Gauzy Allegory and the Construction of Gender

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Repository Citation
Melissa H. Weresh, Gauzy Allegory and the Construction of Gender, 25 Wm. & Mary J. Women & L. 7 (2018), https://scholarship.law.wm.edu/wmjowl/vol25/iss1/3

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Every people has a past, but the dignity of a history comes when a community of scholars devotes itself to chronicling and studying that past.

—Sonia Sotomayor, My Beloved World

ABSTRACT

In August 2017, violence erupted in Charlottesville, Virginia when white nationalists arrived to protest the removal of a statue memorializing Confederacy General Robert E. Lee. Commenting on the controversy associated with the removal of Confederate monuments, the American Historical Association noted that the removal of a monument was intended “not to erase history, but rather to alter or call attention to a previous interpretation of history.” In another effort to call attention to a silenced past, in April 2018, The Legacy Museum: From Enslavement to Mass Incarceration opened in Montgomery, Alabama. Recognizing that “[t]he United States has done very little to acknowledge the legacy of slavery, lynching, and racial segregation,” the Legacy Museum was a countermemorial effort designed to operate as “an engine for education about the legacy of racial inequality and for the truth and reconciliation that leads to real solutions to contemporary problems.” More recently, the New York Times explored the issue of under-representation of women in American iconography in two articles titled, “Honor, at
Last, for Ida B. Wells, 'a Sword Among Lions,'⁴ and "These Women Deserve Statues in New York."⁵

These changes to the landscape of American iconography underscore the powerful connection between history, commemoration, and public memory. This is true because "[a] monument is not history itself; a monument commemorates an aspect of history, representing a moment in the past when a public or private decision defined who would be honored in a community’s public spaces."⁶

Notwithstanding this recent attention, women remain under-represented in all forms of American iconography, resulting in a deficiency in commemorative memory.⁷ When they are represented, they tend to be featured allegorically rather than historically, exacerbating the quantitative under-representation in a qualitative manner.⁸ Explanations for and implications of this quantitative and qualitative under-representation are largely unexplored in legal scholarship. This Article is therefore about the twofold erasure of women from the iconography that makes up our national memory: first, women are rarely represented at all, and second, when they are, they are represented as symbols, rather than as actual human beings. This is a troubling form of gender marginalization, or sidelining.

This Article begins with an empirical examination of the manner in which women have been commemorated in American iconography. It then turns to a framework of gender that incorporates features of gendered relationships and gendered significations of power, using that framework as a lens for evaluating the lack of female commemoration in American iconography. This lens also provides useful categories for evaluating the impact of allegorical as opposed to historical commemoration.

Against this backdrop, the Article explores potential explanations for both the lack of historical representation as well as the tendency to feature women allegorically in iconography, seeking interdisciplinary answers in fields such as classical history, art history, theology, linguistics, and commemoration studies. Noting possible explanations for both the quantitative and qualitative under-representation, the Article explores the implications of allegorical representation,
emphasizing that it is important to consider not only the lack of historical representation, both quantitatively and, by virtue of allegorical representation, qualitatively, but also how that absence created and maintained hierarchies and contributed to the sidelining of women in commemorative spaces. Disconcerting consequences of allegorical representation include the objectification of the female form, and the irony of featuring idealized, allegorical images of women in areas of society and culture from which they have been historically excluded. Upon initiating this important conversation, it then turns to potential cultural, societal, and legal strategies to address this inequity.

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INTRODUCTION

Commemorative iconography, including representation in national monuments, statues, parks, stamps, and currency, creates
public memory and reinforces the values of a nation. In the United States, women are rarely represented in commemorative iconography. Moreover, when they are represented, they are, more often than men, represented allegorically as abstract ideals, rather than historically as representations of actual women. Allegorical representations of abstract ideals can be characterized as the art of memory, or the historical use of vivid, structured images to organize and convey meaning prior to the invention of contemporary memorialization techniques such as the printing press.

The impact of allegorical representation across varied forms of American iconography has not been widely addressed in legal discourse. Indeed, there is no concrete terminology that adequately addresses the concept of gendered commemorative silence exacerbated by allegorical representation. This lack of terminology, itself, presents a problem. Philosophers, linguists and feminists have questioned whether a concept exists if there is no name for that concept. Indeed, one of Catharine MacKinnon's greatest contributions to law was articulating a label for sexual harassment resulting


11. See id. at 1–2.

12. See Ruth Weisberg, The Art of Memory and the Allegorical Personification of Justice, 24 YALE J.L. & HUMAN. 259, 262–63 (2012) (explaining that the technique used most commonly in the art of memory was "the association of emotionally and visually striking images within a visualized location, which was typically architectural but sometimes involved the human body"); see also MARINA WARNER, MONUMENTS & MAIDENS: THE ALLEGORY OF THE FEMALE FORM xix (Athenaeum 1985) (explaining that "[a]llegory means 'other speech'... it signifies an open declamatory speech which contains another layer of meaning. It thus possesses a double intention: to tell something which conveys one meaning but which also says something else.").

13. Studies of nationhood have considered the tendency of female allegorical representation in nation building. See, e.g., Cusack, supra note 10, at 1 (noting that "[a]ll nations are premised upon particular divisions of gender." Men are privileged "as historical and political agents," while women are associated with the home. Men, depicted historically as heroes in public spaces, are "exemplars for the present, reflecting the fact that: 'agency and power are invested in the male not the female body.' Meanwhile, the nation, with its abstract civic values, is commonly allegorised in images of stereotypical female figures.") (citations omitted).


17. See Kristen Konrad Tiscione, "Gender Degradation": New Words to Tell an Old Story, 28 SECOND DRAFT No. 2 29, 30 (2015).
in the creation of an actionable harm. Labeling a concept has a powerful, transformative impact on marginalized groups: "[t]he power of naming one's own self and one's own reality, to understand that one contributes to the creation of one's own culture, is taken away from those who are oppressed and it must be reclaimed."

In recognition of the power of naming, I have chosen the title "Gauzy Allegory" to invoke notions of allegorical women cloaked in flowing robes who have no reality beyond their idealized, objectified, allegorical form. What is Liberty's first name? Who is Justice and was she born blind, or did she become so? Without a name, an historical referent, the contributions of these allegorical women to American culture are fuzzy, abstract, and ephemeral.

This Article addresses the issue of allegory and commemorative silence, asserting that the under-representation of women in American iconography is not only quantitative but also qualitative, in that allegorical representations are gendered and inferior forms of representation. Allegory is an idealized, symbolic, and potentially ambiguous commemorative representation and one that often objectifies the female form. Moreover, the use of female allegory in American iconography is often ironic as it represents ideals and values in contexts from which women have been historically excluded. The Article maintains that this quantitative and qualitative under-representation of women in American iconography is a troubling form of gender sidelining, a term that refers to the variety of ways in which women are "sidelined, upstaged or otherwise marginalized" in a range of experience, including employment, media, politics, sports, and the like.

Part I of the Article begins with an empirical assessment of how women are featured in American iconography, finding that women are rarely featured and historical women almost never featured.

18. As Kristen Konrad Tiscione explains that we need language or concrete words to refer to the way in which women are marginalized, "[w]ords that describe not how we feel, but what is happening." Id. at 30 (emphasis added). Tiscione traces the work of Catharine MacKinnon who put a label on sexual harassment, resulting in an actionable harm. Id. at 29–30. She emphasizes the need to create language to refer to these harms, stressing that, "[b]y giving a name to something we have no common words to describe, we can validate our collective experience." Id. at 31. See also Leslie Bender, An Overview of Feminist Torts Scholarship, 78 CORNELL L. REV. 575, 591 n.88 (1993) (noting that "Catharine MacKinnon's work was foundational in naming sexual harassment as a harm and getting it included under Title VII.").


20. See Schiffer-Bossert, infra note 141, at 139.

21. See Norkunas, Monuments and Memory, infra note 26, at 95; see also Warner, infra note 12, at xx.

Part II considers a construct of gender that will inform the understanding of the social, legal, and political consequences of commemorative silence. Part III then turns to a discussion of how iconography constructs public memory, and how allegorical representation is both a socially and politically gendered, as well as an inferior form of representation. After reviewing a few frustrating efforts to address these disparities in the commemorative landscape in Part IV, Part V considers other ideas for addressing this problem of gender sidelining or marginalization, including strategies for addressing the detrimental and disparate impact this has on not only the history of women, but also for constructing a more accurate representation of American public memory.

I. COMMEMORATION AND THE ABSENCE OF FEMALE PUBLIC MEMORY

A. Commemorative Women Are Missing: Who, What, Where

Women are under-represented on every form of American iconography. Iconography is defined as "[t]he visual images and symbols used in a work of art or the study or interpretation of these." Female representations in national monuments, statues, street names, stamps, and currency are rare and, when a woman does appear reflected in these iconographic formats, she is often represented allegorically, as a nameless entity whose depiction suggests an abstract

22. See supra note 7.
24. I have chosen here to focus on certain national symbols—monuments and statues as places of public memory; currency and stamps as symbols of American power and authority. It should be noted that there are other forms of public communication where women and minorities are grossly under-represented. For example, according to numerous studies, women are far less represented in high school history textbooks. Textbooks, while not the focus here, can be viewed as a form of commemoration:

history textbooks act as vehicles or channels through which legitimatized past knowledge, as contained in the curriculum, is presented to the ultimate consumers of this product—the school-going youth. This is the case because textbooks are powerful cultural, ideological and political tools of the society in which the youth they are aimed at are socialised.

Annie Chiponda & Johan Wassermann, Women in History Textbooks—What Message Does This Send to the Youth?, 6 YESTERDAY & TODAY 13, 14 (2011) (citation omitted). Women are far less represented in history textbooks and, in all likelihood, other commemorative forms, because of the male-centric focus on political and military history. "Statements about women's achievements are often brief, and women are portrayed as more of the supportive caretakers. The most celebrated accomplishments in history textbooks are usually achievements in war, in which women's contributions are dramatically underrepresented." Megan Gospe, Women Underrepresented in History Textbooks, U. IDAHO WOMEN'S CTR'S BLOG (Oct. 30, 2015), https://uwomenscenter.wordpress.com/2015/10/30/women-misrepresented-in-history-textbooks [https://perma.cc/4KH3-CCFL] (last visited Nov. 16, 2018).
concept, rather than historically, as a reflection of a real person honored for actual contributions.26 This is true at both the national and local level, although historical representation is more likely at the local level.27

1. Monuments, Statues, and Parks

There are 152 monuments in the United States but less than two percent honor historical women.28 A CNN author wryly observed that “[n]one of the 30 [sic] national memorials managed under the park service specifically honor women, though there’s one named after a shrub, the four-wing saltbush (Chamizal).”29 Only nine percent of outdoor sculptures in the Smithsonian American Art Museum art inventories catalog feature women, and some of those representations are allegorical.30

Women are similarly under-represented in Statuary Hall in the United States Capitol building, where there are 100 statues, two per state, and only nine depict women.31 The nine state contributions include Alabama (Helen Keller), Colorado (Florence R. Sabin), Illinois (Frances E. Willard), Minnesota (Maria L. Sanford), Montana

26. See Martha Norkunas, Monuments and Memory: History and Representation in Lowell, Massachusetts 94 (Smithsonian Inst. Press 2002) [hereinafter Norkunas, Monuments and Memory].
27. See id. at 95, 98.
28. Shachar Peled, Where are the Women? New Effort to Give Them Just Due on Monuments, Street Names, CNN (Mar. 6, 2017, 8:51 AM), https://www.cnn.com/2017/03/06/us/womens-monument-project-trnd/index.html [https://perma.cc/8YMP-9E52]. The three monuments were all erected in the past decade and include the Harriet Tubman Underground Railroad National Historic Park, the Belmont-Paul Women’s Equality National Monument, and the Rose Atoll National Monument in the South Pacific Ocean. It is interesting that the latter appears to be named not after an important historical female, but after the wife of French explorer Louis de Freycinet who, in 1819, named the easternmost Samoan Island after his wife, Rose de Freycinet. Rose Atoll National Wildlife Refuge, American Samoa, U.S. Fish & Wildlife Serv., https://www.fws.gov/refuge/Rose_Atoll/about.html [https://perma.cc/9C6J-XVJB].
30. Maya Rhadan, Inside the Push for More Public Statues of Notable Women, TIME (Aug. 17, 2017), http://time.com/4903612/women-statues-san-francisco [https://perma.cc/C8T2-TJXQ] (observing, “[a]mong the work listed are allegorical like ‘Self Denial’ at the New Haven County Courthouse, ‘Inner Light’ in Silver Spring, Md., and, of course, the Statue of Liberty.”); see also Peled, supra note 28 (explaining that, according to the Smithsonian American Art Museum’s online inventories catalog, there are 5,575 outdoor statues of historical figures and only ten percent portray women). This number may actually be inflated. A similar search using the filters “outdoor sculptures,” “portraits,” and “women” yielded 650 results, some of which were sculptures of men by female sculptors, e.g., the Martin Luther King, Jr. Civil Rights Memorial by sculptor Lei Yixin.
(Jeannette Rankin), Nevada (Sarah Winnemucca), North Dakota (Sakakawea), Washington (Mother Joseph), and Wyoming (Esther Hobart Morris). Out of 411 national park sites, only nine are dedicated to women’s history. While most of these feature historical women including Clara Barton, Eleanor Roosevelt, and Harriet Tubman, one features the allegorical representation of Rosie the Riveter.

