

CHRISTINA D. PONSА-KRAUS

COLUMBIA LAW SCHOOL
435 WEST 116TH STREET
NEW YORK, NEW YORK 10027
212-854-6579
cponsa@law.columbia.edu

Experience

Columbia Law School, *New York, New York*
George Welwood Murray Professor of Legal History (2014-present)
Professor of Law (2011-2014)
Associate Professor of Law (2007-2011)
United States Supreme Court, *Washington, DC*
Law clerk to Justice Stephen G. Breyer, October 2004 Term
United States Court of Appeals for the Second Circuit, *New Haven, Connecticut*
Law clerk to Judge José A. Cabranes, August 2000 Term
Program in Law & Public Affairs, Princeton University, *Princeton, New Jersey*
Visiting Scholar (2001-2002)

Education

Princeton University, *Princeton, New Jersey*. Ph.D., History, 2010.
Dissertation: "Contingent Constitutions: Empire and Law in the Americas."
Honorable Mention, William Nelson Cromwell Foundation Dissertation
Prize Committee, Fall 2011.
Yale Law School, *New Haven, Connecticut*. J.D., 1998.
Cambridge University, *Cambridge, UK*. M. Phil., Political Thought and Intellectual
History, 1995.
Princeton University, *Princeton, New Jersey*. B.A., Honors, History and Latin
American Studies, 1990.

Publications

Book (edited volume)

FOREIGN IN A DOMESTIC SENSE: PUERTO RICO, AMERICAN EXPANSION, AND THE
CONSTITUTION (Durham, NC: Duke University Press, 2001). Co-edited the
volume and co-authored the introduction (with Burke Marshall).

Articles, Essays & Book Chapters

The Insular Cases Run Amok: Against Constitutional Exceptionalism in the Territories, 131
YALE L.J. 2449 (2022).

Justice Sotomayor's Surprising Concurrence in Aurelius, 130 YALE L.J. FORUM (September 21, 2020). Cited in *United States v. Cotto Flores*, 2020 WL 4582283 (1st Cir. 2020) (Torruella, J., concurring).

"Beholding Law: Amadeo and the Argentine Constitution" (with Erin F. Delaney), introduction to the online publication of Santos P. Amadeo, ARGENTINE CONSTITUTIONAL LAW ([1943] 2021) by the Academia Puertorriqueña de Jurisprudencia y Legislación.

"When Statehood Was Autonomy," in Gerald L. Neuman & Tomiko Brown-Nagin, eds., RECONSIDERING THE INSULAR CASES: THE PAST AND FUTURE OF THE AMERICAN EMPIRE (Harvard University Press, 2015).

Los Casos Insulares: Doctrina Desanexionista, 78:3 REVISTA JURÍDICA UNIVERSIDAD DE PUERTO RICO 661 (2009) (with Adriel Cepeda Derieux). Cited in *Pueblo v. Sánchez Valle*, 2015 T.S.P.R. 25 (Supreme Court of Puerto Rico 2015).

A Convenient Constitution? Extraterritoriality after Boumediene, 109:5 COLUMBIA LAW REVIEW 973 (2009). Cited in *Aurelius Inv., LLC v. Puerto Rico*, 915 F.3d 838 (1st Cir. 2019); *Peña Martínez v. Azar*, 376 F.Supp.3d 191 (D.P.R. 2019); *Hernández v. United States*, 757 F.3d 249 (5th Cir. 2014) (Dennis, J., concurring).

"Empire and the Transformation of Citizenship," in Alfred W. McCoy & Francisco A. Scarano, eds., COLONIAL CRUCIBLE: EMPIRE IN THE MAKING OF THE MODERN AMERICAN STATE (Madison, WI: University of Wisconsin Press, 2009).

"They Say I Am Not an American"...: *The Non-Citizen National and the Law of American Empire*, 48:4 VIRGINIA JOURNAL OF INTERNATIONAL LAW 659 (2008). Article was the subject of a symposium on *Opinio Juris*, at <http://opiniojuris.org/tag/vjil-symposium-vol-48-4/>, and was selected for republication in volume 29 of the IMMIGRATION & NATIONALITY LAW REVIEW.

"None of the Above Means More of the Same: Why Solving Puerto Rico's Status Problem Matters," in Frances Negrón Muntaner, ed., NONE OF THE ABOVE: PUERTO RICANS IN THE GLOBAL ERA (New York: Palgrave Macmillan, 2007).

