that is both included within and excluded from the national body politic. During the Asian exclusion era, the US cultural imaginary struggled to manage Asian populations already within the country through a process that David Palumbo-Liu describes as the interplay of introjection and projection, creating "an image of Asians located *not* 'in' Asia *nor* in the United States, but of shifting and often contrary *predications* of 'Asia' into the U.S. imaginary."[30] The Asian American body began to shuttle between inclusion and expulsion, or what Karen Shimakawa defines as "national abjection," whereby the abjection of the Asian body allows for the constitution of "stable borders/subjects."[31] As Shimakawa notes, national abjection "does not result in the formation of an Asian American subject *or* even an Asian American object," because the abject is neither subject nor object.[32] My use of *racial exception* thus serves two purposes. While relational to and compatible with introjection/projection and abjection, *exception* emphasizes the specific role that the law plays in the racialization of Asian Americans. Second, because the law requires a properly constituted subject in order for the body to be recognizable within legal discourse, *exception* explains the processes by which the law *makes* subjects out of bodies in order to apprehend them as such.

The concept of the *exception* has uniquely juridical valences born from a discussion between two Weimar-era theorists who existed on opposite ends of the political spectrum: Carl Schmitt, a conservative, Catholic jurist who ultimately joined the Nazi party, and Walter Benjamin, a Jewish, Marxist philosopher who committed suicide at the Franco-Spanish border when he could not escape the expanding sphere of Nazi occupation. Despite Schmitt's repulsive political biography, his diagnoses of law and politics remain illuminating, provocative, and descriptively correct. In 1922, Schmitt theorized the state of exception as a moment when, during a crisis, the normative juridical order is suspended in order to protect the long-term security of the state's constitutional order.[33] For Schmitt, the exception was at the core of sovereign practice, as the authority of the sovereign was defined by the ability to decide the exception.[34] Benjamin also defines the norm, or rule, as related to a category of exception. However, Benjamin describes the "state of emergency" as a perennial state characterizing the very existence of subordinated and subaltern groups. As he argued, "The tradition of the oppressed teaches us that the 'state of emergency' in which we live is not the exception but the rule."[35] For

oppressed peoples taken as a whole, the state of exception is not simply a singular moment or decision but the very condition that characterizes subjection and subjectification. The norms prescribed by the dominant culture exist in dialectical relationship to this permanent state of emergency experienced by the oppressed masses. For the oppressed, the state of exception (or emergency) *is* the norm.

Racial exception is a combination of the preceding theories of Asian American racialization and the concept of a legal state of exception. Benjamin bridges the gap between these theories as he helps us to conceive of the ways in which certain subjects face a permanent state of exception, or at the very least the permanent possibility of its invocation.[36] It is this exigency that animates the historical frame of this book. The past 150 years have been characterized by repeated military conflicts, often as a result of the United States' imperialist agenda in the Pacific theater as well as in South Asia (Pakistan) and Central Asia (Afghanistan). If Asian-immigrant and Asian American subjects are figured as a threat to the ideal body politic because of their perpetually foreign status during times of peace, in times of war with Asian nations, the ethnic Asian in America becomes spectacularly understood as a national security threat. As a result, in the contemporary moment—which is otherwise casually celebrated as being "postracial"—ethnic Asian bodies within the sphere of US law continue to be produced as potential security threats and are thus subject to the law's capricious suspension.

A Race So Different offers a historicization of the present and the significant role that race continues to play in US law and politics. In doing so, I mean to emphasize the ways in which contemporary figurations of race within US law are built on the "all-too-familiar" juridical architecture designed to contain the threat posed by Asian-immigrant and Asian American difference throughout US history. This is the chief reason that I begin this book with the example of *Lidless*. *Lidless* allows us to open up a discussion of the significant points of connection between the racialization of Muslim and brown bodies (including Middle Eastern, South Asian, Southeast Asian, and Central Asian subjects) in the GWOT and the racialization of Asian immigrants and their descendants in the century and a half prior.[37] In anticipation of this argument, however, a brief discussion of the ways in which bodily difference was initially accounted for in US law is necessary in order to establish the unique role that exception plays in US racial formation.