2. Stamps

Women are also featured less often on United States stamps. The national nonprofit organization Equal Visibility Everywhere (EVE) emphasizes that “[s]tamps send a message from the government to the citizenry about who and what is valued, serving as a sort of ‘Who’s Who’ of American history.” According to EVE’s website, representations of men on stamps outnumber representations of women three to one. In fact, the United States Postal Service (USPS) honored 206 individuals on commemorative stamps between 2000 and 2009 and only forty-three, or twenty-one percent, were women. The American Philatelic Society reports that 155 stamps picturing or honoring women were issued between 1998 and 2008. Earlier depictions of women on United States stamps were more likely to feature allegorical representations. For example, between 1873–1953,
fifty-two stamps featuring women were created.\textsuperscript{41} Of those, six portrayed Spanish monarch Queen Isabella I of Castile, fifteen portrayed historical representations of women, and the remainder were either allegorical\textsuperscript{42} or commemorated women’s groups in some attenuated fashion.\textsuperscript{43}

This bias is accentuated by the USPS’s selection of topics for souvenir stamp books such as “Legends of Baseball” or “Early Football Heroes,” which tend to categorically exclude women.\textsuperscript{44} EVE asserts that, not only is the USPS aware of the imbalance, the bias against women is “intentional, since the vast majority of stamp collectors are male and the postal service believes that male collectors prefer to buy stamps featuring men. Yet in catering to the collector market, the USPS is marginalizing half the population and negating women’s achievements.”\textsuperscript{46}

3. Currency

Women are also notably absent on federal currency, which consists of paper money (bills) and coins.\textsuperscript{46} Although most Americans do not discern a difference between paper money and coins, coins and paper money are produced and regulated by different entities in the Treasury.\textsuperscript{47} Neither entity has chosen to feature women on currency.

\begin{itemize}
\item \textsuperscript{41} Id.
\item \textsuperscript{42} Id. (explaining “[fully 23 [sic] of these are goddesses or allegories, including the 11 [sic] designs used on seldom-seen newspaper and periodical stamps of 1875 and 1895, four personifications of Liberty, and three representations of the magnificent 15,000-pound bronze Statue of Freedom that crowns the Capitol Dome in Washington, D.C.”)."
\item \textsuperscript{43} Id. Baumann notes: The remainder are stamps I collectively characterize as “She, the People.” Little-known or unnamed, they huddle with their spouse and child as the Pilgrims land at Plymouth Rock, await rescue by the National Guard, or help their brother plant a tree on Arbor Day. One is a working woman marching proudly with the men for the National Recovery Act in 1933, elder sister of the Women in the Armed Services of 1952. Many are generic, but some are remarkably moving. Among them are the mother and daughter looking on in terror as the fallen horse that drew their covered wagon is put out of its misery on the 1898 10¢ Hardships of Emigration stamp. For any woman, this would surely be the most dramatic and depressing American commemorative of this eight-decade era were it not for one other: the Gold Star Mothers issue of 1948.
\item \textsuperscript{44} Stamp Bias!, supra note 34 (asserting that “many of the topics the USPS selects for stamp blocks fundamentally exclude women, such as the ‘Legends of Baseball’ (20 [sic] stamps), ‘Baseball Sluggers’ (four stamps), ‘Distinguished Marines’ (four stamps), ‘Classic Movie Monsters’ (20 [sic] stamps), or ‘Early Football Heroes’ (four stamps).”)
\item \textsuperscript{45} Id.
\item \textsuperscript{46} See Currency, EQUAL VISIBILITY EVERYWHERE, http://equalvisibilityeverywhere.org/what-we-do/currency [https://perma.cc/WBW7-87W4] [hereinafter EVE, Currency].
\item Genevieve B. Tung & Ruth Anne Robbins, Beyond #TheNew10—the Case for a
however. 48 Historical representations of women, as opposed to allegorical representation, are extremely rare. 49 With respect to paper currency, Pocahontas was featured on the back of the twenty dollar note in the 1860s, and Martha Washington appeared on the one dollar certificate in the 1880s and 1890s. 50

According to the EVE website, women are no better represented on American coinage. 51 Of course, the female allegorical representation of Liberty has appeared on coins, but the first historical representation of a woman on a United States coin was Queen Isabella of Spain in 1893. 52 It was not until 1937 that another historical female was featured on a United States coin. 53 Susan B. Anthony was depicted on a dollar coin in 1979, but the coin was withdrawn a year later. 54 EVE explains that other coins featuring historical women were "essentially collector's issues: the 1995 Special Olympics Silver Dollar, featuring Eunice Kennedy Shriver; the 1999 Silver Dollar depicting Dolley Madison; and the 1999 Sacagawea Gold Dollar." 55

These commemorative representations on monuments, statues, parks, stamps and currency reflect not only the values of our nation, but who should be remembered and valued. 56 The lack of female representation, together with a tendency to feature women allegorically rather than historically, demonstrates a powerful form of gender sidelining.

B. Iconography and the Construction of Hegemonic Memory

Commemorative iconography creates hegemonic public memory, and commemorative absence therefore results in a silencing of public

CITIZENS CURRENCY ADVISORY COMMITTEE, 69 Rutgers U. L. Rev. 195, 226 (2016) (explaining that “[v]ery few of us realize that coins and bills are produced by two different entities within Treasury: the U.S. Mint and the Bureau of Engraving and Printing, managed by two separate directors and subject to two separate legal frameworks.”).

48. See EVE, Currency, supra note 46.

49. See id.

50. Brian Resnick, An Extremely Brief History of Women on U.S. Paper Currency, ATLANTIC (June 19, 2015), https://www.theatlantic.com/politics/archive/2015/06/an-extremely-brief-history-of-women-on-us-paper-currency/454458 [https://perma.cc/8764-K3K8]; see also EVE, Currency, supra note 46 (explaining “Martha Washington’s portrait appeared on the face of the $1 Silver Certificate of 1886 and 1891, and the back of the $1 Silver Certificate of 1896. There hasn’t been a single woman’s face on our paper currency since then.”). Recent efforts to address the lack of female representation on U.S. currency resulted in an announcement to replace the image of Andrew Jackson with that of Harriet Tubman on the twenty-dollar bill. See Tung & Robbins, supra note 47, at 195.

51. See EVE, Currency, supra note 46.

52. Id.

53. This coin depicted Virginia and Elinor Dare. Id.

54. Id. (noting that the coin was briefly reissued in 1999).

55. Id.

56. See Tung & Robbins, supra note 47, at 199.
To commemorate is to 'call to remembrance,' to mark an event or a person or a group by a ceremony or an observance or a monument of some kind. Commemorations may or may not be permanent, but they are designed to be a noticeable representation of public memory.

Commemorative iconography tells a history constructed by society, not necessarily reflective of all or actual history. Of course, this does not mean that commemoration is entirely divorced from history, but it most certainly represents a selective history. The past is reflected not on the basis of "historical scholarship but from a much more complicated and interwoven set of relationships to mass media, tourist sites, family tradition, and the spaces of our upbringing with all their regional, ethnic, and class diversity—to name just a few factors." Public memory as national culture, moreover, "does

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57. Kirk Savage, History, Memory, and Monuments: An Overview of the Scholarly Literature on Commemoration, 1 NAT'L PARK SERVICE 1, 1 (https://www.nps.gov/parkhistory/hidden/mpthinking/savage.pdf). See id. (noting that "[c]ommemorations might be ephemeral or permanent; the key point is that they prod collective memory in some conspicuous way.").

58. See LAURA MATTOON D'AMORE & JEFFREY LEE MERIWETHER, WE ARE WHAT WE REMEMBER: THE AMERICAN PAST THROUGH COMMEMORATION xvi (Cambridge Scholars 2012). The authors explain that "[h]istorians sometimes imagine that commemoration captures history, but actually commemoration creates new narratives about history that allow people to interact with the past in a way that they find meaningful." Id.

59. Jay Winter, Sites of Memory, in MEMORY: HISTORIES, THEORIES, DEBATES 312, 313-14 (Susannah Radstone & Bill Schwarz eds., Fordham Univ. 2010). Winter explains, "[c]ommemoration requires reference to history, but then the contestation begins. Whose history, written for whose benefit, and on which records? The contemporary memory boom is about history, to be sure, but historians are not its sole or even its central proprietors." Id. Winter therefore emphasizes that "[t]he term historical remembrance is one that is an alloy, a compound, which we need because the two defining concepts we normally use, history and memory, are insufficient guides to this field." Id. at 313-14; see also Carole Blair, Greg Dickinson, & Brian L. Ott, Introduction: Rhetoric, Memory, Place, in PLACES OF PUBLIC MEMORY, THE RHETORIC OF MUSEUMS AND MEMORIALS 1, 7 (Univ. of Alabama Press 2010). The authors assert that public memory "bears at least some arguable resemblance to or some trace of a 'real' past event." Id. at 13. Notwithstanding, they emphasize that public memory must also be understood to be "invented," not in the large sense of a fabrication, but in the more limited sense that public memories are constructed of rhetorical resources." Id. See also Roger C. Aden, When Memories and Discourses Collide: The President's House and Places of Public Memory, 79 COMM'N MONOGRAPHS 72, 74 (2012). Drawing on the work of Dickinson, et al., Aden studies the complex relationship between discourses invoked in sites of public memory and the resultant political meaning imparted by these sites, noting that "places of public memory function simultaneously as sites of centripetal and centrifugal rhetorical forces, pulled into the site by persons who are affectively invested in how the place remembers the past, and then expelled from the site if they do not significantly 'stick.'" Id. at 76.

61. Savage, History, Memory and Monuments, supra note 57, at 2 (comparing public memory to personal memory, the authors explain that both are "understood to be a highly selective, adaptive process of reconstructing the past, shaped by present needs and contexts." Thus, "societies in fact reconstruct their pasts rather than faithfully
not represent what is there but asserts what is imagined to be there: a homogenized fixed common culture." 62 This then is a fiction, as the culture of any nation is not likely unitary, and the national culture, reflected selectively, is necessarily "reflective of particular interests, [and] rarely those of women" or other minorities. 63

Public statues and monuments create powerful places of public memory, particularly in the national landscape. 64 These places of public memory reflect the history, values, and beliefs of dominant groups. We should therefore not consider iconographic representations of national historic events as mere records of a "shared history or common experience," but rather "dominant remembering as 'hegemonic cultural memory.'" 65 And this dominant remembering is closely tied to power and authority, as "[c]ompulsory schooling, national commemorations, participatory cultural celebrations are all socially configured frameworks for remembering and can be manipulated in subtle ways to exercise control of how people think about the past, and therefore to control how they respond in the present." 66

Public memory, moreover, seemingly lingering on the periphery of our lives, 67 actually has a profound influence on culture and society. Public memory, "fixated without in monuments and texts, it is record them, and that they do so with the needs of contemporary culture clearly in mind—manipulating the past in order to mold the present.") (citations omitted).

62. Cusack, supra note 10, at 9 (citation omitted). See also Sanford Levinson, Written in Stone: Public Monuments in Changing Societies 87 (Duke Univ. Press 1998) (explaining that "[p]ublic monuments that designate communal heroes or sacred communal events throughout time have been ways by which regimes of all stripes take on a material form and attempt to manufacture a popular consciousness conducive to their survival.").


64. Note that commemorative practices are not limited to buildings, currency, stamps, and the like. Savage reminds us that "commemoration entails not only building, naming, or shaping physical sites. Commemoration as a practice also involves ritual acts in and occupations of public space as well as other kinds of performance and consumption that may leave no lasting trace on the landscape." Savage, History, Memory and Monuments, supra note 57, at 9.

65. See Dianna Winslow, Confronting the Past: Feminist Cultural Counter-Memory and Anti-Hegemonic Memorializing at the Women's Rights National Historical Park, in WE ARE WHAT WE REMEMBER: THE AMERICAN PAST THROUGH COMMEMORATION 176, 179 (Jeffrey Lee Meriwether & Laura Mattoon D'Amore eds., 2012) (referring to collective memory as "effective 'social glue,' creating 'cohesion, consensus, and solidarity.'" (citations omitted)).

66. Id. at 180 (emphasizing that "[m]onuments and memorials are one way to 'solidify,' to literally set in stone, memories the monument's sponsors wish to keep in front of the public gaze. Accomplishing a stable, unified perception of history, national identity, or any other collective understanding depends on a (usually) conscious effort on the part of some established public entity.").

67. See Edward S. Casey, Public Memory in Place and Time, in Kendall R. Phillips, Framing Public Memory 1, 37 (Univ. Alabama Press 2004) ("A large part of the very power of public memory resides in its capacity to be for the most part located at the edge of our lives, hovering, ready to be invoked or revised, acted upon or merely contemplated, inspiring us or boring us . . . ").
carried on within in our individual and shared sense of public identity. This identity specifies what kind of citizens we are, indeed what sort of human beings we are, as 'citizens of the world.' In this way "public memory is both attached to a past (typically an originating event of some sort) and acts to ensure a future of further remembering of that same event."

Thus, the way in which dominant culture manifests itself in commemorative practice underscores the relationship between commemoration, power, and authority. Monuments and statues are significant images embedded in public memory. Federal currency is similarly a governmental representation of power and authority—of who belongs, who should be remembered, and who should be revered. Representations of historic people on United States currency, accessible to all of its citizens, "serve not only as role models, but also as constant reminders of who our role models can be." This manner of asserting authority thus generates and perpetuates cultural capital, which "derives from those who steer the historical conversation. Its source also lies with the public’s perception of an historical event or location’s importance." Where a segment of society is absent from commemorative view, it is correspondingly absent from recognition and power.

