

Michael Kelly*Public Art Controversy:
The Serra and Lin Cases*

The identity of the public in contemporary public art is amorphous, yet strong-willed and divisive. As a result, public art is riddled with controversy which is as perilous as it is vital for today's pluralistic culture. While some might want to argue that public art can serve only the ideological purpose of propagating a false sense of consensus in a society deeply divided about art, we need not aim toward consensus.¹ Discussions of public art might rather start from the recognition that complete consensus is impossible because the public comprises many different subspheres, organizations, and institutions, each with many voices in terms of race, gender, ethnicity, sexuality, and class. In Thomas Crow's words, the public is "nothing more nor less than a series of representations" laying claim to "the public."² Instead of consensus, debate and dialogue about these representations should be the mandate in public art.

This view of public art makes it difficult, however, to know who should make judgments when the inevitable controversies arise. According to what procedures and criteria should we judge? How are the public's manifold identities best represented while the commitment to pluralism is respected? Two recent examples of public art—Richard Serra's *Tilted Arc* and Maya Lin's Vietnam Veterans Memorial—provide some guidelines—negative and positive, respectively—about how these controversies might be adjudicated without compromising or abandoning public art. My aim here is to explore the middle ground between crippling controversy and concocted consensus in contemporary public art.

Although both examples stem from the 1980s, they have radically transformed, in ways Hilde Hein discusses above, how public art is now understood, created, and treated in the United States. Since these transformations have not been fully comprehended philosophically, it is still important to examine the arguments underlying the cases that provoked them, as Gregg Horowitz does above in the case against Serra. Finally, while I am critical of Serra's legal defense against the removal of *Tilted Arc* from

Federal Plaza, I will not comment on whether it should have been removed; there may be reasons why it should have remained even if his site-specificity defense is unconvincing, as I will argue it is. My interest here, which explains my preference for Lin's public art, is to see how we might better understand the "public(s)" of public art.

1

Serra's *Tilted Arc* was commissioned by the General Services Administration (GSA), selected by a National Endowment for the Arts panel, and installed in the public plaza of a federal office building complex in downtown Manhattan in 1981.³ Backed by people who worked in the buildings around the plaza, a judge and a GSA administrator initiated a legal battle in 1985 to have *Tilted Arc* removed because its 12-foot height and 120-foot length of cortan steel obstructed the public's use of the open plaza. After numerous public hearings and court sessions over several years, which Horowitz analyzes above, the final judgment in 1988 was that the sculpture could be removed since the concerns of the public who lived and worked near the plaza had more legal weight than those of a single artist or the professional artworld. Thus it could be said that a conflict between two publics—the artworld and the people who use Federal Plaza—was resolved in the latter's favor. Serra has subsequently retreated from public art projects, at least in the United States.⁴

When Lin won the 1981 veterans-sponsored national competition for the design of the Vietnam Veterans Memorial in Washington, D.C., some other veterans and members of the public (for example, some in Congress) vigorously objected to the choice of her design (from among 1,421 alternatives), arguing that it was nonrepresentative and unheroic, and thus would remind citizens more of individual death and national defeat than of the war's mission. These critics preferred a more traditional war memorial promoting patriotism. Since the Vietnam Veterans Memorial was unveiled in 1982, however, it has been overwhelmingly supported by the viewing public at large, making it year after year the most visited monument in Washington. While these visitors have judged the memorial largely on the basis of personal experiences of

the Vietnam War rather than in terms of issues about public art, their experiences at the memorial have been occasioned by the artist's handling of its public site. Since she completed the Vietnam Veterans Memorial, Lin has created other equally successful, if less grand, public artworks.⁵

What the Serra and Lin cases have in common is that a small group of people selected a work of art and, in effect, decided in the name of the public what its art should be. The public disagreed among itself, with different groups testifying on behalf of competing interpretations of the public's identity (interests and rights).⁶ If the controversies about public art always involve such interpretive conflict, how can they be adjudicated without imposing a singular identity on the public or indulging in the mere play of multiple identities? Moreover, what is the relationship between this issue of "the public" and the rights and responsibilities of the artist engaged in public art? Because of the way the design for the Vietnam Veterans Memorial was selected, and especially because of the way Lin understood the public(s) with which she was dealing, I think her example of public art remains a positive model for thinking about these questions. And because the notion of site-specificity can serve as a link between the two questions, it will be the focus of my analysis of the Serra and Lin cases.