From the inception of the republic, it attempted to articulate its ideal body politic as universally equal while at the same time defining

it as racially homogeneous (white, colonial, Anglo-Saxon, Protestant), landed, and male. It was thus paradoxically founded on the simultaneity of Enlightenment ideals of egalitarianism and the stratified hierarchies of a settler-colonialist order structured by the interactive logics of bourgeois, white-supremacist patriarchy.[38] As disruptive but necessary presences, women, African slaves, free African Americans, bonded European servants, and Native Americans could not simply be wished away or ignored. As such, their political subjectivity was legally fragmented away from them, disaggregated from their bodies and placed back in the hands of their fathers/husbands, owners, and wards.[39] Legal fragmentation was central to the design of the Constitution and intended to settle the crisis that differently gendered, racialized, and classed bodies posed to the integrity of the state. As Supreme Court Justice Thurgood Marshall once observed,

> I [do not] find the wisdom, foresight, and sense of justice exhibited by the framers particularly profound. To the contrary, the government they devised was defective from the start. . . . When the Founding Fathers used this phrase ["We the People"] in 1787, they did not have in mind the majority of America's citizens. "We the People" included, in the words of the framers, "the whole Number of free Persons." On a matter so basic as the right to vote, for example, Negro slaves were excluded, although they were counted for representational purposes—at three-fifths each. Women did not gain the right to vote for over a hundred and thirty years. These omissions were intentional.[40]

Women, African Americans, bonded servants, and Native Americans were thus divided away from "the whole Number of free Persons" by virtue of their legally fragmented status. The legal fragmentation of racialized subjects continues to play a role in the maintenance of the state in the present day. As J. Kēhaulani Kauanui demonstrates, for example, Native Hawaiians are fragmented through the imposition of blood-quantum classification schemes that categorically decrease the number of "authentic" native subjects as "a condition for sovereign dispossession in the service of settler colonialism."[41] Legal fragmentation is thus inextricable from the identity of the United States as both a constitutional republic and a colonial empire.

In mapping out the definition and immediate effects of legal fragmentation, I mean to differentiate this form of subjection and racialization from what I am describing as exception. While fragmentation

and exception are compatible, are structurally similar in some respects, and have shared outcomes (subordination, disenfranchisement, and/or genocide), fragmentation and exception function differently from a legal standpoint. Fragmentation is accounted for, written into, and even constitutive of the established legal order. In turn, the exception is invoked to manage subjects who are not otherwise accounted for or even anticipated by US law.

Historically, invocation of the exception allowed for the maintenance of the racial and social hierarchies put into place in the early law of the republic. In the nineteenth century, the emergence of global labor markets alongside US imperial expansion into and beyond both the Atlantic and Pacific introduced subjects who posed a threat to the US legal order in the form of Asian and Latino/a waves of migration. As Schmitt observed, "The exception, which is not codified in the existing legal order, can at best be characterized as a case of extreme peril, a danger to the existence of the state, or the like. But it cannot be circumscribed factually and made to conform to a preformed law."[42] While the US government initially experimented with the expansion of "preformed law" already in place for the management/subjection of Native Americans and African Americans, such attempts were fraught and often incomplete. New legal techniques had to be developed in order to manage the threat that Asian and Latina/o racial difference posed to the myth of a uniform and united "We the People."[43] Rather than simply doing away with the law, however, jurists began to strategically suspend certain provisions as applied to racialized subjects. This is what Giorgio Agamben describes as a legal ban, when the law is "in force without significance."[44] As I show throughout this book, Asian immigrants and Asian Americans from the nineteenth century to the present have often been drawn into the regulative sphere of US law at the very moment that its protections and assurances are suspended.

Racial exception was not reserved for Asian America alone, as it largely began to replace fragmentation as a legal technology for regulating racialized subjects after Reconstruction. The fragmented civic subjectivity of African Americans and women was arguably relinquished with the passage of the Fourteenth, Fifteenth, and Nineteenth Amendments. As is clear in the majority's ruling in *Plessy*, black bodies also began to meet with techniques of legal suspension.[45] And, like Asian Americans, Latino Americans and Latino immigrants were regularly met with a regime of legal suspension. Thus, as racialization often occurs within a comparative framework, much of my analysis

throughout this book attends to the comparative racialization of different ethnic and racial groups in the United States. For minoritarian populations within the United States, the permanent possibility of the suspension of the universal assurances of the law is no longer the exception but the rule.