From a feminist perspective, it is important to consider not only the lack of historical representation, both quantitatively and, by

68. Id. at 38 (citation omitted).
69. Id. at 17.
70. See, e.g., Lenore Metrick-Chen, The Chinese of the American Imagination 19th Century Trade Card Images, 23 VISUAL ANTHROPOLOGY REV. 121, 122 (2007) (stressing that "[o]ne way a nation asserts its historical legitimacy is by creating a self-referential persona through its images."); LEVINSON, supra note 62, at 130 (emphasizing that "[w]e do indeed live by symbols, whether they are tangible pieces of colored cloth or marble depictions of those the culture wishes to honor, or the more intangible messages generated by days of commemorate and celebration.").
71. See Tung & Robbins, supra note 47, at 199-200 (noting that "[m]oney is seen as a symbol of the state. The imagery used on currency signifies its credibility" and emphasizing, "this validation is all the more important for paper money that has no intrinsic value.").
72. Hansika Kapoor, Women on Banknotes are Associated with Greater Gender Equality, LIVE MINT (Mar. 24, 2018, 11:30 PM), https://www.livemint.com/Sundayapp/shqa8Z3CxyjxfC/tIHUcl/Women-on-banknotes-are-associated-with-greater-gender-equality.html [https://perma.cc/VT76-XXYQ]. Kapoor asserts, "[f]ocusing on women’s successes (via acknowledging their national importance) sets them up to be role models, having the potential to help form positive and egalitarian representations of women and men in society." Id.
73. D’AMORE & MERIWFETH, supra note 59, at xiii.
74. See MARIANNE CONSTABLE, JUST SILENCES: THE LIMITS AND POSSIBILITIES OF MODERN LAW 56 (Princeton Univ. Press 2006) (noting that "[a]bsence of words—the absence of stories and voice, the absence of history as articulation of a past, the absence of a tradition that knows itself—constitutes absence of power.").
virtue of allegorical representation, qualitatively, but also how that absence created and maintained hierarchies and contributed to historical marginalization and sideling.75 Allegorical representations are, by their very nature, symbolic of other concepts. And allegorical representations in American iconography may involve complex visual cues, or may be confusing in other respects.77 So, for example, the allegorical figure of Justice has historically been reflected with a variety of material attributes, the signification of which is not always entirely clear.78 Moreover, it is ironic and troubling that these female allegorical representations have so often been employed to represent political concepts and constructs from which women were excluded.79

II. GENDER AS THE LENS FOR SIDELINING

In American culture, gender is a way of signifying relationships of power. As a paper asserting that female commemorative silence

75. See Joan W. Scott, Gender: A Useful Category of Historical Analysis, 91 AM. HIST. REV. 1053, 1055 (1986). Scott explains that "[i]t has not been enough for historians of women to prove either that women had a history or that women participated in the major political upheavals of Western civilization." Id. With regard to the history of women, Scott asserts that nonfeminist historians typically separate women’s roles from those of men in history, either focusing on the women in history as a separate subject from that of men’s history, or characterizing it distinctly by asserting that "women’s history is about sex and the family and should be done separately from political and economic history." Id. With regard to women’s participation in historical events, she proposes that evaluation by historians has been superficial, suggesting their understanding of historical events "is not changed by knowing that women participated in it." Id. Proposing the use of gender as an analytic category, she asserts that the deficiencies of historical evaluation of women’s role in history is "in the end, a theoretical one. It requires analysis not only of the relationship between male and female experience in the past but also of the connection between past history and current historical practice." Id.

76. See, e.g., Cusack, supra note 10, at 2 (exploring "particular conjunctions of nation, gender and visual representation in seven countries .... [and demonstrating how] how nations across the modern world, from Western and Eastern Europe to Canada, are systematically gendered in ways that relegate women to symbolic rather than active roles in the polity, and how this gendering is embodied in visual art.").

77. See Kirk Savage, Monument Wars: Washington, D.C., the National Mall, and the Transformation of the Memorial Landscape 53–54 (Univ. of Cal. Press 2005). Savage asserts that early allegorical monuments were ridiculed because “[i]n Europe such works were standard fare in the public landscape. .... [while] [i]n the United States the audience had some notion of the allegorical game but typically refused to play it.” Id. at 54.

78. See Weisberg, supra note 12, at 259. Weisberg explains that “[a]lthough we may be familiar with allegory as a representation of an abstract idea or concept usually involving humans or animals, we tend to be less knowledgeable in regard to allegory as a system of complex visual signs.” Id. She emphasizes the use of “props or material attributes” commonly associated with allegorical figures. Id. These attributes helped identify meaning as “part of a vast array of embodiments or personifications that served multiple purposes, the most important of which was the organization of an elaborate conceptual system of values.” Id.

79. See generally discussion infra Section II.C.3.
is a form of gender sidelining or marginalization, it is therefore useful to situate the examination of the gendered commemorative practices in the United States within a frame of reference for both the term gender and the possible analytical framework it provides. In Gender: A Useful Category of Historical Analysis, Joan W. Scott explores the topic of terminology in feminist historical analysis. Beginning with an examination of how use of the term gender, as opposed to women or female, informs feminist scholarship, Scott notes that American feminists chose the term gender in order to emphasize the “fundamentally social quality of distinctions based on sex . . . [as well as] the relational aspect of normative definitions of femininity.”

The term was also thought to be transformative within the discipline, opening up a new manner of inquiry. Reflecting on the comments of other feminist historians, she explains that early attempts to write women into history required a new examination of the historical significance of gendered experience, and one which was dependent not only on including missing female voices into historical analysis, but on examining the relational history of men and women. In this way the term gender as opposed to women expanded the framework for study, as it can be “used to suggest that information about women is necessarily information about men, that one implies the study of the other,” and the term opens the inquiry into social relationships between men and women, including the “exclusively social origins of the subjective identities of men and women.”

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80. Scott, supra note 75, at 1054 (noting that “[t]he word [gender] denoted a rejection of the biological determinism implicit in the use of such terms as ‘sex’ or ‘sexual difference.’”).
81. Id. Scott explains that early women’s studies scholarship used “gender” in a relational context in which “women and men were defined in terms of one another, and no understanding of either could be achieved by entirely separate study.”
82. See id. (stressing that “the writing of women into history necessarily involves redefining and enlarging traditional notions of historical significance, to encompass personal, subjective experience as well as public and political activities. It is not too much to suggest that however hesitant the actual beginnings, such a methodology implies not only a new history of women, but also a new history.” (citations omitted)). Scott emphasizes the relationship between feminist inquiry and those of class and race, noting that “[a]n interest in class, race, and gender signaled first, a scholar’s commitment to a history that included stories of the oppressed and an analysis of the meaning and nature of their oppression and, second, scholarly understanding that inequalities of power are organized along at least three axes.”
83. Id. at 1056. See also Lucinda M. Finley, Breaking Women’s Silence in Law: The Dilemma of the Gendered Nature of Legal Reasoning, 64 NOTRE DAME L. REV. 886, 888 (1989) (explaining that “the term ‘gender’ is too often taken to be a shorthand for ‘women.’ . . . Given the way in which language creates meaning through differentiation, with ‘man’ as the linguistic stand-in for ‘generically human,’ ‘women,’ ‘women’s issues,’ and ‘women’s perspectives’ are understood as partial, both in the sense of being incomplete and being biased.”).
In order, then, to understand this expanded lens for an historical inquiry of gender—gendered relationships and gendered significations of power—Scott articulates a definitional framework that is useful for the inquiry here: namely, how the lack of female representation in American iconography marginalizes American women by commemorative silence. Her definitional framework focuses on two aspects of gender which she describes as related but analytically distinct. The first aspect is constitutive and focuses on how social relationships evolve based on perceived differences between men and women. The second aspect of gender requires an examination of how gender informs the signification of relationships of power.

With respect to the constitutive aspect of social relationship, Scott emphasizes four interrelated elements. The first involves cultural symbols that may invoke more than one, and possibly conflicting, symbolic representations. With regard to this element, Scott highlights symbols such as Mary and Eve, noting that for historians, and indeed, for the inquiry at issue here, "the interesting questions are, which symbolic representations are invoked, how, and in what contexts?"

The second element comprises "normative concepts that set forth interpretations of the meanings of the symbols, that attempt to limit and contain their metaphoric possibilities." This is again a useful lens for the current inquiry as "these [normative] concepts are expressed in political, religious, and educational doctrines and often invoke binary oppositions of male and female, setting up normative categories that appear to be fixed." To the extent that "these normative statements depend on ... repression of alternative possibilities ... [s]ubsequent history is written as if these normative positions were the product of social consensus rather than of conflict." The emphasis on symbolic meaning and the normative

84. See Scott, supra note 75, at 1067–70.
85. See id. at 1067.
86. Id. Scott clarifies, however, that "[c]hanges in the organization of social relationships always correspond to changes in representations of power, but the direction of change is not necessarily one way." Id.
87. Id. at 1067–68.
88. See id. at 1067.
89. Scott, supra note 75, at 1067 (noting that this symbolic focus extends as well to "myths of light and dark, purification and pollution, innocence and corruption.").
90. Id.
91. Id. (explaining that these normative concepts "are expressed in religious, educational, scientific, legal, and political doctrines and typically take the form of a fixed binary opposition, categorically and unequivocally asserting the meaning of male and female, masculine and feminine.").
92. Id. at 1067–68 (explaining that "[a]n example of this kind of history is the treatment of the Victorian ideology of domesticity as if it were created whole and only
concepts that inform such meaning provides a useful framework for evaluating the impact of allegorical representation.93

The third aspect of gender as constitutive of social relations includes reference to politics and social institutions and implicates a new framework for historical analysis.94 Scott argues that the “point of new historical investigation is to disrupt the notion of fixity,” and she encourages an inquiry into the mechanisms that lead to an “appearance of timeless permanence in binary gender representation.”95 Inquiry into the mechanisms that produce gendered commemoration will arguably be helpful in responding to this form of gender marginalization.96

The final element of Scott’s focus on gender as constitutive of social relationships is subjective identity.97 Scott admonishes historians to explore the mechanisms by which society substantively constructs gendered identities.98 The identification of those mechanisms can then be employed to examine the context in which gendered identities are constructed, such as social organization and cultural representations.99

Together with the consideration of gender as a constitutive element of social relationships, Scott urges feminist historians to consider gender as a signifier of power.100 She asserts, “concepts of gender structure perception [are] the concrete and symbolic organization of all social life. To the extent that these references establish distributions of power (differential control over or access to material and symbolic resources), gender becomes implicated in the conception and construction of power itself.”101 This concept resonates with how symbolic representations of gender afterwards reacted to instead of being the constant subject of great differences of opinion. Another kind of example comes from contemporary fundamentalist religious groups that have forcibly linked their practice to a restoration of women’s supposedly more authentic ‘traditional’ role, when, in fact, there is little historical precedent for the unquestioned performance of such a role.”

93. See discussion infra Section III.C.3.
94. See Scott, supra note 75, at 1068.
95. Id.
96. See discussion infra Section III.C.2.
97. See Scott, supra note 75, at 1068.
98. See id. (emphasizing that subjective identity must be explored, in part, because “real men and women do not always or literally fulfill the terms of their society’s prescriptions or of our analytic categories.”).
99. See id. (encouraging historians to “relate their findings to a range of activities, social organizations, and historically specific cultural representations.”).
100. See id. at 1069 (noting that “[g]ender is not the only field, but it seems to have been a persistent and recurrent way of enabling the signification of power in the West, in Judeo-Christian as well as Islamic traditions.”). Scott clarifies, “[i]t might be better to say, gender is a primary field within which or by means of which power is articulated.” Id.
101. Id.
in American iconography and, specifically, the tendency to commemorate women in an allegorical and attenuated manner, has troubling implications for gender sidelining. American iconography becomes the symbolic representation of differentiated power as the female experience is silenced both quantitatively and qualitatively.

Thus, Scott’s twofold lens through which historians consider gender can be represented as such:

- Gender as a Constitutive Element of Social Relationships
  - Symbols
  - Normative concepts that imbue meaning of representations
  - Disrupting notions of fluidity in political and social institutions
  - Subjective identity
- Gender as a Way of Signifying Relationships of Power

Using this twofold lens, with its separate but related focus on gender as both constitutive of social relations and as a signifier of power, enables us to “decode meaning and to understand the complex connections among various forms of human interaction.” Scott notes “[w]hen historians look for the ways in which the concept of gender legitimizes and constructs social relationships, they develop insight into the reciprocal nature of gender and society and into the particular and contextually specific ways in which politics constructs gender and gender constructs politics.” She acknowledges, however, that “[p]olitics is only one of the areas in which gender can be used for historical analysis.” Thus, gender provides a lens to

102. See discussion supra Section I.A.
103. See discussion infra Section III.C.
104. Scott, supra note 76, at 1070.
105. Id.
106. Id.
view other social and cultural aspects of society, including the influence of iconography and public memory on hierarchies and sidelining.

The acknowledgment that gender, as Scott describes it, is multidimensional reinforces why a discussion of gendered representation in American iconography will necessarily traverse varied interdisciplinary terrain, including, for example, politics, history, iconography, semiotics, and art. An inquiry into the impact that American iconography has on sidelining compels us to consider public memory, another interdisciplinary inquiry, which has been examined from a variety of disciplinary perspectives, including the humanities, social sciences, art history, landscape historians, and the like. 107

Indeed, commemoration and public memory studies ask the type of question addressed in this Article. As the authors of We Are What We Remember: The American Past Through Commemoration note,

Current trends in the study of historical memory are particularly relevant to our own present—our biases, our politics, our contextual moment—and strive to name forgotten, overlooked, and denied pasts in traditional histories. Race, gender, and sexuality, for example, raise questions about our most treasured myths: where were the slaves at Jamestowne? How do women or lesbians protect and preserve their own histories, when no one else wants to write them? Our current social climate allows us to question authority, and especially the authoritative definitions of nation, patriotism, and heroism, and belonging. How do we "uncommemorate" things that were "mis-commemorated" in the past? How do we repair the damage done by past commemorations? These are all decidedly modern questions that entirely reimagine the landscape of commemoration as it has been practiced, and studied, before. 108

This Article raises similar questions, and in order to address them, the reader will benefit from some direction. Reinforced with the statistics on the lack of historical representation in American iconography and armed with an analytical framework for the constitution and construction of gendered relationships, including the acknowledgment that such gendered relationships are a signifier of power

107. See, e.g., Blair et al., supra note 60, at 1–2 (explaining, "[public memory increasingly preoccupies scholars across the humanities and social sciences. Further, much of their scholarship suggests at least by implication that memory places are rhetorical."); see also Savage, History, Memory, and Monuments, supra note 57, at 8. Savage similarly acknowledged the varied disciplines that might inform our inquiry, explaining, "the collective memory field continues to expand beyond its traditional base in sociology, history, and art history and embraces the work of geographers, landscape historians, ethnographers, archaeologists, and other academic practitioners." Id.
108. D'AMORE & MERIWETHER, supra note 59, at xvi.
and authority, the inquiry now turns to an examination of commemorative silence, particularly in terms of allegorical representation.\textsuperscript{109} Against the inevitable conclusion that the lack of representation is troubling and an assertion that allegorical representation is inferior to historical representation, the Article will consider recent efforts to address these disparities. It then concludes with questions about how to further address these issues.