"The Edges of Empire and the Limits of Sovereignty: American Guano Islands," in Mary Dudziak and Leti Volpp, eds., *Legal Borderlands: Law and the Construction of American Borders*, 57:3 AMERICAN QUARTERLY 779 (Special Issue, 2005). Volume was also published as a book by Johns Hopkins University Press, 2006.

"The Constitution and Deconstitution of the United States," in Sanford Levinson and Bartholomew Sparrow, eds., THE LOUISIANA PURCHASE AND AMERICAN EXPANSION, 1803-1898 (Lanham, MD: Rowman & Littlefield, 2005).

Untied States: American Expansion and Territorial Deannexation, 72:3 UNIVERSITY OF CHICAGO LAW REVIEW 797 (2005). Cited in *Boumediene v. Bush*, 553 U.S. 723 (2008); *Fitisemanu v. United States*, 426 F.Supp.3d 1155 (D. Utah 2019); *United States v. Lebrón Cáceres*, 157 F.Supp.3d 80 (D.P.R 2016); *Hess Oil Virgin Islands Corp. & Subsidiaries v. U.S. Virgin Islands*, 2015 WL 4041030 (D.U.S.V.I. 2015).

The Case for Puerto Rican Decolonization, 45 ORBIS: A JOURNAL OF WORLD AFFAIRS 433 (Summer 2001).

Reviews & Miscellaneous Writings

- "A Perfectly Empty Gift," MICHIGAN LAW REVIEW ANNUAL SURVEY OF BOOKS (April 2021). Review of Sam Erman, *ALMOST CITIZENS: PUERTO RICO, THE U.S. CONSTITUTION, AND EMPIRE* (Cambridge University Press 2019).
- "Fantasy Island" (with Erin F. Delaney), *Yale Journal of International Law Online* (May 19, 2018). Response to Joseph Blocher & Mitu Gulati, *Puerto Rico and the Right to Accession*, 43 YALE J. INT'L L. (2018).
- "The Crisis of 1909, and the Other Crisis of 1909," *Revista de la Academia Puertorriqueña de Legislación y Jurisprudencia* (online journal), Vol. VIII (2016), available at <http://www.academiajurisprudenciapr.org/the-crisis-of-1909-and-the-other-crisis-of-1909/>.
- "Islands and the Law," CABINET: A QUARTERLY OF ART AND CULTURE, Issue 38 (Summer 2010): 60 (interviewed by Sina Najafi).
- Two Puerto Rican Senators Stay Home*, 116 YALE L.J. POCKET PART 408 (2007). Essay was part of a symposium on the pros and cons of obtaining congressional representation for Puerto Rico by simple legislation, at <http://yalelawjournal.org/116/6/tio.html>.
- The Status of Puerto Rico: Political, Social, and Economic Dimensions* (with Howard Hills). Working Paper No. 9, Center for International Development, Heller School for Social Policy and Management, Brandeis University, 2002.
- Puerto Rico*, 23 YALE JOURNAL OF INTERNATIONAL LAW 561 (Summer 1998). Review of José Trías Monge, *PUERTO RICO: THE TRIALS OF THE OLDEST COLONY IN THE WORLD* (Yale University Press 1997).

Blogs & Op-Eds

- "Two Bills Aim to Fix Puerto Rico's Status. Here's How Congress Can End the Deadlock," *Miami Herald*, August 2, 2021 (with Rafael Cox Alomar).
- "The Perils of Politics in the Scholarly Debate on Puerto Rico's Constitutional Status," IACL-AIDC Blog, May 25, 2021.
- "The Battle Over Puerto Rico's Future," Balkinization, April 21, 2021. Cross-posted on Verfassungsblog.
- "Make Puerto Rico A State Now," *The New York Times*, Nov. 4, 2020, p.A19.
- "Are American Samoans American?" *The New York Times*, June 8, 2016, p.A21.
- "Promises, Promises," *Wall Street Journal*, March 1, 2008, p.A8.
- "Puerto Rico Chooses," *Christian Science Monitor*, Dec. 11, 1998, p.11.

Amicus Briefs

- Co-author, Brief for Scholars of Constitutional Law and Legal History in Support of Petitioners, *Fitisemanu v. United States*, United States Supreme Court, No. 21-1394 (filed May 26, 2022) (certiorari stage brief in case on whether the Citizenship Clause of the Fourteenth Amendment applies in American Samoa).