The question that animates this book is thus not whether racial exception exists for racialized subjects in the United States. What is of interest is the question of *how* exceptional racialization occurs: what technologies produce racial knowledge in and on the racialized body, and how might the historicization of this process help us understand the ongoing significance of the exception in contemporary racial formation? I submit that the key to this answer is a focus on the interplay of performance, performativity, and the law, because it is through the collapsing of these phenomena that racial knowledge takes hold of (inhabits, choreographs, and shapes) the raced body and makes it into a racialized subject. As such, this book is about the power of performance aesthetics insofar as performance is that which transforms legal performatives into embodied realities, as much as it can be the means through which the body disrupts the interpellative trajectory of the law in order to posit and present other alternatives. The remainder of this introduction thus attempts to break down the space between performance, performativity, aesthetics, and law in the context of Asian American racialization.

Timorous Fiction: Legal Performativity and the Making of Asian Americans

So far, I have discussed the relationship of the law to performance, but I have only peripherally discussed the performativity of the law. The law is performative. It is composed of linguistic utterances and acts (statutes, policies, executive memos, judicial opinions) that do more than describe the world, because they produce a *doing* in it through their very utterance or inscription. In the language of J. L. Austin, Justice Harlan's declaration that the Chinese are "a race so different" is not constative; it is performative.[46] That is, Harlan did not in fact "'describe' or 'report' or constate anything at all," because in the uttering of the phrase, he achieved the *doing* of something.[47] Agents of the law do more than determine facts; they produce subjects through their performative utterances. As Austin observed, "a judge's ruling makes law; a jury's finding makes a convicted felon."[48] Harlan's declaration must thus be understood as part of a network of performative utterances that produced and confirmed

the exceptional legal status of Asian Americans by naming and simultaneously "making" them into a "race so different." Although legal discourse masquerades as factual and descriptive, it is in fact central to the production of social meaning and reality through its enunciation.

Legal discourse forgets its own performative power, transforming a court's performative utterance into a codified reality. Whether or not the person subject to a jury's finding committed the felony, the jury's finding *makes* him or her a convicted felon as a fact of law unless and until a higher authority intervenes to overturn this determination. As Austin warned, "Of all people, jurists should be best aware of the true state of affairs. Perhaps some now are. Yet they will succumb to their own timorous fiction, that a statement of 'the law' is a statement of fact."[49] But the United States has a stare decisis system, whereby a decision in a given case will determine future application of the law. In such a system, a jurist may never have to succumb to this timorous fiction because a court that makes a factually erroneous determination transforms this error into a legal fact just by uttering it. Stare decisis allows a statement of law to retroactively become a statement of fact at the exact moment that a judge's ruling exceeds the constative function of a legal declaration in order to *make* law, to *make* a convicted felon, to *make* an enemy combatant, or to *make* Asian Americans into *a race so different*.

The law's misrecognition of Bashir as an "enemy combatant" in *Lidless* may well have been a fiction, but this was cold comfort to the man as he suffered in his Guantánamo cell. In many ways, little has changed since Thomas Hobbes issued his famous maxim, *auctoritas non veritas facit legem* (authority, not truth, makes the law), and this has grave consequences for racialized subjects when they are caught up within and misrecognized by the law. Because a legal declaration announces itself as the articulation of an established legal fact at the same time that it *makes* the law, the legal production of subjects is neither purely constative nor purely performative but both. As Jacques Derrida argued in his analysis of the US Declaration of Independence, it is precisely the "undecidability between, let's say, a performative structure and a constative structure, [that] is *required* in order to produce the sought-after effect" of giving simultaneous birth to a nation and the national subjects ("We the People") that authorize this event.[50] The law makes We the People, but, at the same time, it only comes into being as We the People play their properly cast role *as* We the People. In chapter 3's analysis of performances of patriotism in the Japanese American concentration camps of World War Two, I further demonstrate how it is in performance that the people

realize the constitutional *being* and constitutive power of the state. This occurs through embodied acts that correlate with the formal ideals of the state, such as the Constitution or the law. Performance *makes* the nation. It is also what makes national and racial subjects.

The juridical performative can only go so far in making us into We the People or transforming Asian America into "a race so different." As a result, the interplay between legal performativity and embodied acts, or performances, is key to understanding how racialization occurs. By now the reader has hopefully noticed that we are gliding across the slippery ground between performativity and performance, or what Eve Kosofsky Sedgwick and Andrew Parker describe as a "generalized iterability, a pervasive theatricality common to stage and world alike."[51] The mechanisms productive of national and racial subjects are inherently theatrical, an assertion that I can best explicate through a close reading of a classic and paradigmatic example of subject production, Louis Althusser's "Ideology and Ideological State Apparatuses."