III. COMMEMORATIVE SILENCE AND THE ILLUSION OF ALLEGORY

The influence of American iconography, used to communicate power and authority but largely devoid of female and minority representation, solidifies (literally and figuratively) hierarchy in American culture.\textsuperscript{110} Catharine McKinnon explains:

\begin{quote}
[w]ords and images are how people are placed in hierarchies, how social stratification is made to seem inevitable and right, how feelings of inferiority and superiority are engendered, and how indifference to violence against those on the bottom is rationalized and normalized. Social supremacy is made, inside and between people, through making meanings.\textsuperscript{111}
\end{quote}

The under-representation of women in American iconography creates a commemorative silence that is particularly powerful in light of the tendency to commemorate women allegorically rather than historically. Allegorical rather than historical representations of women have disquieting implications, including the fact that it is an inferior form of representation, subject to misinterpretation and, in the context of U.S. history, an ironic and potentially misleading form of representation in the contexts where it most often appears.

A. Why the Overall Lack of Female Representation?

One reason for the lack of female representation in American iconography is simply the nature of commemoration itself. Historically,

\begin{footnotes}
\textsuperscript{109} This in an effort to go beyond mere observation of the phenomena. See Scott, supra note 75, at 1056 (noting that approaches by historians to consider gender "fall into two distinct categories. The first is essentially descriptive; that is, it refers to the existence of phenomena or realities without interpreting, explaining, or attributing causality. The second usage is causal; it theorizes about the nature of phenomena or realities, seeking an understanding of how and why these take the form they do.").

\textsuperscript{110} See id. at 1063 (stating "[h]ow can we account within this theory for persistent associations of masculinity with power, for the higher value placed on manhood than on womanhood? ... I do not think we can without some attention to symbolic systems, that is, to the ways societies represent gender, use it to articulate the rules of social relationships, or construct the meaning of experience.").

\textsuperscript{111} CATHARINE A. MACKINNON, ONLY WORDS 31 (Harvard Univ. Press 1993).
\end{footnotes}
American culture focused on primary commemorative efforts—especially at the national level in prominent places like Washington, D.C.—and on public accomplishments, including those involving military or political success, areas of history where women were not likely to be present. This implicates explanations offered by many feminists as to the oppression of women—explanations relating to the public/private and natural/civilized divide between male and female participation in society. As Nira Yuval-Davis explains, "[m]uch of the feminist literature, while pointing out and objecting to the fact that women have been 'hidden from history' accepts the naturalized locations of men in the public sphere and women in the private sphere." Asserting that the public/private distinction is "fictional," Yuval-Davis nonetheless acknowledges that it has "been used to exclude women from freedom and rights." With regard to the natural/civilized distinction, feminists have posited that the "identification of women with 'nature' has been seen not only as the cause for their exclusion from the 'civilized' public political domain, but also as the explanation of the fact that in all cultures women are less valued socially than men." Explanations along these lines point to the ways in which females and males create, the former necessarily creating naturally by reproduction, while the latter "are free/forced to create culturally." And, "[s]ince human beings everywhere rank their own cultural products above the realm of the physical world, as every culture is aimed at controlling and/or transcending nature, women end up with an inferior symbolic position."

The commemoration of military accomplishment, a public endeavor, has resulted in a general failure to include historic women. Scholars have asserted a connection between military service and

112. See NIRA YUVAL-DAVIS, GENDER AND NATION 5 (Sage Pub'ns 1997) (explaining that "[m]uch of the explanation of women's oppression has been related to their location in a different social sphere from that of men. Two such binary divides have been the public/private and the natural/civilized domains.").
113. Id. (citation omitted). Yuval-Davis resists this explanation as complete, however, asserting that, "this division is fictional to a great extent as well as both gender and ethnic specific." Id.
114. Id. (citations omitted).
115. Id. at 6 (citations omitted).
117. Id.
118. ERIKA DOSS, MEMORIAL MANIA: PUBLIC FEELING IN AMERICA 232 (2010) (observing that "women are woefully underrepresented in American memorial culture . . . ") [hereinafter DOSS, MEMORIAL MANIA]. Doss explains that while women's military memorials "are often praised . . . for challenging memorial culture's mostly male domain," none of the recent commemorations of women in the United States military "effectively reckon with the dominant masculinity in America's armed forces or consider the processes by which women are actually 'included' in the U.S. military." Id.
full citizenship rights, noting that "[a]s sacrificing one's life for one's country is the ultimate citizenship duty, citizenship rights are conditional on being prepared to fulfil [sic] this duty." As women were not historically part of the fighting force, their contributions to military endeavors are not reflected in iconography. Martha Norkunas, a public history and cultural memory scholar asserts, "[m]en constructed monuments to mark their own patriotic deeds in the public sphere. Women, in the more constricted sphere of the home, embroidered images of obelisks and urn memorials using a visual grammar in which granite monuments stood for heroic men and willow trees for weeping women." This represents a gendered value system, as Simone de Beauvoir has noted that, "[i]t is not in giving life but in risking life that man is raised above the animal: that is why superiority has been accorded in humanity not to the sex that brings forth but to that which kills." While these may be plausible explanations for the lack of overall representation, this quantitative inequity is disturbing as it silences the role women have played in American culture. Moreover, the use of the female form to represent abstract ideals rather than historical women results in qualitative silencing and is therefore relevant to gender sidelining.

B. Why Are Women Featured Allegorically?

Identifying an explanation for the tendency to represent women allegorically is difficult, as the study of allegory itself presents historical and rhetorical challenges. Indeed, "[i]t is practically

119. YUVAL-DAVIS, supra note 112, at 93 (noting that "there have often been arguments, both by feminists and by those who opposed them, that the entry of women into the military is the precondition for women's achievement of full citizenship rights.").

120. But see id. at 94. Yuval-Davis notes: "This does not mean, however, that there have not been constructions and images of women as warriors throughout history—from the Amazons to the American women soldiers in the Gulf War. These images usually have either enhanced the constructed unnaturalness of women as fighters, or been made in such a way as to collude with more generalized notions of femininity and masculinity in the society from which the women fighters have come.

Id.; see also Natalia Krzyzanowska, The Discourse ofCounter-Monuments: Semiotics of Material Commemoration in Contemporary Urban Spaces, 26 SOC. SEMIOTICS 465, 467 (2016) (explaining that "[l]ocated in the centres of towns and cities, monuments refer to and commemorate national struggles for independence or depict leaders (in overwhelming number, male) who proved to be great warriors, battle strategists and heroes.").

121. NORKUNAS, MONUMENTS AND MEMORY, supra note 26, at 95 ("Women were denied commemorative representation because they had not officially served the nation in war or politics.").

122. YUVAL-DAVIS, supra note 112, at 6 (citations omitted).

123. See id.

124. See id.

125. LUC BRISON, HOW PHILOSOPHERS SAVED MYTHS: ALLEGORICAL INTERPRETATION AND CLASSICAL MYTHOLOGY 32 (Catherine Tihanyi trans., 2004).
impossible to ascertain the origins of allegory because . . . the accounts of its first supposed practitioners came much later than the period they evoke. Nonetheless, allegorical representations of women in the United States likely trace their roots back to ancient representations of Egyptian, Greek, and Roman goddesses. The four Cardinal Virtues include Temperance, Fortitude, Prudence, and Justice, and were historically depicted as female, often appearing on funerary sculpture. Symbolic images associated with Temperance included a wheel, bridle and reins, vegetables and fish, and water and wine in jugs. Fortitude often appeared with armor, a lion, and a broken column. Prudence imagery was often distinguished by a book, scroll, and mirror. Justice routinely appeared with a balance and scale, sword, and crown. Below are female allegorical representations of the Cardinal Virtues:

Temperance  
Fortitude  
Prudence  
Justice

The three Theological Virtues include Faith, Hope and Charity/Love and have historically been featured as allegorical women. Faith

126. Id.
128. See Weinberg, supra note 12, at 266–69, 268 (noting that the Cardinal Virtues "are typically depicted as goddesses in classical billowing gowns with their distinctive attributes.").
130. Id.
131. Id.
133. Gnostic Studies, Christian Values, supra note 129.
134. Id.
is often depicted with a cross, staff, and lamp.\footnote{135} Hope appeared with an anchor, harp, and palm; and Charity/Love was depicted with fruit, children, and a flaming heart.\footnote{136} Female allegorical representations of the Theological Virtues appear below:\footnote{137}:

![Faith, Hope, Charity](image_url)

Woman as allegorical symbol of nation is also a recurrent theme across the world, with many countries utilizing a female form for the nation, implicating associations of motherhood.\footnote{138}

In the modern period, the national territory, regarded as the body of the nation, bounded, vital and indivisible, is anthropomorphised in metaphorical references such as ‘arteries’ (road and rail communications), but above all by being gendered as female: ‘She’ (the nation; the country). Thus, the nation is frequently allegorised as female, a [virginal] motherland needing to be defended by its masculine warriors and represented . . . by motherly or maidenly figures.\footnote{139}

It is likely that American commemorations that display female allegorical figures were intended to invoke familiar and powerful ancient communicative representations and to capitalize on their legitimizing feature.\footnote{140} So, to the extent that “[e]very tradition had
existed since antiquity of allegorical images and depictions of the virtues as females.\textsuperscript{141} American commemorations featuring female allegorical figures benefitted from their historic significance.\textsuperscript{142} These images "appeared in metaphorical texts and allegorical imagery, often associated with mystical movements, as spiritual expressions of connectedness with God or at least with prosperity."\textsuperscript{143} Thus, female allegorical representations may have been used to legitimize the values of the new nation, including Justice, Liberty, and Truth.\textsuperscript{144} In this manner, however, the allegorical use of the female form "acts as a device to pass meaning beyond women themselves to the civic values cherished by male citizens."\textsuperscript{145}

Others have theorized that initial female allegorical representations—replicated throughout history but whose roots may be less than clear—correspond not with some political intention of the creator, but because of the linguistic origins of the concepts they represent.\textsuperscript{146} For example, according to a book addressing allegorical representations in Renaissance Italy,\textsuperscript{147} Academia, Agriculture, and
Democracy (female nouns in the Italian language) were represented with the female form, while Assistance, Credit, and Tax (male nouns) were depicted by the male form. Deconstructionist scholar Barbara Johnson and others have explained that the gendered-origins of these allegorical representations therefore reflect not some intended signification of the artist, but the gender of the Italian noun the allegories represent. While a grammatical gender differentiation for female depictions of the Virtues may provide an historical explanation, it does not likely provide a substantive rationale for these depictions, particularly given the devalued role of women in society during the most active phase of these religious, symbolic renderings.

Notwithstanding these possibly benign explanations for the use of the female form to communicate abstract values, the reality of both female under-representation and representation by allegory in American iconography has several disconcerting implications. Indeed, Johnson acknowledges that "[j]ust because the image's gender derives from a 'mere' linguistic fiction (the gender of a noun) does not mean that the existence of half-clad, nameless women on the walls and ceilings of public spaces . . . has not shaped the cultural messages addressed both to women and to men."

C. Troubling Implications of Allegorical Representation

Allegorical representations substituting ideal female forms for abstract concepts are an inferior manner of the national commemoration of women. Allegorical representations are a symbolic communicative form and can therefore be ambiguous. The use of female allegorical representation can be viewed as an objectification of the female form. Moreover, in most contexts in which we see a form of female allegorical representation in American iconography, the context of its use is ironic and arguably insulting.

149. Id. at 66.
150. Id. at 67 ("The genders of the figures are based solely on the genders of the Italian nouns. Their gendered embodiment thus arises out of a non-referential, intralinguistic aspect of language."). See also WARNER, supra note 12, at xxi.
151. See, e.g., JOANNE CONAGHAN, LAW AND GENDER 242 (2013). Conaghan explains that the Virtues were depicted as female "notwithstanding the deep misogynistic vein running through the life blood of much Christian theology." Id.
152. JOHNSON, supra note 147, at 65–67, 73.
153. Id. at 73 (arguing that "[i]t is just that the 'cause' of the cultural messages cannot easily be tied to intentions").
154. See id. at 72–73.
155. See id.
156. See id.
1. Allegory as an Idealized, Symbolic, and Potentially Ambiguous Commemorative Representation

Tracing an explanation for and meaning of allegorical representation is challenging due to the lack of systematic history of allegorical interpretation. "Allegorical interpretation is not exactly a single 'kind' of interpretation. To engage 'it' seriously is to encounter not just a system of beliefs or a set of conceptual 'norms,' but a series of critical negotiations. Acts of interpretive allegory are transactions between fluctuating critical communities and formative texts."¹⁵⁸ The fact that historians, art historians, theologians, and others who engage in the interpretation of allegorical references do not agree upon a process or framework of study suggests that allegorical representations of women will not likely yield clear or consistent interpretations about women themselves, or about the abstract ideas their creators intended to communicate.¹⁵⁹ Nonetheless, studying the signification of allegorical representation in iconography is in keeping with Scott's work on gender as a lens, particularly with regard to symbolic and normative concepts associated with gender.¹⁶⁰ And addressing the troubling consequences associated with allegorical representation reinforces Scott's characterization of gender as a way of signifying relationships of power.¹⁶¹

In this sense, allegorical representation, as opposed to historical representation, is an inferior manner of commemorating women, acting as an instrumentality of exclusion.¹⁶² The allegorical representation takes the female form to communicate an abstract ideal.¹⁶³ Historical representation, in contrast, memorializes and honors an

¹⁵⁸. Id.
¹⁵⁹. See id.
¹⁶⁰. Scott, supra note 75, at 1067–68.
¹⁶¹. Id. at 1069.
¹⁶². See THERESA M. KELLEY, REINVENTING ALLEGORY 136 (Cambridge Univ. Press 1997) (citation omitted). Kelley notes that female allegorical representation has been used to "consolidate the power of the state' . . . [and that] [b]y making women into allegorical spectacles excludes them from action and history." Id.; see also NORKUNAS, MONUMENTS AND MEMORY, supra note 26, at 94–95 (noting that, with respect to monuments managed by the National Parks Service, "[female-specific historical activities were devalued in favor of the experiences and accomplishments of men, with male deeds the measure of significance."). But see Schäfer-Bossert, supra note 141, at 146–47 (observing that, with respect to "theological and spiritual art and imagery of the seventeenth and eighteenth centuries," "[a]lthough the biblical images conveyed the notions of female meekness, self-sacrifice, and rejection of the body, the powerful representation of femininity in the allegorical figures counterbalanced this phenomenon.").
¹⁶³. Schäfer-Bossert, supra note 141, at 138.
The prevalence of historical men in commemorative images, contrasted with the allegorical representations of women, communicates very different political messages. One depicts the male in the historical present and legitimates him through his profession and his social prestige; the other makes women appear ahistorical by means of mythological metaphor. Some scholars of theological gender studies therefore posit that allegorical representations of women in religious representation memorialize gender inequality and assert "that the invisibility of woman in the divine symbolism conforms to and thus normalizes her social marginalization, her dependent, second-place status." Generic representation of women in terms of roles rather than in terms of individual, historic contributions represent composite, rather than concrete, representations of women's contributions to public memory.