II

According to Barbara Hoffman, a legal theorist and practicing attorney specializing in art law, Serra alleged in federal district court in New York City that

the GSA's decision to remove the sculpture violated his rights under [1] the Free Speech Clause of the First Amendment, [2] the Due Process Clause of the Fifth Amendment, [3] federal trademark and copyright laws, and [4] state moral rights law.⁷

Judge Milton Pollack, who presided over this case, dismissed (3) and (4) for lack of subject matter jurisdiction; and he granted summary judgment to the appellees on (1) and (2) because the decision to relocate *Tilted Arc* was deemed content neutral. In his appeal, Serra emphasized (1) and (2) again after abandoning a moral

rights appeal at the last minute. He argued that once *Tilted Arc* was installed, it was protected by the First Amendment. The New York Supreme Court adjudicated the appeal by deciding (a) that Serra's free-speech rights were not violated because he relinquished them voluntarily when he sold *Tilted Arc* to the GSA and (b) that, again, the GSA's decision was content neutral since its concern was to restore public space, not to restrict individual artistic expression.

The linchpin of Serra's defense throughout the proceedings was—in the court's eyes and Serra's words (and those of his defenders)—the notion of site-specificity: "the existence of a cognizable legal relationship between the site and the artwork, which prevented its relocation or removal."⁸ If *Tilted Arc* were site-specific, to remove it would be to destroy it. The presiding judge argued in the end, however, that *Tilted Arc* was not site-specific, because to be specific to Federal Plaza, it had to be public, but it was not:

The sculpture as presently located has features of a purpresture ... [:] "An inclosure by a private person of a part of that which belongs to, and ought to be free and open to the enjoyment of the public at large."⁹

Tilted Arc was merely a private sculpture located in a public space, rather than a work of public art specific to a particular public site; that is, Serra privatized a public space instead of creating a public sculpture in it. Since *Tilted Arc* was not site-specific, the court judged that the public was not destroying it by removing it; rather, the public was merely reclaiming a site for its own purposes.¹⁰ Serra thus undermined his own case by not securing the linchpin—site-specificity—of his defense.¹¹

The defense of *Tilted Arc* based on site-specificity depended on the meaning of "public" in the senses of both the people and the space of Federal Plaza. Because of Serra's treatment of these two senses, however, *Tilted Arc* was not public and not site-specific. Such treatment reveals in more detail the inadequacy of Serra's understanding of site-specificity. It is not that he had to appease all the publics of Federal Plaza, but that he deliberately ignored and even defied them by the way he practiced site-specificity. This attitude—only implicit in the trial but, I think, embodied in *Tilted Arc*—added further support to the court's judgment.

Serra did not regard the public who experienced *Tilted Arc* as people who had legitimate, aesthetic and other claims on Federal Plaza. He was actually rather candid on this issue: "If you are conceiving a piece for a public place, a place and space that people walk through, one has to consider the traffic flow."¹² So Serra thought of the "public" as "traffic," as anonymous people who were taken into consideration only insofar as they could be expected to have peripatetic perceptual experiences of his sculpture in a behavioral space of his design: "The work I make does not allow for experience outside the conventions of sculpture as sculpture."¹³ *Tilted Arc* was situated to encompass "the people who walk on the plaza as *its* volume ... to bring the viewer into the sculpture."¹⁴

While it is difficult to define the public in this or any other case of public art, the court deemed it reasonable to regard the public, whoever it is, as more than traffic. The identity of this "more" is, of course, the issue. We enter here the explicitly public level of public art. Serra refused to consider this level at all; for he did not want to "worry about the indigenous community, and get caught up in the politics of the site."¹⁵ That is, he refused to deal with the public on whose behalf the GSA implicitly acted when it commissioned him to create a sculpture for Federal Plaza.¹⁶ But as the court argued, the minimum—and, I should think, noncontroversial—point is that to be public, art must be created with a recognition on the artist's part of the people who constitute the "public" of public art, whoever they are. For Serra, this would have meant recognizing the identities and rights of the different publics associated with Federal Plaza in various ways (working, living, visiting). He defiantly did not recognize the public in any of these senses.¹⁷ So again, *Tilted Arc* was not public and not site-specific.