Describing "ideological state apparatuses" as the means by which the state reproduces a population's "submission to the ruling ideology," Althusser suggests that the state does not simply force itself on the subject but is most effective when it can seduce large masses of the people into willing submission.[52] Tellingly, he defines the law as *both* a repressive state apparatus *and* an ideological state apparatus (it is the only state apparatus that enjoys this dual status).[53] And as his paradigmatic example, he famously describes a "theoretical scene [*la scène théoretique*]" in which a police officer shouts out "hey you there," and the hailed person turns around.[54] Submitting to the recognition of the hail, "he [or she] becomes a *subject*" for the law.[55] The word *scène* in Althusser's description of interpellation translates as both "scene" and "stage," figuring the act of interpellation as a dramatic act, or a staged encounter between the law and the subject. Later, he even describes his illustration as "my little theoretical theater [*notre petit théâtre théoretique*]."[56] If we are to take seriously the metaphors by which he explains the process of interpellation, we see that "one becomes" or is "made" a subject through theatrical protocols.

Althusser is situated in a long tradition of Marxist criticism that relies on metaphors of performance. Marx himself describes commodities as circulating between "*dramatis personae*"; he refers to the market as a "stage," narrates the tale of a table that is "dancing of its own free will," and states that "the great events and characters of world history" occur as either "high tragedy" or "low farce."[57] But Althusser does more than

simply invoke a rhetoric of theatricality to explain subject production; he shows us how subjection is itself a dramatic ritual. Elsewhere he even suggests that theatrical spectatorship can be a means for the making of a revolutionary, class-conscious form of subjectivity. In a short and oft-overlooked essay on the playwrights Carlo Bertolazzi and Bertolt Brecht, published in the decade before he wrote the essay on ideology, Althusser claimed that theater has the capacity for inspiring "the production of a new consciousness in the spectator" and, in the making of a new consciousness, a new mode of political subjectivity: "the play is really the production of a new spectator, an actor who starts where the performance ends, who only starts so as to complete it, but in life."[58] Through the experience of a truly revolutionary theater, Althusser's spectator becomes an "actor" who carries the momentum of the play out into the world, performing in a fashion that will realize the play's revolutionary ambitions, "but in life." The language of theatricality in the process of subjection conjures a similar image, as one is made a subject for the law by performing in response and accordance to its hail. Thus, subjection is both a legal and political process as well as a theatrical and aesthetic one. Subjection occurs through performance as the legal, the political, and the aesthetic mix together across the body.

But what is it that compels the subject to perform submission to the hail of the law? In *Lidless*, the law's misrecognition of Bashir as an "enemy combatant" because of his racial and religious difference tautologically results in a situation in which Alice (and, by extension, US law) treats him as if he were an enemy combatant. Fifteen years after leaving Guantánamo, the only way for him to become recognizable to Alice is by playing the role of the enemy combatant—that is, the torture victim. And, as he admits, this is a role that he has come to love in order to keep "from going crazy." Bashir's case exemplifies the ways in which legal interpellation can be perversely seductive. As Judith Butler remarks, in her assessment of the Althusserian scene, "This turning toward the voice of the law is a sign of a certain desire to be beheld by and perhaps also to behold the face of authority. . . . [It is] a mirror stage . . . that permits the misrecognition without which the sociality of the subject cannot be achieved."[59] In Bashir and Alice's twisted exchange, the *Lidless* audience is privy to Cowhig's restaging of this "theoretical scene." We watch as Bashir is made a subject for the law after his dominated body is seduced into performing the very subject position for which he was misrecognized in the first place.

Bashir describes the simultaneously seductive and coercive process of his interpellation as an "enemy combatant" by Alice thus: "When you

were hard—when you screamed, ordered boards and chains—that was simple. I could go somewhere else. But when you were soft—when you touched my ears, my neck—my body had a will of its own. My own flesh, my own muscle, betrayed me."[60] Unwilling to hear more, Alice begs him, "Stop. No more. Please." Demonstrating the way in which the language of domination often finds its way into the mouth of the dominated, Bashir repeats her phrase but echoes it back to her with the urgency of a Guantánamo detainee during the act of torture: "Stop. No more. Please. I swear I'm an innocent man. I don't know Osama or Saddam or Khalid. I was studying at a mosque. I just wanted to be a good Muslim. Please, I beg you. Believe me."[61] He throws a bag onto the floor before asking once more, "Please." There is a long silence and then, as if something triggers a switch inside of her, she grabs him and wrenches his arms behind his back. She orders him, "Drop to your hands and knees. Now crawl. Go! There's a plastic bag by your feet. Pull the bag over your head and bend forward at the waist."[62] Bashir knows the choreography and positions his body into a stress position, waiting expectantly for the next order.