- Co-author, Brief for Scholars of Constitutional Law and Legal History as Amici Curiae Supporting Appellees With Respect To the Insular Cases, *Fitsemanu v. United States*, United States Court of Appeals for the Tenth Circuit, Nos. 20-4017 & 20-4019 (filed on May 12, 2020) (on whether the Citizenship Clause of the Fourteenth Amendment applies to the U.S. territory of American Samoa).
- Co-author, Brief of Amici Curiae Scholars of Constitutional Law and Legal History Supporting the First Circuit’s Ruling on the Appointments Clause Issue, *Financial Oversight and Management Board v. Aurelius, LLC*, Nos. 18-1334, -1475, -1496, -1514, -1521, Supreme Court of the United States (filed on August 29, 2019) (on whether the appointment of the members of the FOMB violated the Appointments Clause).
- Co-author, Memorandum [Brief] of Amici Curiae Scholars of Constitutional Law and Legal History in Support of Neither Party, *Fitsemanu v. United States*, United States District Court for the District of Utah Central Division, No. 1:18-CV-00036-EJF (filed on April 6, 2018) (on whether the Citizenship Clause of the Fourteenth Amendment applies to the U.S. territory of American Samoa).
- Co-author, Brief of Amici Curiae Scholars of Constitutional Law and Legal History in Support of Neither Party, *Segovia v. Board of Election Commissioners for the City of Chicago*, United States Court of Appeals for the Seventh Circuit, No.16-4240 (filed April 19, 2017) (challenging denial of absentee ballots to former residents of Illinois who have relocated to U.S. territories of Puerto Rico, Guam, and the Virgin Islands).
- Co-author, Brief of Amici Curiae Scholars of Constitutional Law and Legal History Supporting Petitioners, *Tuaua v. United States*, Supreme Court of the United States, No.15-981 (filed March 2, 2016) (certiorari stage brief in case on whether the Citizenship Clause of the Fourteenth Amendment applies to the U.S. territory of American Samoa).
- Co-author, Brief of Amici Curiae Christina Duffy Ponsa and Sam Erman in Support of Respondents, *Commonwealth of Puerto Rico v. Sanchez Valle*, Supreme Court of the United States No. 15-108 (submitted December 22, 2015) (merits stage brief in case on whether Puerto Rico is a separate sovereign for double jeopardy purposes).
- Co-author, Brief of Amici Curiae Scholars of Constitutional Law and Legal History in Support of Neither Party, *Tuaua v. United States*, United States Court of Appeals for the District of Columbia, No.13-5272 (submitted May 12, 2014) (on whether the Citizenship Clause of the Fourteenth Amendment applies to the U.S. territory of American Samoa).

Selected Presentations

- Legal Histories of Empire Conference (June 29-July 1, 2022). Presented “Empire by Gaslight: United States Constitutionalism in Puerto Rico,” on panel titled “An Empire State of Mind: Legal Transfer Between the United States and its Colonized Peoples.”

Duke Law School, *Race and the 1L Curriculum Series* (February 23, 2021). Speaker on Constitutional Law panel.

American Constitution Society, Washington, D.C. Chapter, "Sovereignty and Status Series," January 14, 2021. Speaker on panel titled "Puerto Rico's Statehood Referendum 2020."

University at Buffalo School of Law, American Constitution Society & Latin American Law Students Association (September 24, 2020). Speaker on panel titled "What Next? Decolonizing Puerto Rico."

Puerto Rico Statehood Council, Digital Town Hall (September 17, 2020). Speaker on panel titled "Puerto Rico Statehood Vote & American Democracy."

American Bar Association, Section of Administrative Law and Regulatory Practice, Webinar (July 9, 2020). Speaker on panel titled "The Consumer Financial Protection Board and the Financial Oversight and Management Board: Recent Separation of Powers Challenges at the Supreme Court."

Rebuild Puerto Rico: Two Years After Hurricane Maria, Puerto Rico Diaspora Summit, Centro de Estudios Puertorriqueños at Hunter College, New York, NY (September 20-21, 2019). Speaker on panel titled "Political Crisis and Puerto Rico's Status Question."

Annual Supreme Court Review, Center for Latino/a Rights & Equality, CUNY School of Law, at Orrick, Herrington & Sutcliffe, New York, NY (October 4, 2016). Discussed cases affecting Puerto Rico and other U.S. territories.

Reconsidering the Insular Cases, Harvard Law School Human Rights Program, Cambridge, MA (February 19, 2014). Presented "The Many Lives of the Insular Cases," on panel titled "History: Perspectives and Lessons."