Serra treated Federal Plaza itself as a space constituted more by aesthetic than by public issues. He stated, for example, that the purpose of *Tilted Arc* was not only to redefine people's experience of Federal Plaza by the placement, size, and tilt of the sculpture, but to alter the space itself: "After the piece is created, the space will be understood primarily as a function of the sculpture."¹⁸ While the redefinition of a space by a sculpture may be consistent with the idea of site-specificity (at least if it is understood primarily,

if not exclusively, in formal-aesthetic terms, as it was by Serra and his defenders), it alone is not sufficient to make art site-specific; for the sculpture, in turn, has to be shaped by this same space in order to be considered specific to its site.¹⁹ That is, while the idea of site-specificity implies a reciprocity between space and sculpture, Serra's understanding of this idea was one-sided, judging by his own statements: "in my urban site-specific works the internal structure responds to external conditions, but ultimately the attention is focused on the sculpture itself."²⁰

What was deficient about Serra's idea of site-specificity was not only its one-sidedness, however, because there were also problems with the way he understood the one side of site-specificity to which he confined his energies. For in making *Tilted Arc* for Federal Plaza, he had something else in mind other than the public nature of that space. His stated goal was to dislocate the decorative aspects of Federal Plaza as designed by architects: "I've found a way to dislocate or alter the decorative function of the plaza and actively bring people into the sculpture's context."²¹ He wanted to challenge the tendency within architecture at the time to treat public sculpture as mere decoration for buildings. If this was Serra's concern, however, then his claim about site-specificity was rather a claim about the autonomy of sculpture vis-à-vis architecture. Though this claim is legitimate, it had little, if anything, to do with *public* art. For even though Serra's battle with architecture took place in public in this case, it could have taken place in a private space just as easily, whether indoors or outdoors.

Moreover, in the context of this same battle, Serra consciously adopted a posture of avant-garde art toward the public of Federal Plaza. He hoped to enlighten people about public space by insisting that they recognize his sculpture separate from the architecturally defined space of Federal Plaza. His strategy backfired. The public—as amorphous as it was—rejected Serra's offer to be enlightened and reciprocated the confrontational gesture by blocking his efforts to redefine their space without being consulted. In effect, there was a conflict between Serra's commitment to site-specificity and his avant-garde campaign for autonomous sculpture, and he unequivocally privileged the latter.

A further problem with Serra's understanding

of the notion of site-specificity was that, for him, it may have had more to do with a critique of the commodification of art galleries than with public art.²² He thought that if his art were taken out of commercial art galleries and museums and repositioned in the public sphere using site-specificity as its theoretical basis, it would no longer be a commodity: "Urban and landscape work built in place [i.e., site-specific] bypasses commerce and cultural institutions by not being available for secondary sales or confinement in the ahistorical space of the museum."²³ Serra was right that there is generally no resale market for public art and that museums are typically understood as ahistorical spaces. But he was mistaken in thinking that by relocating his art to the public sphere he escaped the commodification of art. Artists do not receive a percentage of the resales of their art, but they do benefit concretely, if indirectly, because the resales can escalate the future prices of their art in the primary market (of galleries). Similarly, there are escalating fees or increased opportunities for artists who do public art and who are at the same time successful in the primary market. Serra is, in fact, a perfect example of this: he has had the best of both markets. He need not be faulted for this, but he should not confuse the issue of commodification with that of site-specificity. Serra's confusion here was due to his overconfidence in art's ability to overcome commodification simply by being placed in public spaces.²⁴

A final weakness of Serra's understanding of site-specificity concerns his view of the process for making decisions about public art. He seems to prefer to work in countries with strong governments which are not directly responsible to the public, that is, which are less democratic than the United States, the home of the public expected to live with *Tilted Arc*. This preference has led him to work and live mostly in Europe, especially in Germany and France, where there is, by his account, less democracy, at least in dealing with public art.²⁵ Since the public sphere in the United States is defined by a commitment to democracy—whether that commitment is always fully and fairly adhered to is another question—Serra's lack of respect for democracy with regard to matters of public art demonstrates once again that his public art was not site-specific, for he did not take the speci-

ficity of his public into consideration in defining his "site."