Alice only recognizes Bashir *after* he returns to the role scripted for him in the Bush administration memo. In other words, Bashir becomes a subject by performing a role for which he was cast by way of misrecognition. His subjectivity is brought into being through a performance of coercive mimeticism, a practice that Rey Chow describes by way of a revision to Althusser's *scène théoretique*:

> It is to say, "Yes, that's me" to a call and a vocation—"Hey, Asian!" "Hey, Indian!" "Hey, gay man!"—as if it were a crime with which one has been charged; it is to admit and submit to the allegations (of otherness) that society at large has made against one. Such acts of confession may now be further described as a socially endorsed, coercive mimeticism, which stipulates that the thing to imitate, resemble, and become is none other than the ethnic or sexual minority herself.[63]

In acts of coercive mimeticism, the minoritarian subject believes that by responding to the hail of minority status through self-referential performances, she is "liberating" herself from subordination. But while she may achieve some modicum of recognition and relief, she is inadvertently contributing to the maintenance of the dominant structures of ideology, interpellation, and racialization. This is particularly dangerous when the law is involved because, as Antonio Viego observes, "If misrecognition is a serious harm, then we must be concerned that legal recognition may

go wrong, misrecognizing already subordinated groups and codifying that misrecognition with the force of law and the intractability of stare decisis, . . . [whereby] the price of protection is incarceration."[64] If Bashir demands recognition from Alice for his time in Guantánamo, the price extracted in the preceding scene is his figurative return to the interrogation chamber. In other words, when we perform as properly situated subjects in order to be recognizable as such by the law, we run the risk of transforming our bodies into prisons.

Between Performance and Law

That subjection occurs through the enactment of protocols that are theatrical in nature is unsurprising given that the law and dramatic performance both radically blur the space between law and the aesthetics of performance. My understanding of the law as a living entity, one that is realized through legal habitus and interpretive performances, is indebted to a progressive strand of US jurisprudence that conceives of the law as, in the words of a young lawyer who later became Supreme Court Justice Louis Brandeis, a "living law."[65] But it is equally influenced by Schmitt's argument that "all law is situational law."[66] If legal positivism conceives of the law as a system of closed norms, a legal realist and/or critical race theory approach submits that the law is messy, imprecise, imperfect, and always relational to the situation or context in which it is enacted and applied. Because "the legal idea cannot translate itself independently," writes Schmitt, it requires an intermediary (in the form of the judge, lawyer, or law enforcement officer), which amplifies the always already political nature of legal determination.[67] In this way, the legal functionary's job has a familiar resemblance to that of an actor.

Because the law is an embodied art, theatricality is a constitutive component of the law. Judges and legal functionaries interpret the law in much the same way as an actor interprets (and necessarily improvises) a script or character. In some ways, constitutional and statutory law, as well as administrative policy, is not unlike a dramatic text. Just as *Lidless* does not become a performance until the script is given a production, the executive memo "straight from the top" only becomes law in its fullest sense when an agent of the law (Alice) enacts it. As Hobbes wrote, "law is a command, and a command consisteth in declaration, or manifestation of the will of him that commandeth, by voice, writing, or some other sufficient argumentation of the same."[68] The law should thus be properly understood as the union of performance and performativity.

The law has become no less theatrical in the transition from monarchial sovereignty to popular democracy. This is primarily because democracy retains and even amplifies the representational aspects of monarchism. Hobbes provides us with a particularly useful explanation of the theatrical nature of representative politics by describing two forms of persons: the "natural" person (someone "considered as his own") and the "feigned or artificial person."[69] He notes that the term *person* is rooted in the Latin *persona*, which "signifies the *disguise*, or *outward appearance* of a man, counterfeited on the stage."[70] Hobbes surprisingly declines the antitheatrical sentiment common to Western political thought (paradigmatically modeled in Plato's *Republic*), as neither the terms "counterfeited" nor "outward appearances" are used in a pejorative fashion.[71] Instead, he draws a clear equivalence between the mode of artificial personage that occurs in a legal setting and that which occurs on the stage:

> And from the stage, [person] hath been translated to any representer of speech and action, as well in tribunals, as theaters. So that a *person*, is the same that an *actor* is, both on the stage and in common conversation; and to *personate*, is to *act* or *represent* himself, or another; and he that acteth another is said to bear his person, or act in his name; (in which sense Cicero useth it where he says, *Unus sustineo tres personas; mei, adversarii, et judicis*, I bear three persons; my own, my adversary's, and the judge's;) and is called in divers occasions, diversely; as a *representer*, or *representative*, . . . an *actor*, and the like.[72]

Whether the representative is monarch or a member of the House of Representatives, this political figure realizes the unity of the state through the representative practice of *acting* on behalf of the state's subjects: "A multitude of men, are made *one* person, when they are by one man, or one person represented."[73] Read thus through Hobbes, political theater and legal theatrics should not be understood as a distraction from the real stuff of law and politics. Performance and theatricality are central components of both.

The theatricality of the law is distinctly important in the case of the US justice system, an importance intensified by the historical events that inspired *Lidless*. The US political and legal system is, for better or worse, representative: politicians and lawyers act as representatives of their constituents or clients. So if Hobbes observed a blurring between the theatrical and the legal forms of representation, the lawyer's art *as a performer* becomes a key means for countering forms of critical

injustice. Take for example Guantánamo advocates Mark P. Denbeaux and Jonathan Hafetz's introduction to a volume of interviews with Guantánamo lawyers: "[The detainees] were all held in secret and denied communication with their families and loved ones. Most, if not all, were subjected to extreme isolation, physical and mental abuse, and, in some instances, torture. Many were innocent; none was provided an opportunity to prove it. These are their stories. The stories are told by their lawyers because the prisoners themselves were silenced."[74] The prisoners, who are "silenced" by the US state, have no immediate recourse to speak their own stories to the general public, to their families, or even in a court of law. The situation necessitates the imperfect solution of having others perform in their stead, revealing representational advocacy to be a limited form of artificial personage that might realize greater conditions of justice for the detainees. That Denbeaux and Hafetz conceive of the lawyer's art in the language of narrative storytelling is important because they seem to suggest that the narrative conventions employed by the advocates are equally important to their job as the factual record that they are presenting to both the public and the courts. In this sense, aesthetic practices (narrative, dramatic structure, character) can play powerful roles in a representative act meant to intervene in and reformat the conditions produced within the law. This power is not only the province of the lawyer, who adopts aesthetic traditions in the execution of his or her representative act, as the artist can deploy/wield it as well.

A Race So Different distinguishes itself from previous interdisciplinary approaches to law and aesthetics that commonly note that the primary difference between the two is that the law has a "real" impact on the world, while aesthetics registers as less impactful. For example, in Juana María Rodríguez's otherwise beautiful analysis of an asylum hearing in a US court, she argues, "Both law and literature are intrinsically concerned with language, interpretation, and reception. . . . Put succinctly, literary criticism and legal treatises are both involved with constructing credible subjects, narratives, and readings. Yet law is discourse with a difference; the stories and characters are real and the interpretations have long-lasting consequences."[75] Rodríguez correctly observes that the events that inspire legal cases are drawn from real-world events. However, anyone who has ever been represented by a lawyer will tell you that by the time one's experiences are translated into legal discourse and entered into a court record, they feel as foreign as would be a fictionalization of their story in a "ripped from the

headlines" episode of *Law and Order*. This casts a dubious shadow on the notion that the stories and characters translated into the law are necessarily more consequential (or real) than those that are translated onto the dramatist's stage.

Nor am I convinced that the law is especially imbued with a capacity to produce more "long-lasting [real-world] consequences" than are dramatic and literary narratives or other forms of aesthetic production. After all, most people have probably gleaned more legal knowledge from a show such as *Law and Order* than they have from reading actual legal texts. Culture shapes reality, sometimes confirms it, and at times supplants it. After all, people generally believe that Julius Caesar was killed in the Roman Senate, where Shakespeare placed the act, rather than in a side chamber of the Theater of Pompey, where he was actually assassinated. Mass forms of cultural production including, and especially, theater, film, popular music, and TV often function as thinly veiled ideological state apparatuses. These "culture industries" are thus what Max Horkheimer and Theodor Adorno called "instrument[s] of domination."[76] Aesthetic narratives can have "long-lasting consequences" that become real over time. As an aesthetic medium that gives embodied form to narrative, representational modes of performance (such as theater, performance art, or even film and TV) lend legal discourse an embodied verisimilitude that helps to transform a "statement of law" into a "statement of fact" within the popular consciousness of the audience. Popular aesthetic performances function as agents of the law, circulating legal narratives through the bloodstream of popular culture.