We can concretize the message conveyed by male representation, even if symbolic, in a more meaningful way than with forms of female representation, which is more typically an allegorical representation. Marina Warner, author of Monuments and Maidens: The Allegory of the Female Form, observes that there is "a common difference between male and female figures conveying ulterior meaning. The female form tends to be perceived as generic and universal, with symbolic overtones; the male as individual, even when it is being used to express a generalized idea." Moreover, the allegorical form of representation is an idealized version of woman. No woman can live up to this idealized version, so we can discount women and their contributions.

164. Schäfer-Bossert observes that the "allegorical picture is devoid of feeling and life, for it does not refer to a concrete woman" and that "[s]cholars in gender studies have sometimes asserted that historical allegory is not representative of life and is therefore not to be used as a concrete source for understanding human experience." Id. (citations omitted).

165. Id.

166. Id.

167. Id. at 139.

168. Norkunas, Monuments and Memory, supra note 26, at 94. Norkunas explains, "[a]cross America, the generic woman statute has come to stand not for individual women, but for women's roles." Id. Evaluating monuments dedicated to pioneer women, she describes monuments which feature women holding muskets and striding forward with babies clinging to their skirts, arguing that, "[w]hile the figures introduce ordinary women into the commemorative landscape, and hence integrate them into a shared conception of the past, they represent women as generic or anonymous groups." Id.


170. Id. at 12. These symbolic connotations are in keeping with Scott's observations regarding the symbolic and normative concepts that construct gender. See Scott, supra note 75, at 1067–68.

171. See Warner, supra note 12, at xx.

172. Id.
Not only can we not live up to an idealized version of woman, the idealized representation constrains women. Exploring the impact of allegorical Mother Ireland, one author notes that the "images of suffering Mother Ireland and the self-sacrificing Irish mother are difficult to separate. Both serve to obliterate the reality of women's lives. Both seek to perpetuate an image of Woman far from the experience, expectations and ideals of contemporary women." The unattainability of ideals communicated by these images serve to constrain women: "iconic and multi-faceted figure of Mother Ireland, and the social ideal of the self-sacrificing mother both set reductive limits on any horizon of possibilities for each other and for actual women." In contrast, representations of men can reflect the range of human traits, including flaws, because men get to be men—these are historical representations. Highlighting John Bull as the typified Englishman, Warner asserts, "if John Bull appears angry, it is his anger he expresses; Liberty [in contrast] is not representing her own freedom."

The fact that this allegorical representation is less than clear is particularly troubling in light of the impact American iconography, as a form of public memory, has on its populace, including Scott’s notion of gender as a manner of signifying relationships of power. American iconography signals to the public what is important, what should be remembered and, in the political context, what should be

173. Id.
175. WARNER, supra note 12, at 12.
176. Id. at 12–13 (emphasis added) (noting that Liberty "herself is caught by the differences, between the ideal and the general, the fantasy figure and the collective prototype, which seem to hold through the semantics of feminine and masculine gender in rhetoric and imagery, with very few exceptions.").
177. See Scott, supra note 75, at 1069. Scott emphasizes the legitimating function of gender and asserts, sexual difference is a primary way of signifying differentiation. Gender, then, provides a way to decode meaning and to understand the complex connections among various forms of human interaction. When historians look for the ways in which the concept of gender legitimizes and constructs social relationships, they develop insight into the reciprocal nature of gender and society and into the particular and contextually specific ways in which politics constructs gender and gender constructs politics.
178. Id. at 1070. Martha Norkunas similarly notes, "[w]omen's underrepresentation in monuments speaks to the limitations they have long experienced on their movement in public space, particularly in the crucible of the community's prestige system, and the maintenance of the public/male and private/female realms in Lowell." *Norkunas, Monuments and Memory*, supra note 26, at 106.
obeyed: "As has long been suggested by non-lawyers, the signs of law, its foreign languages, its prolixity, its convolution, and increasingly its images, are in significant measure not supposed to be understood but rather to be observed, revered, and obeyed."

Iconographic representations also signal who belongs in areas of society. Asking "what does it mean to exist in a sea of male references?", Martha Norkunas evaluated the Massachusetts State House, noting the "gendered idiom of representation," and concluding that "[a]ll of the visual cues reinforced the idea that women had no place in the building." Citing the work of urban historian Dolores Hayden, Norkunas observed that commemorative iconography creates public space that can nurture a subtle and profound sense of what it means to be an American and act as a storehouse for social memory and identity. This power of place, this power of ordinary urban landscapes to encompass a shared history and a shared civic identity remains untapped for most ethnic history and for most women's history.

The figure of Justice demonstrates the complicated meaning evoked by allegorical representation. As legal scholars Dennis E. Curtis & Judith Resnik observe, "for much of the Western world's history, Justice has been depicted as a large female figure, sometimes draped, sometimes naked, holding or surrounded by a series of props identified as her attributes." Curtis and Resnik explore the contested meaning over how Justice's eyes have been depicted over time. This lack of clear meaning within the allegorical iconographical representation has disconcerting consequences:

Disputes about how to show Justice's "face" and about Law's "sight" reflect the analytic challenges that have engaged philosophers

179. Peter Goodrich, The Foolosophy of Justice and the Enigma of Law, 24 YALE J.L. & HUMAN. 141, 144 (2012) (lamenting: "[t]he images are flags, ensigns, symbola heroica, the choral identificatory insignia that a populace can follow but only the few, the iuris periti, the legally learned of whom there are ever fewer to be found today in the trade schools that generally pass for legal academies, can properly interpret and understand.").

180. Id.

181. NORKUNAS, MONUMENTS AND MEMORY, supra note 26, at 95–96.

182. Id. at 100 (emphasizing that "[e]verywhere the question is the same: Where are the landmarks for ethnic Americans and women?").

183. Curtis & Resnik, Images of Justice, supra note 132, at 1741.

184. Id. at 1741–42 (noting that "[s]ometimes Justice stares evenly at us, at other times her eyes are in shadow, and in some depictions, she is blindfolded—although sometimes the blindfold has open spaces through which her eyes appear") (citations omitted).

from John Locke to John Rawls, as they parsed the relationships among sensory perceptions, intuition, evidentiary truths, and cognition. The question of sight has also been engaged by leaders of justice systems acknowledging histories of exclusion and unfair subordination based on the gender, race, ethnicity, and class of disputants. Although most of the iconography of Justice placed around courthouses is complacent rather than provocative, the controversies over blindfolding unveil a persistent disquietude about state application of laws.

2. Allegory as Objectification

Objectification has been argued to be a primary source process by which women are subordinated. Comparing feminism to Marxism, Catharine MacKinnon asserts that "[s]exuality is to feminism what work is to marxism: that which is most one’s own, yet most taken away." Therefore, in her view, "[s]exual objectification is the primary process of the subjection of women."

Allegorical representations of women, often nude (which is easier to do when the artist is not representing an actual person), objectify women. Art historians, including Cynthia Eller, have contrasted representational signals of "nude" vs. "naked," with nude being "the body as produced by culture, through art, while the naked is simply a body without clothing." The terminology foreshadows a very different reception by the audience, with the "nude elicit[ing] murmurs of aesthetic appreciation; the naked elicit[ing] shock and embarrassment. And, not insignificantly, exposed female bodies are typically ‘nude,’ while male bodies similarly exposed are ‘naked.’"

Interestingly, this was not always the case. Eller explains that classical Greek and Renaissance representations often featured the male nude form. But by the seventeenth century, a new trend...
developed, "during which 'the relationship between male artist and female model [was] sexualized, artistic creativity [was] equated with sexuality, and more specifically with male virility.' Feminist scholars have explained this transition in the context of patriarchal representation, asserting that during the stage of predominantly male nude representation, "the artist 'identifies with God making man,' while in the second case [featuring female nudes] he sees himself 'as a Pygmalion who makes—in every sense of the word—his ideal woman.""

This "eye of the beholder" tendency is steeped in American legal culture. American iconography, typically regulated at the national level, is a form of legal discourse—a statement about who and what matters in national memory. National iconography, like other forms of legal statements, is a "language of power, a particularly authoritative discourse." Asserting that law is a gendered (male), patriarchal language resulting in the silencing of female voices in law, feminist scholar Lucinda M. Finley observes that while "[w]omen have obviously been the subjects or contemplated targets of many laws. . . it is men's understanding of women, women's nature, women's capacities, and women's experiences—women refracted through the male eye—rather than women's own definitions, that has informed law." The focus on the artist's or creator's intention with regard to the representation is also featured in MacKinnon's views regarding objectification, as she asserts, "women have not

naked Jesus suffering on the cross, as well as a naked Adam and Eve being expelled from the Garden of Eden. Renaissance artists painted nude men in secular contexts and, like contemporary feminist artists, sometimes used themselves as models. In fact, right up until the late eighteenth century, the male model was the norm in drawing classes and art studios.

Eller, supra note 190, at 34–35 (citations omitted). 196. Id. at 35 (citation omitted) (noting that "[b]y the nineteenth century, male nudity disappeared almost entirely in Western art, while the naked female assumed center stage, with 'nude' even becoming a shorthand for 'female.'").

196. Id.
197. Finley, supra note 83, at 888.
198. Id. (citations omitted). Finley notes:
   Law can pronounce definitively what something is or is not and how a situation or event is to be understood. The concepts, categories, and terms that law uses, and the reasoning structure by which it expresses itself, organizes its practices, and constructs its meanings, has a particularly potent ability to shape popular and authoritative understandings of situations. Legal language does more than express thoughts. It reinforces certain world views and understandings of events. Its terms and its reasoning structure are the procrustean bed into which supplicants before the law must express their needs. Through its definitions and the way it talks about events, law has the power to silence alternative meanings—to suppress other stories.

Id.
199. Id. at 884 (emphasis added).
authored objectifications, we have been them. Women have been the nature, the matter, the acted upon, to be subdued by the acting subject seeking to embody himself in the social world." 200

The foregoing focuses attention on the artist's intention with respect to the representation. 201 Objectification can also be explained in the context of the audience. As art critic John Berger explains, "[w]omen are depicted in a quite different way from men—not because the feminine is different from the masculine—but because the 'ideal' spectator is always assumed to be male and the image of the woman is designed to flatter him." 202 These gendered dichotomies—naked vs. nude, actor vs. acted upon, entertainer vs. entertained—invoke the type of symbolic and normative binary relationships Scott identified in her construct of gender. 203 The exploration of allegory as an objectified form of representation, therefore, illustrates the type of inquiry Scott promoted, that of examining how these constructs have developed in order to better challenge this notion of fixed, binary, gender representations. 204

This is even more important because, after all, these female allegorical representations, objectified versions of gender, do not ultimately inure to the benefit of their gender. 205 Indeed, as Eller underscores, "for whom do icons exist? Never for themselves. Their existence is always for another's use." 206 She therefore asserts, "it need not be surprising that goddesses have been represented and worshiped in many locales on the globe without any concomitant rise in the social, political, or economic status of human women." 207 Eller's observation underscores our next consideration, 208 which is the irony of using the female form to represent certain American social or cultural ideals.

3. Irony of Allegorical Representation

Female allegorical representation in most forms of American iconography refers to aspects of society from which women have

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201. Eller, supra note 190, at 35 (noting "[t]his argument draws our focus back to the artist, for just as spectators are bound to some extent by the viewing conventions of their culture, so are artists. Again, this is something that spiritual feminists tend to overlook.").
203. See supra Section III.B.
204. See generally Scott, supra note 75.
205. Eller, supra note 190, at 40.
206. Id.
207. Id. at 40–41 (stating "[e]ven in the prehistoric world, which is reconstructed as a women's paradise in most spiritual feminist discourse, we have no hard evidence that goddess worship had any positive effect on the status of women, or indeed that goddess worship was not accompanied by worship of a far greater, unseen and never represented male god.").
208. See id.
historically been excluded.208 As a result, we can return to the usefulness of Scott’s construct of gender as both constitutive of social relationships and gender as a signifier of relationships of power.210 The use of a female allegorical form for Liberty, for example, has been questioned as a representative model for this ideal.211 In Imagining American Women: Idea and Ideals in Cultural History, American studies scholar Martha Banta refers to an early suffragist employing the upraised arm gesture characteristic of the Liberty figure.212 She asserts, “[t]he Liberty gesture [of an upraised arm] is also incorporated into an appeal by ‘Woman’—an allegorical figure who asks for political rights from a government which, although willing to glorify the power of her image, is reluctant to grant power to actual women.”213 Legal scholar Jeannie Suk explored the concept of Privacy in constitutional theory as an allegorical woman.214 Suk reveals the irony of female allegorical representation of Privacy as it obscures the very values Privacy, in a constitutional sense, purports to advance.215

209. While America has not historically been referred to as the “Motherland,” Linda Edmondson provides a compelling examination of how that allegorical framework has gendered connotations in other cultures that have not inured to the benefit of women. Linda Edmondson, Putting Mother Russia in a European Context, in ART, NATION AND GENDER: ETHNIC LANDSCAPES, MYTHS AND MOTHER-FIGURES 53 (Ashgate Pub. Ltd. 2003). Edmondson explains:

There appears to be little correlation between the maternal image of nation and the actual power or status of the nation’s female inhabitants, however that power or status is measured. The primary relationship of the mother-nation is with her sons, though her daughters are expected to fulfill [sic] their role as the mothers of the nation’s sons. Women’s status in society is perceived to lie in their role as the bearers and guardians of the national culture. However, this role is assigned to them, not an aspect of their power to initiate or direct. As women they stand alongside the nation, in a supporting role, rather than being integral to it. The imagery equates the female land with ‘mother earth’ or ‘mother nature’, whose intrinsically chaotic power must be both respected and controlled by its male rulers.