All the above problems with Serra's notion of site-specificity, the linchpin of his legal defense, had the serious consequence of weakening his claim that his First Amendment right to free speech was violated by the GSA when it removed the sculpture. For if *Tilted Arc* was not site-specific, then Serra's freedom of speech was not violated when the sculpture was removed. The court decided that while Serra had every right in principle to express himself, he had no particular right to do so in Federal Plaza, which was deemed a "limited public forum" where restrictions on speech are allowed so long as they are content neutral.²⁶

III

In contrast to Serra's *Tilted Arc*, the entire process surrounding Lin's Vietnam Veterans Memorial was a much more promising model of how to deal with public art and all its attending controversies. Veterans, members of the using public, were the memorial's principal organizers from the first initiatives through the dedication. They raised the money, arranged the architectural competition, chose the jury that selected Lin's design, oversaw the construction, and led the dedication ceremony. In all these steps, official Washington politicians were left out of the picture so that the veterans would not be dependent on Congressional approval, and thus would not have to resolve the deeply partisan debates among veterans, members of Congress, and the general public about the wisdom of the Vietnam War. Congressional approval was required only for the land on the Mall where the memorial is now situated, and it was mainly at that stage of the process that the public debate heated up. Some critics tried to stop the project by challenging its funding, but they were unable to do so because funding was provided largely by "private" (nongovernmental) sources through a direct-mail campaign to the general "public."²⁷ But the organizers and the designer of the Vietnam Veterans Memorial were attuned to their using public from the start, putting them in a good position to defend the memorial to the public before, during, and after it was built.

Lin and the organizers of the Vietnam Veterans Memorial were not politically neutral or

naive in treating the controversy about the Vietnam War. On the contrary, they were politically astute in recognizing just how complex the American people's feelings are about that war. Evidence of this astuteness is that one of the veterans' conditions on the design of the memorial was that it "make no political statement regarding the war or its conduct,"²⁸ but rather dedicate the memorial to the veterans, not to the war itself—hence the name, Vietnam Veterans Memorial. Another principal condition was that it "be reflective and contemplative in nature,"²⁹ allowing the surviving veterans to meditate on the Vietnam War, individually and collectively, in all its tragic complexity.

There are, of course, many reasons why the Vietnam Veterans Memorial has been so successful. Most important is undoubtedly the architectural and sculptural ingenuity with which Lin transformed the conditions of the veterans committee into a sublime memorial. A contributing factor to its success, however, is certainly the process through which it was selected; for in contrast to the Serra case, the public generally feels that the memorial is its own rather than a sculpture belonging to an artist who regards them as traffic. Another reason for this success, which is related to the other two reasons—and may help to clarify them—is that the Vietnam Veterans Memorial is site-specific in precisely the senses that *Tilted Arc* was not.

The first sense in which the Vietnam Veterans Memorial is site-specific is that because Lin designed it without presuming to resolve the debate about the Vietnam War, many individuals and "publics" are duly represented by her memorial. In Michael North's words, "to view the piece is not simply to experience space," as was the case with *Tilted Arc*, "but also to enter a debate."³⁰ If the task of public art is to keep debate alive, allowing it to be as rational as it is impassioned and open-ended rather than aimed at consensus, Lin has succeeded in creating exemplary public art.³¹

The second sense of site-specificity, having more to do with space than with people, is that the Vietnam Veterans Memorial's two granite walls, which cover 450 feet and meet at an apex, were veneered so that they could reflect the surrounding space: the Lincoln Memorial on one side, the Washington Monument on the other, linking the Vietnam Veterans Memorial with

two other memorials commemorating divisive wars in American history.³² The surface of the memorial also reflects the individuals looking at it, which, though it could easily intimidate people, seems to make the memorial more intimate by projecting living bodies onto the 58,196 names of dead soldiers. At the same time, Lin accentuated the time frame of the war by listing the names chronologically according to when the soldiers died, rather than alphabetically, so that the inscribed walls stretch from the first (1959) to the last (1975) death.³³ Visitors' experiences of this time frame are further heightened by the fact that the names start from the middle of the apex, go out to the right end, then continue back in the middle, concluding at the left end. This orchestration of the visitors engages them more directly by drawing them back into the apex rather than letting them file past the names. In addition, the walls are sunken so that people have to walk below grade into the earth to visit the names of the dead, bringing them down as many as ten feet into a site that is part of a larger sacred memorial ground.