At the same time, in making a case for the power of aesthetics as legal agents, I do not want to idealize aesthetic practices *over* the law. In a discussion of the role of tribunals in response to the trauma of the Holocaust, Shoshana Felman seems to do as much when she writes, "Law is a discipline of limits and of consciousness. We needed limits to be able both to close the case and to enclose it in the past. Law distances the Holocaust. Art brings it closer. We needed art—the language of infinity—to mourn the losses and to face up to what in traumatic memory is not closed and cannot be closed."[77] Felman acknowledges a need for the law but figures the law as that which "encloses" a traumatic event in the past. She suggests that art's function is to provide a closer proximity to such events, arguing that it is in the "slippage between law and art" that traumatic memory is negotiated. On this latter point, we are in agreement—it is in the slippage between law and aesthetics that real cultural work can be done to rectify past injustices. But to accept a definition of

the law as "a discipline of limits and of consciousness" is to displace the slippery, "situational," and performative nature of the law. This ignores the familiar resemblance and formal relationship between law and performance and sidesteps the fact that both, being equally reliant on the "independently determining moment" of embodied action, give way to the "language of infinity." As such, while the law and aesthetic performances may both serve to "distance us" from the truth of a historical injustice, they also have the fecund potentiality to open up and rethink these injustices as we rehearse and stage the possibility of a more just future.

"A Rehearsal for the Example": The Possibilities in Performance

In the preceding section, I sought to unsettle the line between aesthetics and the law as well as a critical rubric that would significantly privilege one over the other. In doing so, I had to sever some of our preconceptions about the causal nature of either law or performance. Or, to be more specific, while I acknowledge that both law and performance may inspire specific effects, these effects cannot necessarily be causally predicted. As I argue in chapter 4 in particular, the indeterminacy of the aesthetic encounter is precisely what allows for aesthetic performances to be a primary medium for disrupting the political and legal subjection of Asian Americans. The political power of performance is in its ability to enact, in Jacques Rancière's terms, "an unpredictable interplay of associations and dissociations."[78] Aesthetic performances are spaces that, as much as they may be used to reify dominant racial ideology, also threaten to undo the formal "associations" between, say, dominant knowledge about racial difference and the body of the racialized subject.

Aesthetic performances are the spaces in which we can stage and experience incompleteness and openness that challenges the limits and closures of racialization and racialized subjectivity. Keen to this fact, Asian American artists have long used the stage as a space to work with the audience to challenge the racialization of Asian America. As Shimakawa argues, "the dramatic space is one where audiences are arguably willing to relax those otherwise punitively enforced restrictions on bodily identity and so may afford if not a complete repudiation of those imposed identities then at least (and at its best) a problematization of or critical engagement with them."[79] Aesthetic acts of performance, precisely because of their indeterminacy, are spaces that unleash a range of

possibilities that can show how there are multiple ways of being in the world beyond the identity that the dominant culture imposes or projects onto the racialized body.

In performance, we can rehearse, stage, and materialize the stuff of a better world. Performance provides us with the means to interrupt the conditions of reproduction that reify the inequities of the present. In taking this position, I mean to signal to the reader that this book should be understood as openly situated within the tradition of Marxist cultural criticism. *A Race So Different* conceives of performance in the terms of Frankfurt School philosopher Ernst Bloch, who understood the stage as "a paradigmatic institution" in the process of imagining and enacting social change.[80] Like the law, dramatic experiences require a decision, not only on the part of the performer but also on the part of the spectator: "They demand that the spectator make decisions, at the very least a decision as to whether he likes the performance as such."[81] Through decision, action is realized, and it is in action that a new politics emerges. Additionally, aesthetic performances have the unique capacity to imagine and give temporary form to otherwise impossible realities. In doing so, the stage becomes a "rehearsal" for dreaming the new and making it a reality: "As soon as the rehearsal for the example is staged the goal is clearly visible, but the stage, being experimental, that is, being a state of anticipation, tries out the ways in which to behave in order to achieve."[82] Performance at its best, by insisting on and demonstrating that *something better* is possible, verifies that this possibility can in fact become a reality.