Id. at 61. See also Sheehan, supra note 145, at 203 n.5. Sheehan observes, “Liberty, Truth, the Muses, Justice, and other powerful forces and ideas are often portrayed allegorically as feminine. These figures, however, deny real women any role in the projects—government, philosophy, poetry, law—they enable.” Id.; see also Cusack, supra note 10, at 7 (explaining that “women have often been given a special symbolic status in relation to the nation, while being distanced from active membership of the polity.”). 210. Scott, supra note 75, at 1067–70.

211. MARTHA BANTA, IMAGING AMERICAN WOMEN: IDEA AND IDEALS IN CULTURAL HISTORY 511 (Columbia Univ. Press 1987).

212. Id.

213. Id. at 510.

214. Jeannie Suk, Is Privacy a Woman?, 97 GEO. L.J. 485, 488, 506 (2009) (explaining, “[p]rivacy—the concept at the core of the Fourth Amendment—is figured as a woman. The privacy debate operates on one level as a debate about what sort of woman we have in mind—respectable or battered, high- or low-status, in need of privacy or in need of protection.”).

215. Id.
references the "ongoing legal conversation regarding the enforcement of domestic violence laws. In that debate, 'privacy' is sometimes described as a construct that operates to deny women the protection of law in favor of their husbands' privacy."216

The longstanding female representation of Justice is also ironic, as women have historically been excluded from the profession of law.217 Judith Resnik acknowledges that the use of female allegory to represent Justice in societies that precluded women from participation in the legal profession began with European traditions that were then replicated in the United States.218

Noting that "[t]his enduring symbol of power wielded in the form of a fair and balanced female arbiter of justice should have been a way-paver for women in the legal field,"219 it is not altogether surprising that early suffragists co-opted the Justice image in an attempt to capitalize on the irony. Many of the early suffrage pageants were "notable for their public re enactment of women's mistreatment under a legal regime created and enforced by men—including the often-forgotten violation of suffragists' civil liberties at the hands of

216. Id. at 499. Suk concludes:

To theorize privacy in the home is to imagine a woman, and the way she is imagined is bound up with the conceptions and the stakes of privacy both articulated and unspoken. Privacy is the lady of the house in her bath, the lady at home receiving callers, the battered wife in the disordered home. She embodies the sweet mystery of life, the imaginative essence of the privacy that the Constitution protects. Her body takes shape as privacy's object and subject, its fantasy and physicality. At home in the law, she is the wife of ambiguous virtue, the matron of bourgeois society, the victim of domestic violence. She represents contestation and conflict over the meanings and consequences of privacy in our legal tradition and evolving legal present.

Id. at 513.

217. See Lee, supra note 127, at 226 ("Justice's embodiment as a woman stands uneasily next to the long history of the law's exclusion of women from serving as judges in the United States and elsewhere."); see also Aileen Sprague, Women and the Law: The Symbolism and the Reality, 16 ROGER WILLIAMS U. L. REV. 260, 260 (2011) ("In light of the fact that it was only in the early decades of the twentieth century that women were allowed to enter the profession of law, it is somewhat ironic that a woman represents the iconic figure of justice and judging.").

218. Judith Resnik, Reconstructing Equality: Of Justice, Justicia, and the Gender of Jurisdiction, 14 YALE J.L. & FEMINISM 393, 396-97 (2002) ("European traditions depicted Justice as a woman but did not permit women to be judges. For centuries, the United States followed suit."). Resnik further asserts, "[u]npleasant and horrific images of real women—scared, scarred, injured, killed—remind us of the distance at which law has kept women's safety. A significant source of justification for legal indifference came from the concept of jurisdiction. Women's bodies were placed within the domain of households, headed by males, who if white, had jurisdiction over both the women and children therein." Id.; see also Lee, supra note 127, at 226 ("Even the term 'Lady Justice' may contribute to a figurehead view of women in the judicial system as elevated but passive or ineffectual human beings.").

various legal officials." These early suffragists therefore employed the figure of Justice to communicate their narrative of injustice. Similarly addressing the use of Justice symbolism in the suffrage movement, one author describes what she refers to as "Justice's First Modern Feminist Role":

[T]he suffragists' appropriation of Justice was distinctive in one very important respect: as a general matter, she had not been used to register critique of women's treatment under, or claims upon, the law... The concern was not that reality should conform to the representation of law as a woman; rather, it was that the representation of law should conform with the reality of women's inferior legal status.

The author emphasizes that, "as women began to recognize their disenfranchisement and general political and legal disempowerment as a women's issue... suffragists appropriated Justice's female form to protest women's disenfranchisement as an injustice visited upon women as women." IV. A FEW RESPONSES: ONE STEP FORWARD, TWO STEPS BACK

Of course, it is possible to change commemorations—monuments, statues, federal currency—to reflect new social and cultural practices and values. The authors of We Are What We Remember: The American Past Through Commemoration remind us that, as culture changes so too do commemorations of public memory, and this process "layer[s] meaning to create a new historical memory. In this way, perception becomes reality, and those participants in the actual historical event who lost the opportunity to shape public understanding can face a drawn-out battle to reclaim their recollections in a manner that is publicly acceptable.


221. Id. (noting that "suffragists used the figure of Justice to help construct and publicize a narrative of injustice").

222. Id. at 202.

223. Id. at 202–03. Collins notes this was not the first use of Justice by women to advance women's issues: "At least two English queens—Elizabeth I and Anne—appropriated the female image of Justice in official portraiture to signal their authority as queens in a world dominated by kings. Such claims to legal authority by women were the rare exception." Id. (noting that "early modern commentators were far more concerned with the inconsistency between women's legal inferiority and the practice of representing law's authority with a female figure.").

224. Id. (citations omitted).

225. See D'AMORE & MERIWETHER, supra note 59, at xiii.

226. Id.
Indeed, the failure to commemorate divested groups has been addressed in recent years.227 In *Memorial Mania: Public Feeling in America*, American studies and visual culture author Erika Doss explains that American memorials are “flourishing,” a phenomena she calls “memorial mania” and attributes to “an obsession with issues of memory and history and an urgent desire to express and claim those issues in visibly public contexts.”228 Doss situates these commemorations in the political context, arguing that such efforts to correct or broaden commemorative displays “represent heightened anxieties about who and what should be remembered in America,” and which groups should “control particular narratives about the nation and its publics.”229

As a result of this renewed interest in commemoration and public memory, there have been efforts designed to address the lack of female representation and, particularly, to address more historical commemoration of women.230 These efforts, however, have often been frustrating and insulting. As demonstrated in this section, the struggle to incorporate revitalized commemorations within political institutions (whether physical institutions like the Capitol Rotunda or political institutions such as the military), often runs counter to the deeply embedded symbolic and normative gendered constructs identified by Scott. These commemorative efforts nonetheless represent the type of work Scott encourages, with gender as a lens for historical study—that of disrupting notions of fixity in political and social institutions.231

One attempt to address the lack of female representation in an important public area concerned the placement of a statue of actual women—Elizabeth Cady Stanton, Susan B. Anthony, and Lucretia Mott—in the United States Capitol Rotunda.232 Courtney Workman emphasized the importance of this historical representation, noting the exhibition of the statue, titled *The Women Movement*,233 “in the Capitol Rotunda is an important step in honoring real women and

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229. Id.
230. See supra Section I.B.
231. Id.
233. Id. at 47. Workman explains that the statue was variously known as The Portrait Monument, The Women Movement, The Suffrage Statue, and Three Ladies in a Bathtub, the latter referring to what “detractors see as an unusual and cumbersome design.” Id.
their achievements rather than allegorical women. The female statues that Congress has traditionally supported are not historically based; they are fictional people that symbolize abstract meanings. 234 This was not, however, an uncontroversial process. 235

The statue was designed in 1920 to commemorate the passage of the Nineteenth Amendment. 236 Notwithstanding, the statue has been on a long and arduous journey and, since its creation in 1920, it has never been fully recognized by Congress. 237 Its reception in the Capitol was first stymied by the Joint Committee on the Library of Congress, the entity responsible for the placement of artwork in the Capitol. 238 The Joint Committee refused to accept the statue, forcing the National Women's Party to pressure Congress to take the monument. 239 Congress did agree to accept the statue but, upon receiving it, "quickly relocated it from the Rotunda to the Capitol basement, where it remained hidden for seventy-five years." 240 There were three unsuccessful efforts by women's groups to enact legislation to place the statue in the Rotunda. 241 This initiative was finally successful on the fourth attempt, which occurred in 1995. 242

Notwithstanding the fact that the statue was successfully placed in the Rotunda, controversy over it remained. 243 The symbolic value of the monument has been challenged as both unattractive, and as racist. 244 With regard to the latter, the National Political Congress of Black Women challenged the lack of black representation, asking

234. Id. at 61.
235. Id. at 48.
236. Id. at 47.
237. Workman, supra note 232, at 48 ("Since its creation in 1920, and its unveiling before the Capitol building, the statue has never been fully recognized or sanctioned by Congress.").
238. Id. at 48.
239. Id.
240. Id. (emphasis added). Workman explains the statue's ignoble reception and subsequent treatment at the Capitol:
Following the dedication ceremony, *The Woman Movement* was displayed in the rotunda for two days before being removed and sent to a broom closet in the Capitol basement. Although the National Women's Party had agreed to the stipulation that the statue could not be displayed in the Rotunda, the group objected to the willful mistreatment of the statue and made numerous complaints about its storage. In 1922, women's groups actually visited the Capitol to personally clean the faces of the three women, and act headlined in a 1922 article, "Angry Women Invade the Capitol."

Id. at 52 (emphasis added) (citations omitted).
241. Id. at 48 (explaining that "in 1928, 1932, and 1950, women's groups lobbied for legislation that would have returned the statue to the Rotunda.").
243. Id.
244. Id. at 53.
that an image of Sojourner Truth be carved into the statue. Workman explains that many African-American groups view the statue "as outdated and a biased reconstruction of the suffrage movement." The challenges to the appearance of the statue provide an interesting framework for reviewing the complicated and contested nature of gendered commemoration, particularly when such commemoration is historical rather than allegorical. Challenged as "unattractive," Workman observes that "[t]he purpose of the Capitol Rotunda is not to present sculptures on the basis of their aesthetics; it is to commemorate the achievements of Americans and to recognize important moments in the nation's history." Workman investigated the common criticism of the appearance of the suffragists and noted that the facial features of all historical humans displayed in the Rotunda could be described as "grim." The statues of men, however, unlike those of the suffragists, were life-sized and placed on pedestals, while the suffragists were merely represented as busts. This gave the male figures "a posture that seems imposing[,] [t]heir stance and stature contrib[uting] to a feeling of superiority, but not necessarily of pride." The suffragists, in contrast, "do not look upward in idealization, nor downward in a dominating posture like the male statues. Their gazes are focused straight ahead, as though they are concentrated on the task at hand—a position and posture that can certainly be recognized as determination." These physical representations give rise to very gendered impressions. Workman explains:

245. Id. at 55.
246. Id. at 56 (citations omitted).

The National Museum of Women's History, responsible for raising the necessary funds to relocate the statue, maintains that the museum fully intends to honor Sojourner Truth's life and accomplishments (as well as those of other suffrage and women's rights leaders, black and white), but that this statue "was intended to honor only the first three women to organize at a national level."

Id. (citations omitted). This is insufficient for some of the individuals who challenge the statue, including C. Delores Tucker who asserts, "the fact that so few remember the past in which African-American women did march for suffrage, not twice, but three times is telling evidence of the need to provide an accurate symbol for the twenty-first century generations to come." Workman, supra note 232, at 56 (citations omitted).

247. Id. at 54.
248. "[The statue] was however consigned to the crypt of the Capitol, in part, allegedly, because of aesthetic objections to the sculpture, which, according to the Washington Post, had been 'deliberately left ... in an unfinished state to signify that the struggle of women would continue with future generations.'" Levinson, supra note 62, at 29.
249. Workman, supra note 232, at 54.
250. Id. ("The facial expression of every statue in the Rotunda is very similar and could best be interpreted as grim.").
251. Id.
252. Id.
The posture of the male statues attaches them to a history of American individuality and strength; they are portrayed as leaders and conquerors, and their form implies that they have accomplished great things. Because we expect powerful men to have stern expressions, the statues comply with our notion of what great men are, and we associate this notion with pride. In contrast, great women are stereotyped as being moderate in personality, poised, and confident. A successful woman must be able to navigate socially, and this is not congruent with someone who is grim-faced. It is difficult to separate the purpose of the statue from the appearance of the women it portrays. The women cannot be viewed as successful because they are grim, and they are regulated to a subordinate position among the powerful male figures that surround them. This image is compounded by the fact that the women are sculpted as a bust.

Reactions to these physical characteristics are reminiscent of Scott’s normative concepts constitutive of gender. Moreover, the observation of gendered reactions to the representation of those characteristics corresponds with the second half of Scott’s framework, gender as a way of signifying relationships of power.