It is important to note that, in contrast to Serra again, who brought viewers of *Tilted Arc* into its space so that they could experience *his* sculpture and *his* idea of architectural space,³⁴ Lin brings viewers in so that they can experience the *subject matter* of the memorial both individually and collectively, personally and publicly.³⁵ And whereas Serra set up an opposition between sculpture and architecture, Lin approached her site as an architect would, according to Judith E. Stein, "by creating space and place, providing a physical context for viewers' experience."³⁶ In addition, while art experts were involved in the selection of Lin's design, they were chosen and guided by the veterans. So the public guided the artist here, whereas the artist insisted on maneuvering the public in the Serra case. In short, Lin's sensitivity to the memorial's site, as well as to the issue that occasioned its being built, allows visitors to revisit the Vietnam War on their own terms.

Of the three senses of site-specificity that arose in the Serra case—legal, and the two senses of public: people and space—Lin has been more successful than Serra in dealing with all three, though the second two have been more prominent in her case since there were no legal proceedings.³⁷ Lin worked with rather than

against the people and space of the memorial site; in her own words, she was “not combative but additive.”³⁸ She recognized that there were already enough memories of combat for the American public to deal with and that her task was to design a site that would provide these memories a public space to breathe without her or anyone else pretending to reach a consensus on the war. This, it seems to me, is a much more constructive way to handle divisive issues in and about public art.

IV

In W. J. T. Mitchell’s recent discussion of public art, he, too, focuses on the Serra and Lin cases, offering two conflicting types of interpretations for each case which are helpful in summarizing and concluding my analysis.³⁹ He suggests that Serra’s *Tilted Arc* can be seen *either* as “a classic instance of the high modernist transformation of a utilitarian public space into an aesthetic form” *or* as “a signal that modernism can no longer mediate public and private spheres on its own terms, but must submit itself to social negotiation.”⁴⁰ Mitchell believes that the first interpretive option is a form of critique; in trying to transform a (dysfunctional) utilitarian Federal Plaza into an aesthetic space, for example, Serra was engaged in a critique of that particular public space. Many of Serra’s advocates in the court hearings made claims of this sort, arguing that *Tilted Arc* had the *effect* of criticizing Federal Plaza—regardless of Serra’s intentions, designs, or words—by revealing its dysfunctional state.⁴¹ While exposing these problems, however, *Tilted Arc* also compounded them and soon became the scapegoat when people decided to do something about them. What they achieved by removing *Tilted Arc*, on this account, was at best a restoration of Federal Plaza to a more tolerable, but still dysfunctional state. All this may be true, but it does not make *Tilted Arc* critical; for only if it had been site-specific to Federal Plaza could it have functioned as a critique of it.⁴² Neither Serra’s words nor *Tilted Arc* itself support this interpretation, if, as I have argued, it was not site-specific because he did not take the public as people and space into consideration.

I would rather agree with the second of

Mitchell’s two ways of interpreting *Tilted Arc*. What we have learned about public art from the Serra case is that artists working on public art can no longer mediate their relations with the public on their own (modernist aesthetic) terms (which, as Hein argues above, privilege the “private” over the “public”). They must now submit themselves to negotiations with the public, as Serra now acknowledges,⁴³ about what is, after all, its art. This is precisely what happened in the Lin case. And it is certainly how public art has been practiced since these two cases first unfolded, which is why they remain relevant to public art today.

Lin’s Vietnam Veterans Memorial is poised, according to Mitchell, between the utopian and the critical;⁴⁴ for “it can be experienced both as an object of national mourning and reconciliation that is absolutely inclusive, embracing, and democratic, and as a critical parody and inversion of the traditional war memorial.”⁴⁵ I agree with Mitchell that Lin’s memorial is utopian, but only with this important qualification: it does not achieve nor even aspire to reconciliation. In fact, its strength depends, I think, on the lack of public reconciliation about the Vietnam War. Were the American public ever to come to a consensus about that war, the Vietnam Veterans Memorial would possibly become merely a large tombstone.