If the space between law and aesthetics is one that is constantly traversed, blurred, and breaking down in the making of Asian American subjectivity, this book submits that both quotidian and aesthetic forms of performance can be deployed by Asian Americans as a "rehearsal for the example." As Dorinne Kondo writes, in theater and performance "Asians and Asian Americans can 'write our faces,' mount institutional interventions, enact emergent identities, refigure utopian possibilities, and construct political subjectivities that might enable us to effect political change."[83] In many ways, this is a sentiment that is shared by many of the scholars of Asian American performance who have inspired this book, including Kondo, Shimakawa, Josephine Lee, Esther Kim Lee, Sarita Echavez See, Lucy Mae San Pablo Burns, and Christine Bacareza Balance.[84] Many of the sites studied in *A Race So Different* are proof of the fact that Asian American performance can create spaces in which we model strategies for critiquing and complicating the racialization

and subjection of Asian Americans, while staging otherwise impossible potentialities that push against the limits of the present.

The structure of this book is loosely chronological, tracing the production of exceptional juridical subjectivity for Asian America from the Asian-exclusion era into the GWOT. The first two chapters consider how stage performances can act as legal functionaries in their own right. In chapter 1, I return to a critical text in Asian American studies, *Madame Butterfly*, with a comparative study of the three original versions of the narrative: John Luther Long's 1898 novella *Madame Butterfly*, David Belasco's 1900 theatrical spectacle adapted from the novella, and Giacomo Puccini's 1904–7 opera *Madama Butterfly*. I read the ways in which *Madame Butterfly* functions as an agent for the dissemination of exclusion-era jurisprudence about Asian racial difference, suggesting that as a work that remains popular for contemporary audiences, it continues to influence the making of legal subjectivity for Asian Americans today. In chapter 2, I study Ping Chong and Company's 1995 experimental performance piece *Chinoiserie*, a staged history of Chinese America. If much of the history of Chinese American encounters with the law has been tainted by injustice, Ping Chong and Company use the stage to enact what I describe as "reparative justice." *Chinoiserie* engages with the legal history of Chinese America in order to restore erased Chinese American stories to history and to rethink the possibilities for emergent forms of justice for the future.

Chapters 3 and 4 turn to the realm of quotidian performance with a study of the Japanese American concentration camps. In chapter 3, I look to everyday performances of patriotism in the camps, attending to the interplay of legal performativity and embodied performance in the manifestation of racial subjectivity in and on the Japanese American body during the war. I consider how performances of patriotism had the potential to reify and sometimes disrupt the state's claim to incarcerated Japanese Americans. Chapter 4 studies the political performativity of objects, reading a scrapbook of contraband photographs of camp life taken by a Heart Mountain internee. Demonstrating the ways in which the state, and immigration law in particular, deployed a visual logic to compel Asian American subjects to perform for the state's optic, I argue that the internee's photographs pose a performative intervention into the visual surveillance and regulation of Japanese America while raising significant questions about the limits of visibility as a strategy for liberation.

The final section of the book turns to the racialization of Asian immigrants and Asian Americans from the period of the Vietnam War to the GWOT. Chapter 5 studies the performance practices of Cambodian/American band Dengue Fever in order to trace the precarious position constructed for Cambodian refugees of the Vietnam War in US law. Studying Dengue Fever's centralization of the figure of the "illegal immigrant" in its performances, I argue that the band draws attention to and interrupts the vulnerable position of Cambodian immigrants and Cambodian Americans who are subject to new forms of state violence in the era of the GWOT. In conclusion, I offer a brief meditation on racial profiling within the GWOT and on Hasan Elahi's digital performance project *Tracking Transience*. Doing so, I offer suggestions for the role that scholarship about Asian American performance might contribute to criticizing, historicizing, and potentially transforming current conditions of racialization in the era of the national security state.

Racial subjection is most successfully realized when the state is able to seduce and compel racialized bodies to perform as raced subjects. That is, when the state inspires the subject to do as Bashir did, when he learned "to love what they did" to him. Studying sites where we can see the point at which law and performance meet in and on the Asian American body, this book documents some of the central technologies by which racialized subjectivity comes into being. It is offered as a contribution to the project of understanding and historicizing the technologies of Asian American racialization in order to critically dismantle them and to bring about greater conditions of social justice. Most importantly, however, by analyzing and documenting a series of Asian American performances, the following pages make up a record of resilience and possibility. For if performance is the means by which racialization comes into being in and on the body, performance can also be a radical practice for rehearsing and realizing the long-deferred promises of justice and emancipation.