It is thus disheartening that, in this rare display of historical commemoration in a national public place, gendered notions of politics and power devalue the communicative impact of the display. It is further demoralizing that there is only one other statue that is a partial, rather than full figure representation in the Rotunda: it is a statue of Martin Luther King, Jr. For both of these representations it is ironic and insulting that activists who literally spent so much time on their feet in demonstration marches for equality and justice were represented without those tireless feet.

Another example of a controversial attempt to commemorate historical women in American iconography is the effort to increase the visibility of women’s roles in military activity. In her paper...

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253. Id. at 54–55.
254. Scott, supra note 75, at 1067–68.
255. Id. at 1069.
256. Workman, supra note 232, at 54. A further irony relating to the statue arises when considered in connection with Lady Liberty. Liberty—an allegorical female representation—is larger than life while the suffragettes, appearing next to life-size historical men, are not only smaller than life size but are not fully represented at all, appearing as mere torsos. Id.
257. Id.
258. Id. at 55 ("The only other personage in the Rotunda who is represented by a bust is Dr. Martin Luther King, Jr. The King statue and The Woman Movement are the only two statues that represent minorities in the Rotunda, as well.").
259. Id. at 54.
Women Warrior Memorials and Issues of Gender in Contemporary American Public Art, 261 Erika Doss notes that, notwithstanding the fact that "[w]omen—real women, not symbolic and allegorical figures—are practically invisible in American memorial culture," the under-representation of women has been challenged. 262 Doss observes that American women have played a role in war commemoration, highlighting women groups that worked to commemorate the role of women in American military history, including the American Gold Star Mothers 263 and the National Park Service's dedication of the Women's Rights National Historical Park. 264

Doss's work on military commemoration and gender reveals that efforts by women to commemorate military history have evolved, with recent initiatives representing "a major cultural shift in American memorial culture toward a more democratic and inclusive sensibility, one that seeks to represent and even reckon with absent, and ignored, subjects in the national narrative." 265 Notwithstanding the foregoing, these recent efforts underscore the heavily masculinized nature of military commemoration and divisions within female groups as to the appropriate way to commemorate female members of the military. 266 Doss explains that "[w]hile these memorials recognize and pay tribute to women in the military, they elide its dominating masculinity and simultaneously reinforce contemporary American infatuation with all things war." 267

261. Id.
262. Id.
263. Id. at 192. This is an interesting commemorative effort insofar as it seeks to memorialize the role of mothers sending their male family members to battle, as opposed to recent efforts to commemorate female soldiers. Doss explains that after World War I, groups including the American Gold Star mothers worked to return the bodies of U.S. soldiers to the country and to establish national cemeteries and honor courts. Id. In 2011, a bill was introduced to the House of Representatives to establish a Gold Star Mothers National Monument. Id. Doss further notes that "[o]ne design for the proposed memorial, to be located in the nation's capital, features a life-size bronze statue of a grief-struck mother, dressed in clothing dating to the 1940s, grasping the dreaded Western Union telegram in her hand ... looking off into distant, but cherished memories of her warrior son." 264 Doss, Women Warrior, supra note 227, at 192–93. Doss also addresses commemorative efforts by the United Daughters of the Confederacy and the Daughters of Union Veterans whose commemorative efforts have been challenged by many as racist.
264. Id. at 191.
265. Id. at 190.
266. Id. at 203–05.
267. Id. at 190 (emphasizing that "gender issues remain central not only to the experiences of women in the U.S. military but to how they are remembered and commemorated."); see also Doss, MEMORIAL MAMA, supra note 118, at 231–34, 237 (exploring the complex and often divisive issues arising in female military commemoration, particularly involving the depiction of female soldiers. She explains, "[g]iven mainstream stereotypes of female soldiers as hypermuscle control freaks, it is not surprising that women warrior memorials are the focus of heated debate among women soldiers themselves, especially regarding the representation of femininity and gendered respectability.").
We can turn to another of American iconography, currency, where similar resistance to commemorating historical women is revealed. On April 20, 2016, Treasury Secretary Jacob J. Lew announced that Harriet Tubman’s image would replace the image of President Andrew Jackson on the twenty-dollar bill. While this was an important step forward for the commemoration of women on federal currency, it was also a process fraught with frustrating setbacks. Legal scholars Ruth Anne Robbins and Genevieve Tung explained the journey in their article, Beyond #thenew10—The Case for a Citizens Currency Advisory Committee. The authors note that historically, “the portraiture and imagery featured on American currency has consistently asserted and reified the singular importance of one type of American: white, male politicians and statesmen, largely from the executive branch.” Noting that several inquiries were made over the years to include female representation on United States currency, the authors trace the grassroots efforts of the Women On 20s organization which pressured the Treasury to respond to efforts to recognize a woman on federal currency.

Initially, the organization conducted a highly public and successful campaign to raise awareness and invite participation on which historical female figure should be featured on currency. As a result of these efforts, on June 18, 2015, Treasury Secretary Jack Lew responded, but alarmingly announced the decision to not replace Jackson’s image on the twenty-dollar bill, but to replace Alexander Hamilton’s image on the ten-dollar bill instead. Not surprisingly, “[m]any women were disappointed to have asked for a place on the $20 and be offered the $10, a bill of lesser value and smaller circulation.”

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268. Tung & Robbins, supra note 47, at 237.
269. Id. at 221.
270. Id. at 215–17.
271. Id. at 197.
272. Id.
273. Id. at 213 (noting “several examples of letters inquiring, in particular, about the lack of female representation on the money.”).
274. Tung & Robbins, supra note 47, at 217–22.
275. Id. at 217–18. The authors explained the process employed by Women on 20s, which began with the founders initially considering sixty American women as candidates who were then “appraised for both the impact that she had on society and the level of difficulty that she had faced in pursuing her goals.” Id. at 217. As a result of this process, the top thirty candidates were sent to “approximately one hundred advisors—including many women’s history experts—who judged the candidates based on the same criteria. A final list of fifteen candidates was then presented to the public for a vote.” Id. at 217–18 (citations omitted). Notably, the committee only considered historical figures—not allegorical representations. Id. at 217.
276. Id. at 217–18.
277. Tung & Robbins, supra note 47, at 220 (noting that the women “were not alone:
Following the announcement, the Treasury sought public comment in a series of town hall meetings, discussions with history scholars, and a meeting with Hamilton enthusiast Lin-Manuel Miranda. In April 2016, the Treasury announced its decision to feature Harriet Tubman on the twenty-dollar bill. While the result was, at the time, a favorable recognition of historical female commemoration on federal currency, Robbins and Tung underscore troubling deficiencies in the process, including the fact that it “created confusion, excluded stakeholders from the true discussions, and resulted in surprise endings.” Regrettably, Tubman’s commemoration on the twenty-dollar bill has become even more uncertain under the Trump administration.

Admirers of Alexander Hamilton, including the former Federal Reserve Board of Governors Chairman, Ben Bernanke, stepped forward to protest the displacement of his portrait from the $10 note. However, there was no explanation for the decision to honor Tubman. In an online letter designed to explain his decision to honor Tubman, Lew thanked the public for sending responses to his original announcement to honor an American woman on federal currency. He attributed the decision to honor Harriet Tubman on the $20 bill to “thousands of responses we received from Americans young and old.” He did not mention the Women On 20s campaign, though it seems improbable that Treasury was unaware of their targeted efforts.

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278. Id. at 218–19 (noting that “[d]uring the summer and fall of 2015, Secretary Lew and Treasurer Rios both held town-hall-style meetings—largely with groups of college students—on multiple occasions. Most of these gatherings were open to the press.”).

279. Id. at 219 (revealing that “[o]ver the same period, Lew and Rios also held meetings with distinguished history scholars, all of which were closed to the press and the public. Treasury has been reluctant to share information about these conversations; our Freedom of Information Act request for the notes or minutes of one such meeting has been pending for over a year.”).

280. Id. at 220–21 (explaining that Lew did, however, meet privately with Lin-Manuel Miranda, ostensibly to talk “about the enduring mark Alexander Hamilton left on our nation’s history.” As Miranda put it in a subsequent message to his Twitter followers, “I talked to @USTreasury about this on Monday. Sec. Lew told me ‘you’re going to be very happy.’ #wegetthejobdone.” (citations omitted)).

281. Id. at 221. The authors emphasize the less than revealing explanation offered by Lew. With no explanation, in April 2016, the Department of the Treasury redirected traffic from the website it initially created to promote the new ten-dollar bill to a site called “Modern Money.” Tung & Robbins, supra note 47, at 221. In an online letter designed to explain his decision to honor Tubman, Lew thanked the public for sending responses to his original announcement to honor an American woman on federal currency. Id. at 221. “He attributed the decision to honor Harriet Tubman on the $20 to ‘thousands of responses we received from Americans young and old.’ He did not mention the Women On 20s campaign, though it seems improbable that Treasury was unaware of their targeted efforts.” Id.

282. Id. at 222 (stressing that “[a]ll of this could have been avoided, and should be avoided in the future.”).


284. Id. The article reports Mnuchin as indicating, “[p]eople have been on the bills for a long period of time . . . This is something we’ll consider. Right now we’ve got a lot more important issues to focus on.” Id.
V. Reflections on the Problem of Iconographic Silence

In light of the problem of gendered commemorative silence, the inevitable question becomes, "What's a woman do?" Addressing the lack of female representation in American iconography is a difficult problem. National iconography is, after all, a form of cultural memory, which is itself "a complex mix of narrative, displacement, shared testimony, popular culture, rumour, fantasy, and collective desire." Activist approaches must acknowledge the varied ways in which commemorations are created and regulated. Because of the breadth of strategies associated with the issue, a neat, tidy, and comprehensive solution is beyond the scope of this Article, which is intended to primarily initiate a conversation by outlining the problem which is, in itself, a strategy of critical awareness.

Nonetheless, some suggestions are in order. Reimagining American cultural memory can be accomplished through new commemorations that acknowledge historical women and minorities, countermemorials that challenge hegemonic memory, grass roots initiatives to publicize and discuss the issues, and, of course, intellectual initiatives including activist scholarship.

A. Commemorative Initiatives

Commemoration through monuments, currency, stamps, and the like typically reflects hegemonic culture. Countermemorials, in contrast, are visual re-remembrances and more dialogic. Countermemorials "respond well to the need for multiple (collective as well as individual, localised as well as displaced) modes of commemoration."

285. Finley, supra note 83, at 906. Addressing the challenges associated with gendered language and reasoning in the law, Finley laments, "[s]o, what's a woman do? Give up on law, on legal language entirely? Disengage from the legal arena of the struggle? Neither of these strategies is really an available option. We cannot get away from law, even if that is what we would like to do." Id.


287. Id. at 126 (citation omitted).

288. Finley, supra note 83, at 909. Finley asserts, "[a]wareness encourages thinking critically about whose perspective has informed a term or doctrine, and about the norms or assumptions upon which the term may rest. This leads to self-conscious strategic thinking about the philosophical and political implications of the meanings and programs we do endorse." Id. at 909–10.

289. See Krzyżanowska, supra note 120, at 467. Krzyżanowska explains that architecture and urban studies define monuments as "[a] construction or an edifice filled with cultural, historical and artistic values. The conservation and maintenance of monuments is justified by those values. Historically, the idea of the monument is closely tied to commemoration (of a victory, a ruling, a new law)." Id. (citations omitted).

290. Id. at 466 (exploring "counter-monuments as a new and evidently more dialogic commemorative mode.").
in contemporary urban loci... [and may] also allow commemorating highly complex past events and occurrences—such as, for example, the Holocaust—that carry many interpretations. Both forms of commemorative efforts can be examined to address the lack of female and other minority representation in American iconography.

1. Historical Commemorations

One way to address the lack of historical, female commemorations in American iconography is to participate in initiatives to create new memorials. And indeed, there have been successful efforts in this area. There are currently several national parks and memorials that commemorate women's contributions to history. Illustrations include: (1) the Clara Barton National Historic Site; (2) the Mary McLeod Bethune Council House National Historic Site; (3) the First Ladies National Historic Site; (4) the Eleanor Roosevelt National Historic Site; (5) the Rosie the Riveter—World War II Home Front National Historical Park; (6) the Harriet Tubman Underground Railroad National Monument; (7) the Harriet Tubman National Historical Park; (8) the Maggie L. Walker National Historic Site; and (9) the Women’s Rights National Historical Park. Troy University maintains the Rosa Parks museum as “an active memorial to the life of civil rights icon Rosa Parks and the lessons of the Montgomery Bus Boycott that brought racial integration to transportation and international attention to civil rights.”

While federally regulated sites honoring women receive national approval through regulatory mechanisms, these approvals are

291. Id.
292. Id. at 468.
293. Id.
294. Errick, supra note 33.
296. Errick, supra note 33 (noting Barton was the founder of the American Red Cross, a “dedicated Civil War nurse, an educator, and a government clerk”).
297. Id. (noting Bethune’s work to “start a school for African American girls, serve as an advisor to President Franklin D. Roosevelt, and found her own influential civil rights organization, the National Council of Negro Women.”).
298. Id.
299. Note, however, that while this park commemorates the work of historical women, Rosie the Riveter is an allegorical representation of those women.
300. Errick, supra note 33 (explaining that Walker was “a prominent businesswoman and community leader in post-Civil War Virginia... [and] was the first African American woman in the United States to found a bank, where she served as president.”).
rarely seamless.\textsuperscript{302} For example, the Women Military Service for America Memorial, located at the entrance to Arlington National Cemetery in Virginia, honors the contributions of women in the United States Armed Services.\textsuperscript{303} While approved by the United States government, the memorial, not unlike the laboriously placement of the Women Movement statue in Statuary Hall, was not without opposition.\textsuperscript{304} When legislation was first proposed to Congress to approve the construction of a memorial dedicated to women in the United States Armed Forces it was opposed by both a member of Congress, Secretary of the Interior Donald P. Hodel, and the National Parks Service.\textsuperscript{305}

2. Countermemorials

In addition to encouraging the commemoration of historical women, efforts can be directed as countermemorialization—that of acknowledging and memorializing unpleasant, violent, or abhorrent aspects of national history as a reminder and warning.\textsuperscript{306} “If hegemonic memorializing is often about active forgetting—individualizing and remembering on behalf of communities—countermemorializing needs to promote active remembering—enacting the link between remembering the past and changing the future, which involves communities taking responsibility for”\textsuperscript{307} violence, civil rights violations, and the like.\textsuperscript{308} The Holocaust Museum\textsuperscript{309} and National Memorial for Peace and Justice\textsuperscript{310} are two examples of American countermemorialization.