But I disagree that the Vietnam Veterans Memorial is critical in the way he describes. Rather, I think it is critical by being utopian; that is, contrary to Mitchell, I do not think critique here involves parody. Parody typically ends without offering an alternative, which would mean in the Lin case that a parody of war memorials would expose the patriotic ideology our war memorials traditionally embody, but would do so without suggesting an alternative to that tradition. This would not be an accurate description of the Vietnam Veterans Memorial, however, for it is a *countermonument*, not just *counter* monuments. That is, while Lin is indeed critical of other memorials, she is so only by showing what else a memorial can be, by raising the standards for future public art projects in a pluralistic culture, several of which Lin herself has already created. The Vietnam Veterans Memorial is not a public statement about individual artistic rights or about the rights of sculpture in relation to architecture (Serra), but rather is a site for public and personal expression

about Vietnam, for the public(s) to exercise its right to express itself on this issue in different and competing ways.

In conclusion, Lin's understanding and practice of public art is preferable to Serra's, because she has helped to guide us out of the modernist impasse in dealing with public art by showing how controversy can be handled without imposing any one set of aesthetic principles or political beliefs on the public(s).⁴⁶

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1. See, for example, the articles in *The Phantom Public Sphere*, ed. Bruce Robbins (University of Minnesota Press, 1993).

2. Thomas Crow, *Painters and the Public Sphere in Eighteenth-Century Paris* (Yale University Press, 1985), p. 102.

3. For documentation, see *Richard Serra's Tilted Arc*, eds. Clara Weyergraf-Serra and Martha Buskirk (Eindhoven: Van Abbemuseum, 1988).

4. A relevant and recent exception was the commissioned but then canceled project in San Francisco. See Horowitz, this symposium, note 7.

5. The Civil Rights Memorial in Montgomery, Alabama; and the *Women's Table* at Yale University. By her own account, however, Lin has now retired from public memorials; see her comments in *Maya Lin: Public/Private* (Columbus: Wexner Center for the Arts, 1994), p. 29.

6. In the Serra case: his wife; the people from GSA; art professionals; lawyers; politicians; people living near Federal plaza; employees of the Federal office building. In the Lin case: mostly veterans groups and members of Congress.

7. Barbara Hoffman, "Law for Art's Sake in the Public Realm," in *Art and the Public Sphere*, ed. W. J. T. Mitchell (University of Chicago Press, 1992), pp. 113–146, here pp. 121–122.

8. Hoffman, "Law for Art's Sake," p. 122. Clara Weyergraf-Serra, Serra's wife, also identifies site-specificity as the pivotal point in Serra's defense.

9. Judge Milton Pollack, *Richard Serra v. United States General Services Administration*, 667 F. Supp. 1042, 1056, n. 7 (S.D.N.Y. 1987)—quoted by Hoffman in "Law for Art's Sake," p. 116.

10. Cf. Horowitz's analysis above, in which he distinguishes between the real and the imagined purposes of Federal Plaza as expressed by the opponents of *Tilted Arc*.

11. Despite Serra's apparent commitment throughout his career to the notion of site-specificity, the judge's finding should not have surprised him, for he once said: "Ideally, I suppose, I would prefer to have a private space in a public situation." See Richard Serra, *Writings Interviews* (University of Chicago Press, 1994), p. 106. Perhaps this is why Serra's major "public" art project to date is in a remote part of Iceland where there is no public to conflict with his art.

12. *Ibid.*, p. 49.

13. *Ibid.*, p. 117. According to Eleanor Heartney, *Tilted Arc* was, as a piece of public art, "the product of the artist's desire to treat the plaza as an abstract space regardless of its function and meaning within the urban fabric," in *Culture Wars: Documents from the Recent Controversies in the Arts*, ed. Richard Bolton (New York: New Press, 1992), p. 141.

14. Serra, *Writings Interviews*, p. 127, emphasis added.

15. *Ibid.*

16. As Virginia Maksymowicz has argued in connection with this case, "[w]hen such considerations are sidestepped, public art ceases to be public." See "Alternative Approaches to Public Art," in Mitchell, ed., *Art and the Public Sphere*, pp. 147–157, p. 155. See also Patricia C. Phillips, "Temporality and Public Art," in *Critical Issues in Public Art: Content, Context, and Controversy*, eds. Harriet F. Senie and Sally Webster (New York: HarperCollins, 1992), pp. 295–304, esp. pp. 297–298: "public art is not public just because it is ... in some identifiable public space ...; it is public because it is a manifestation of art activities and strategies that take the idea of public as the genesis and subject for analysis."