Foro Igualdad, San Juan, PR (February 7, 2014). Guest speaker. Presentation title: "Puerto Rico's Status: Reconsidering the Legal Landscape."

Born in the U.S.A.: The Politics of Birthright Citizenship in Historical Perspective, University of Maryland, College Park, MD (March 29-30, 2012). Speaker on panel titled "Explicating Birthright Citizenship."

Lex Mundi North America Regional Conference, San Juan, PR (April 7-9, 2011). Keynote speaker.

Brown University Puerto Rican Heritage Week, Providence, RI (March 23, 2011). Gave lecture on constitutional history and political status of Puerto Rico.

Persistent Puzzles in Immigration Law, U.C. Irvine School of Law, Irvine, CA (February 17-18, 2011). Presented "The Invention of Nationality: Empire and the Law of Citizenship," on panel titled "Claims to Membership."

American Society for Legal History, Annual Meeting, Philadelphia, PA (November 18-21, 2010). Commenter on panel titled "Legal Construction of an American Imperial Order, 1877-1913."

Program in Law and Public Affairs, Princeton University, Princeton, NJ (October 23, 2010). Panelist at 10th Anniversary Conference. Speaker on panel titled "Constitutional History and the Legal Structure of Empire."

Law's Imperial Fields, International Institute for the Sociology of Law, Oñati, Spain (June 24-25, 2010). Presented "Contingent Constitutions: Empire and Law in the Americas."

White House Interagency Task Force on Puerto Rico (under President Barack Obama), Washington, D.C. (May 25, 2010). Panelist on constitutional dimensions of Puerto Rico's political status.

Puerto Rican Bar Association of Florida, Third Annual Seminar on the Legal Status of Puerto Rico, St. Thomas University School of Law, Miami Lakes, FL (April 24, 2010). Presented "Self Determination: What It's For."

American Society for Legal History, Annual Meeting, Dallas, TX (November 12-14, 2009). Presented "The Invention of Nationality: Empire and the Law of Citizenship," on panel titled "Ambiguities of Citizenship."

American Political Science Association, Annual Meeting, Toronto, Canada (Sept. 3-6, 2009). Presented "The Invention of Nationality: Empire and the Law of Citizenship," on panel titled "Constitutional Empire."

League of United Latin American Citizens, National Convention, San Juan, PR (July 13-18, 2009). Speaker on panel titled "Beyond Status: The Future of Puerto Rico."

Committee on Degrees in Studies of Women, Gender, and Sexuality, Harvard University, Cambridge, MA (April 17, 2009). Panelist at conference titled "Gender Matters in Social Sciences: Immigration, Race, Ethnicity & Law."

Organization of American Historians, Annual Meeting, Seattle, WA (March 25-28, 2009). Presented "Citizenship in the Time of Empire: The Noncitizen National in Constitutional and International Law," on panel titled "Neither Citizens nor Aliens: Consequences of American Immigration Policy."

Spring Academic Policy Forum, Fordham Law School (March 26, 2009). Speaker on panel titled "Civil Rights and Equality for Puerto Rico."

Constitution Day, Princeton University (September 17, 2008). Commenter on panel titled "Thomas Jefferson and the Rights of Citizens."

Campaigning in the Caribbean: Puerto Rico and the Presidential Primaries, Nova Southeastern University, sponsored by the Puerto Rican Bar Association of Florida, Fort Lauderdale, Florida (May 31, 2008). Panelist.

Hispanic National Bar Assoc. Annual Convention, San Juan, PR (October 3-7, 2007). Speaker on panel titled "Political Status of Puerto Rico from a Legal Standpoint."

Colonial Law Seminar, Empires Project, University of Wisconsin, Madison (March 16, 2007). Presented "Empire and the Transformation of Citizenship" (via teleconference).

American Colonialism: Citizenship, Membership, and the Insular Cases, University of Virginia School of Law (March 28, 2007). Panelist.

Law and Political Development in America, Penn Legal History Consortium Conference (February 23, 2007). Presented "The Constitutionalization of the Subject: Citizens, Nationals, and American Empire," on panel titled "Borders and Barriers."

Legal Borderlands: Law and the Construction of American Borders (Symposium), Hart Institute for American History, Pomona College (September 10-11, 2004). Contributed paper, "The Edges of Empire and the Limits of Sovereignty: American Guano Islands" (read by Leti Volpp).