\textsuperscript{303} Dose, \textit{Women Warrior}, supra note 227, at 203.
\textsuperscript{304} Clarity & Weaver, supra note 302, at B14.
\textsuperscript{305} Id.
\textsuperscript{306} Krzyzankowska, supra note 120, at 488 (noting that countermemorials “can be seen as contemporary artists’ reaction to not only the discourse of place/space identity but also to the localised politics of individual experience and of dealing with often ‘inconvenient’ memories.”).
\textsuperscript{307} Bold et al., supra note 286, at 130 (focusing on countermemorializing “the systemic nature of gendered violence”).
\textsuperscript{308} Id.
\textsuperscript{310} \textit{The National Memorial for Peace and Justice}, EQUAL JUST. INITIATIVE, https://museumandmemorial.eji.org/memorial [https://perma.cc/HF2Z-2UQY] (“[T]he nation’s first memorial dedicated to the legacy of enslaved black people, people terrorized by lynching, African Americans humiliated by racial segregation and Jim Crow, and people of color burdened with contemporary presumptions of guilt and police violence.”).
B. Grass Roots Initiatives

As noted, the nonprofit organization Equal Visibility Everywhere has many projects targeted at a variety of iconographical representations, including currency, stamps, monuments, statues, media representations, holidays, and street names. The organization is raising awareness, providing information, and where applicable, proposing legislation to address the problem. The Women On 20s was also a grassroots, non-profit organization with a more focused goal—to place an image of a historical woman on the twenty-dollar bill. Having persuaded the Treasury to do so, it now states the following as its mission: “Our work ahead will be to make sure the next administration stays on track with currency change promises to promote and further elements of equality.” Of course, academic scholarship can and should aid these efforts.

C. Legal Initiatives

Addressing legal initiatives that address commemorative silence in varied forms of American iconography is beyond the scope of this Article, as some American iconography is regulated at the

311. See Eve, Who We Are, supra note 35. The EVE website notes the following goals: EVE will work to change the culture and face of America one symbol at a time. We will:

- encourage state legislatures to add more statues of women to National Statuary Hall;
- suggest women for the U.S. Postal Service to commemorate on stamps;
- propose that municipalities name streets and buildings after prominent female citizens, and persuade school systems nationwide to increase the number of schools named after women;
- encourage the government and private sector to include women in the celebrations of our nation’s heritage;
- analyze the gender ratio of monuments and memorials on the local, state, and national level, and encourage greater representation of women;
- advocate the full and fair treatment of women and women’s history in our nation’s museums;
- urge our government to include more women’s images on our coinage and to print a second set of paper money featuring images of great American women; and
- educate the private sector regarding the lack of female images in media representations.

Id.

312. Id.

313. About Us, WOMEN ON 20S, https://www.womenon20s.org/about [https://perma.cc/2VQE-ZK4U].

314. Id.

315. See Bold et al., supra note 286, at 126 (“Activist scholarship must work in public support of women’s organizations that are increasingly constrained by such economic and regulatory conditions as chronic underfunding, professionalization, and the construction (and reconstruction) of their function as instrumentalist social work rather than advocacy for what neoconservative governments consider ‘special interest groups.’”).
federal level while other forms are regulated locally.\textsuperscript{316} As such, an area of inquiry for iconographical forms that are legally regulated is the regulatory structure, and whether the structure has been created or maintained in a gendered manner. Attention to federal regulations such as those pertaining to currency, parks, or monuments may yield solutions.

Disparate impact analysis could reveal facially neutral rules that have a disproportionate impact on women and minorities.\textsuperscript{317} Where those rules can be challenged as unnecessary, they may be revised under a disparate impact analysis. In questioning "[h]ow do we correct the hierarchical assumption that what men are assigned to do what is worthwhile?", one author asserts that disparate impact analysis "provides an occasion for weighing policies and practices unthinkingly based on traditional male roles against other, traditionally female possibilities."\textsuperscript{318} Because the weighing point becomes a time to recognize and acknowledge the value of traditionally female qualities and activities. . . . [it] does not take on the failure to value the caring and other work women have traditionally done directly, it repeatedly brings light to the problem. It continually asks whether policies and practices that reflect male ways of doing things are necessary and thus implicitly asks whether there are other things that should be done.\textsuperscript{319}

One challenge in using disparate impact analysis is convincing decision-makers that the policies and procedures used to determine who is remembered in American iconography are patriarchal, therefore disadvantaging women and minorities.\textsuperscript{320} An initial suggestion to accomplish that is to make processes used to select historical iconographic commemorations more transparent and to involve more stakeholders. For example, scholars fearing that structures and processes resulting in gendered representational iconography on federal currency will fail to reform, notwithstanding the previously announced decision to place Harriet Tubman on the twenty-dollar bill, recommend the creation of a Citizens Advisory Committee to guide future decisions regarding paper money.\textsuperscript{321}

\begin{footnotesize}
\begin{enumerate}
\item \textsuperscript{317} Nadine Taub, \textit{The Relevance of Disparate Impact Analysis in Reaching for Gender Equality}, 6 SETON HALL CONST. L.J. 941, 947 (1996).
\item \textsuperscript{318} Id. at 949.
\item \textsuperscript{319} Id.
\item \textsuperscript{320} See Doss, \textit{Women Warrior}, supra note 227, at 190.
\item \textsuperscript{321} Tung & Robbins, supra note 47, at 237 ("There is no reason to think that this
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Attention to the institutions and structures that regulate more local forms of commemoration might be even more successful.\textsuperscript{322} Judith Resnik notes, "in the United States, local officials have many times been ahead of the national government in generating rights of personhood . . . [and] local commitments are always essential to implementation of legal norms."\textsuperscript{323} Nonetheless, she cautions, "national action is also needed."\textsuperscript{324}

Activist scholarship is another means to address these forms of commemorative silence.\textsuperscript{325} Scholars can raise questions regarding not only the legal and social mechanisms that created and maintained commemorative silence for women and other under-represented groups, but can also address questions regarding the integrity of proffered successes, including those of historical commemoration and of countermemorialization. The breadth of this inquiry underscores the various ways to address the issue of commemorative silence, looking beyond the issue and its most obvious solution—more historical commemoration—and asking deeper questions about the structures that created commemorative silence.\textsuperscript{326} As an example, scholars have raised questions regarding the efficacy of memorializing women's rights in a National Parks' setting, wondering,

\begin{quote}
[h]ow effective, then, is this 'institutional carrier' of the Women's Rights National Historical Park if the park is meant to be an intervention of sorts, a consciousness-raising historical memorial to past women's rights activism and to continued feminist effort to keep front and center real and un-remedied inequities against women?\textsuperscript{327}
\end{quote}

confusing and poorly managed process will not repeat itself if—or when—Treasury is prompted to make further iconographic changes. Without structural reform, the department is free to repeat its historical mistakes without any way to learn from them.

\textsuperscript{322}. See Resnick, supra note 50, at 398.

\textsuperscript{323}. Id. (citations omitted) (noting that "[p]olitical decisions at that level both memorialize and inscribe justice by deeming certain forms of injury to be so fundamental that they are constitutive of national identity."). She further explains, "[T]oday, it would be 'un-American' to prohibit marriages among individuals with differing racial identities. But that national normative commitment is less than fifty years old. Moreover, it took persistent national pressures and the Civil War to enable African-Americans to be able to marry each other." Id. (citations omitted).

\textsuperscript{324}. Id.

\textsuperscript{325}. See Bold et al., supra note 286, at 126 ("Activist scholarship must resist re-treating into the academic privilege of leaving feminist memorializing as an intellectual conundrum. If theoretically inflected analysis is to support activist priorities, it must engage in the kinds of strategic calculation that inform social justice efforts.").

\textsuperscript{326}. See, e.g., Winslow, supra note 65, at 180 ("Instead of looking at only the fact of the failure to get the women’s vote for forty years, we might ask what in the system allowed for that to be so, and what is the collective responsibility for keeping those mechanisms in place.").

\textsuperscript{327}. Id. at 182–83 ("Violence against women, unequal pay, limited access to a wide
D. A Cautionary Note

Recognizing actual, historical women in iconography is important to preserve the cultural memory of women's contributions to society.\textsuperscript{328} The identification of historical as opposed to allegorical women instantiates their very real presence in American history.\textsuperscript{329} This act of naming by historical representation grounds individual women's contributions in reality, "position[ing] individual memory as both common ground and trigger for a larger collective remembrance and call for action."\textsuperscript{330} But the selection of certain women or other individuals to commemorate may have unintended, exclusionary consequences, as commemorative silence is not simply a matter of gender, but also of other intersectionalities including those of other minority groups and of larger movements.\textsuperscript{331} Thus, an "individualized tribute in state established monuments and memorials instigates a hegemonic processes of active forgetting," repressing the everyday, systemic aspects of the thing or event being marked for remembrance, and hiding the systemic support mechanisms for social occurrences.\textsuperscript{332}

Addressing the lack of female representation on American iconography as a feminist initiative should also incorporate intersectional notions of exclusion. So, for example, "[w]e cannot afford to leave behind the rich stories of first wave African American feminists who stood up for both abolition and suffrage, nor can we ignore the 'wave' range of professional work, bodily objectification and conscription, rape, and the rest of the full spectrum of offenses against women, particularly women of color, do not link well to the Teddy Roosevelt myths of shared and magical public lands and other benign images the National Park Service tends to recall...").

\textit{Id.} at 182–83.


330. Bold et al., \textit{supra} note 286, at 139. The authors address the impact of dedicating a countermemorial acknowledging violence against women to an actual, named victim of domestic violence, thereby "situating one murder within a systemic pattern of social violence and organized resistance." \textit{Id.}

331. \textit{Id.} at 139. The authors note that the selection of a white female to represent the countermemorial of violence against women while "extend[ing] the reach of solidarity, [also] ... threatens its collapse, particularly across lines of race. Privileging this name runs the risk of contributing to the exclusions that white feminism instantiated in the original naming of the park, of repressing crucial difference in the search for grounded collectivity." \textit{See also} Finley, \textit{supra} note 83, at 907. Finley explains that while we must acknowledge women's experiences in legal discourse structures, such as law and legal reasoning, "this is not as easy as it sounds, because there is no 'one truth' of women's experiences, and women's own understandings of their experiences are themselves affected by legal categorizations." \textit{Id.}

332. Winslow, \textit{supra} note 65, at 181 (citations omitted) (noting "[t]he state's predictable tendency is to memorialize individuals or generalize epic events as having the same impact on all involved, rather than as movements or systemic occurrences affected by and affecting many people in many different ways.").
that for so long swept only white women toward their goal of equality."\textsuperscript{333} It is in this context that the power of naming by historical representation may be less effective than commemorative recognition of movements, rather than individuals, the representation of which may actually be best served by more abstract representations.\textsuperscript{334} So, yet again, while this Article has been primarily concerned with gendered silence in American iconography, activist efforts should also focus more broadly on additional unrepresented voices because "[c]orrecting our notions of this particular historical memory, especially in its most public forms, is crucial to our continuing work to realize social equality across race and gender, class, ability, age and religion."\textsuperscript{335}

\textbf{CONCLUSION}

The focus of this Article was on the lack of female representation in national American iconography. There are, of course, other under-represented and disenfranchised groups in United States history.\textsuperscript{336} It is important therefore to understand the public memory we create with iconography so that it is clear that we need to memorialize under-represented voices.\textsuperscript{337} This type of active remembering, and memorializing, should not be limited to ensuring more diverse representation, but should also persuade us to ask questions about why certain stories have not been told. "Rather than the active forgetting that comes from willfully homogenizing histories and experiences, active remembering requires a relationship between acknowledging the past and while enacting a different future in a refusal to give up or get over it."\textsuperscript{338}

We can certainly acknowledge that one reason particular voices are silenced is the elitist nature of commemoration, particularly at

\textsuperscript{333} Id. at 191 ("If we are disturbed, angered or embarrassed by the way this history has been written, seeing it now from a vantage point our feminist forerunners could scarcely imagine, so be it.").

\textsuperscript{334} Id. at 183.

\textsuperscript{335} Id. at 191; see also Bold et al., supra note 286, at 126 ("[A]ctivist analysis must move beyond ideological purity, beyond the irresolvable nuances of the memorializing question, to advocate certain ways of remembering the past as our best chance of changing the future.").

\textsuperscript{336} D'AMORE \& MERIWETHER, supra note 59, at 20.

\textsuperscript{337} Winslow, supra note 65, at 180--81 (recognizing that "[c]ounterpublic versions of remembering . . . [forms of] 'cultural countermemory,' are effective antidotes to hegemonic cultural memories.").

\textsuperscript{338} Id. at 180 (emphasizing that "[t]his might be accomplished by asking different questions than we are used to asking. Instead of looking at only the fact of the failure to get the women's vote for forty years, we might ask what in the system allowed for that to be so, and what is the collective responsibility for keeping those mechanisms in place. Rather than debate where unified efforts between women’s activist groups broke down, we might ask what systemic beliefs functioned to wedge those groups apart.").
the national level. Notwithstanding, a new focus on active remembering, either in the context of new historical commemoration or in the context of countermemorials, might begin to tell a more complete history of our nation. This active remembering is facilitated by many aspects of Scott's focus on gender as a useful framework. We see the normative associations with symbolism, challenges to binary representations of the sexes, and gender as a signification of power reflected in American iconography.

It is noteworthy that there is one aspect of Scott's framework that cannot be implicated here—the notion of subjective identity. We cannot question Liberty about her motives, or Justice about her challenges. Even Rosie the Riveter's authentic experience is hidden in gauzy shadows, underscoring how female experience is hidden by allegorical representation.

340. Doss, Memorial Mania, supra note 118, at 233.