17. In a public hearing in 1985, Serra claimed that in his original design he explicitly addressed the types of concerns the public eventually raised in their opposition to *Tilted Arc*. But I think the quotes from Serra in the last few pages make it clear that his claim was inaccurate.

18. Serra, *Writings Interviews*, p. 127.

19. Cf. Rosalyn Deutsche, "Public Art and Its Uses," in Senie and Webster, eds., *Critical Issues in Public Art*, pp. 158–170, p. 160: "It is ... insufficient to support site specificity by simply stating that a work like Richard Serra's *Tilted Arc* intervenes in the city in order to redefine space as the site of sculpture. ... For in its own way *Tilted Arc* still floats above its urban site."

20. Serra, *Writings Interviews*, p. 138.

21. *Ibid.*, p. 127; cf. also Weyergraf-Serra and Buskirk, eds., *Richard Serra's Tilted Arc*, p. 189. This point potentially undercuts Serra's procedural claim that, based on his contract with the GSA, *Tilted Arc* should be permanent. His attitude about permanence is deeply ambiguous; elsewhere, he says that "Permanence implies value, and notions of value tend to reinforce the trustees' thinking about the potential of money," *Writings Interviews*, p. 108. He is against this kind of permanence, but for the permanence of his own artwork, at least in this case.

22. Serra was also critiquing the minimalist notion of site-specificity for being limited to galleries and museums.

23. Serra, *Writings Interviews*, p. 117.

24. There is an important distinction concerning public art and the issue of commodification, namely, that public art monies are handled largely by governmental agents rather than by private citizens. At the same time, however, these monies come from taxes on those same citizens who, in turn, make decisions, directly or indirectly, about which public art is funded (often by supplementing public money with private donations).

I do not mean to suggest here that art cannot critique its commodity status. There are several strategies for doing so which are, I think, more effective than Serra's; for example, see *Hans Haacke: Unfinished Business*, ed. B. Wallis (MIT Press, 1986).

25. Serra, *Writings Interviews*, pp. 225–227. See John Rockwell, "An Artist a Lot More at Home Away from

Home." in *The New York Times*, Monday, June 14, 1993, Section C, pp. 11, 14, in which Clara Weyergraf-Serra (who speaks for Serra on occasion as his manager) says: "I have come to realize that democracy doesn't work all that well when it comes to integrating art and the public." "I don't think you can include a community in that kind of decision-making process. But a government can educate a community. That's almost nonexistent in America, but they have been very good at it in France."

26. That is, having rejected Serra's claim that *Tilted Arc* was site-specific, the court also rejected his point that he could express himself through *Tilted Arc* only in Federal Plaza. His right to free expression and speech, as well as his particular expression in the form of *Tilted Arc*, therefore survived the removal of the sculpture from Federal Plaza. As far as I know, however, *Tilted Arc* is in a warehouse somewhere in the New York City metropolitan area.

Hoffman clarifies the governmental limits on free speech as follows: in a *public forum*, such as a street or park, content-based speech can be restricted only to serve a compelling state interest and then only in the least restrictive manner; in a *limited public forum*, i.e., areas dedicated to speech such as city theaters, objections to content cannot be raised; a *nonpublic forum*, on the other hand, is subject to content and speaker-identity restrictions in light of the purpose the forum is intended to serve. See "Law for Art's Sake," p. 133.

27. The opponents of the Vietnam Veterans Memorial, led by Ross Perot, did succeed in having a second memorial built on the Washington Mall: *Three Fighting Men*, designed by Frederick Hart. This helped to diffuse the opposition to the Vietnam Veterans Memorial.

28. *Maya Lin: Public/Private*, p. 31.

29. *Ibid.*

30. Michael North, "The Public as Sculpture: From Heavenly City to Mass Ornament," in Mitchell, ed., *Art and the Public Sphere*, pp. 9–28, here p. 25.

31. According to the American cultural historian Michael Warner, there are a number of ways to describe public subjectivity or identity: "as a universalizing transcendence, as ideological repression, as utopian wish, as schizocapitalist vertigo, or simply as a routine difference of register." See Warner, "The Mass Public and the Mass Subject," in Robbins, ed., *The Phantom Public Sphere*, pp. 234–256, here p. 234.