American Society for Legal History, Annual Conference, Washington, D.C. (November 13-16, 2003). Presented "The Edges of Empire and the Limits of Sovereignty: Guano Islands, 1856-1890," on panel titled "New Histories of International Law."

International Law Perspectives on the Right to Vote and Political Democracy in America, Library of Congress, Washington, D.C. (March 20, 2003). Speaker on panel titled "Bringing it Home: Strategies to Bring International Law to Bear on Domestic Electoral Reform."

The Louisiana Purchase and American Expansion: Bicentennial Symposium, University of Texas at Austin School of Law (Feb. 20-22, 2003). Presented "Untied States: The Idea of Secession and the Law of American Imperialism."

National Conference of Administrative Law Judges, San Juan, Puerto Rico (October 21-24, 2002). Speaker on panel discussing legal and constitutional issues related to the status of Puerto Rico.

Second Circuit Federal Bar Council Winter Bench & Bar Conference, Río Grande, Puerto Rico (Feb. 16-23, 2002). Speaker on panel discussing legal and constitutional issues related to the status of Puerto Rico.

American Society for Legal History, Annual Conference, Princeton, New Jersey (Oct. 19-21, 2000). Presented "The Doctrine of Territorial Incorporation as a Constitutional Theory of Secession," on panel titled "The Constitutional Significance of American Expansion."

Bastards of Imperialism: Identity, Nation, and Citizenship in the Wake of Spanish and U.S. Expansions, Stanford University (Apr. 30-May 2, 1998). Presented "The American Delegates at the Cortes: Citizenship, Sovereignty, Nationhood."

Testimony

U.S. House Committee on Natural Resources, Washington, D.C. (June 14, 2021).
Second Hearing on H.R. 1522, The Puerto Rico Statehood Admission Act of 2021, and H.R. 2070, The Puerto Rico Self-Determination Act of 2021.
Testified in support of H.R. 1522.

Guam Legislature, Hearing on Resolution 56-36 supporting U.S. House Resolution 279 Denouncing the *Insular Cases* of 1901 (May 5, 2021 Guam Time). Testified in support of resolution.

U.S. House Committee on Natural Resources, Washington, D.C. (April 14, 2021).
Hearing on H.R. 1522, The Puerto Rico Statehood Admission Act of 2021, and H.R. 2070, The Puerto Rico Self-Determination Act of 2021. Testified in support of H.R. 1522.

White House Interagency Task Force on Puerto Rico (under President Barack Obama), Washington, D.C. (May 25, 2010). Public Hearing: Speaker on constitutional dimensions of Puerto Rico's political status.

Selected Media Appearances

- You Decide* podcast with Errol Louis: “Why Statehood Makes Sense for Puerto Rico.” Conversation about Puerto Rican self-determination (May 25, 2022).
- Background Briefing* podcast with Ian Masters: “What the Supreme Court’s Decision on Puerto Rico Could Open the Door To....” Conversation about the Court’s decision in *United States v. Vaello Madero* (2022).
- We the People* podcast with Jeffrey Rosen. Conversation about the oral arguments in *United States v. Vaello Madero* (2022) then pending before the Supreme Court.
- Punto Final* news show on ABC Puerto Rico with Carmen Jovet. Conversation about Puerto Rican self-determination (June 17, 2021).
- Desde Washington* podcast with José A. Delgado, Episodio 105 (April 24, 2021). Conversation about Puerto Rican self-determination.
- The Takeaway* podcast with Tanzina Vega, WNYC (March 18, 2021). Conversation about Puerto Rican self-determination.

Professional Service & Memberships

- Academia Puertorriqueña de Jurisprudencia y Legislación: Académica Correspondiente (Affiliated Scholar) (2011-present).
- Center for the Study of Ethnicity and Race, Columbia University: Affiliated Faculty (2009-present).
- American Historical Association: Member (2009-present).
- Organization of American Historians: Member (2008-present).
- American Society for Legal History: Member (2007-present); Cromwell Book Prize Advisory Committee (2015-2016); Nominating Committee (2009-2012).
- Oklahoma Bar Association and American Bar Association: Member (1999-present).
- Committee on Global Thought, Columbia University: Member (2015-2019).
- Heyman Center Governing Board: Member, Columbia University (2011-2016).
- JOTWELL (“The Journal of Things We Like (Lots)”), www.jotwell.com, Legal History Section: Contributing Editor (2010-2016).
- Council on Foreign Relations: Term Member (2001-2006).