32. For a lengthy analysis of this memorial in relation to the others around it, see Charles L. Griswold, "The Vietnam Veterans Memorial and the Washington Mall: Philosophical Thoughts on Political Iconography," in Mitchell, ed., *Art and Public Sphere*, pp. 79–111.

33. The reflective quality of the walls was linked to this time frame. Lin says she wanted "to return the vets to the time-frame of the war and in the process, I wanted them to see their own reflections in the names," *Maya Lin: Public/Private*, p. 31.

34. According to Douglas Crimp, Serra's "egotism" here is merely a reflection of "the truth of our social condition." See Crimp, "Redefining Site Specificity," in his *On the Museum's Ruins* (MIT Press, 1993), p. 179. But if this is true, he is simply part of the problem, not a critic of it.

35. In the two essays in the Mitchell volume in which the Serra and Lin cases are discussed—by Griswold and by Mitchell himself—Serra's name is always and often mentioned in connection with *Tilted Arc*, while Lin's name is rarely if ever mentioned in connection with the Vietnam Vet-

erans Memorial, except in footnotes. While this difference in how the two artists are mentioned may reflect the gender prejudice in how male and female artists are treated in art-critical literature, it also reveals these two artists' distinct attitudes about public art.

36. Judith E. Stein, "Space and Place," *Art in America* 82, no. 12 (1994): 67.

37. The legal issue came up briefly when there was an effort made by opponents to Lin's design to make some changes in it (cf. note 27 above); the threat of such changes, which were not made, raised the issues of the artist's freedom of expression and the art object's integrity which, as we saw, also arose in Serra's case.

38. *Maya Lin: Public/Private*, p. 26.

39. Mitchell, "Introduction: Utopia and Critique," in Mitchell, ed., *Art and the Public Sphere*, pp. 1–5.

40. *Ibid.*, p. 3. To explain what Mitchell means by modernism's "own terms," its presumption of autonomy, we need only quote from Serra: "I've never felt, and I don't now, that art needs any justification outside itself." See Serra, *Writings/Interviews*, p. 41.

41. Cf. the Weyergraf-Serra volume. And see Crimp's "Redefining Site Specificity": "The genuine importance of *Tilted Arc* can best be understood through an analysis of the crisis that it precipitated within established cultural policy" (p. 176), namely, "to insist on the necessity for art to fulfill its own functions rather than those relegated to it by its governing institutions and discourses" (p. 179). While Crimp's article, originally published in a catalog in 1986 for a Serra exhibition at the Museum of Modern Art, is perhaps the most extensive argument for the site-specificity of *Tilted Arc* in terms of "the public," he tends to understand by "the public" only the state powers that occupied the buildings around Federal Plaza. But *Tilted Arc* was not threatened by "governing institutions and discourses." For while it is true that some of the people who opposed *Tilted Arc* were indeed federal and state employees, they were not the majority, and most of those employees spoke as individuals rather than as officials of the government. My main response to Crimp's analysis, however, is that although important issues about art and public policy were raised in the course of the proceedings surrounding the removal of *Tilted Arc*, those issues say nothing about the site-specificity of *Tilted Arc*. Serra's sculpture was merely an occasion around which those issues were raised, but some might never have been raised, and some would have been more convincing, had *Tilted Arc* been site-specific.

42. Could it be that the opponents of *Tilted Arc* who had vivid, if inaccurate, memories of what Federal Plaza was before it was installed were actually the critics here instead of Serra?

43. Serra, *Writings Interviews*, pp. 221, 227.

44. In "Introduction: Utopia and Critique," p. 3, Mitchell introduces a dialectic between the *utopian* and *critical* relations between art and its public: "on the one hand, art that attempts to raise up an ideal public sphere, a nonsite, an imaginary landscape . . . ; on the other hand, art that disrupts the image of a pacified, utopian public sphere, that exposes contradictions and adopts an ironic, subversive relation to the public it addresses, and the public space where it appears."

45. *Ibid.*

46. I would like to thank the referees and the editor of this journal, as well as Hilde Hein and Gregg Horowitz, for their critical and constructive comments on earlier versions of my article.

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