

BOOK REVIEW

***Making Never-Never Land: Race and Law in the Creation of Puerto Rico.* By Mónica A. Jiménez. Chapel Hill: University of North Carolina Press, 2024. Paperback, ISBN 978-1-032-62881-3; Hardcover, ISBN 978-1-4696-7844-3**

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Over the past decade, Puerto Rico (PR) has become a focal point for US media, politics, and academia. Since 2014, PR has endured an economic crisis, bankruptcy, hurricanes, earthquakes, and the COVID-19 pandemic. In 2016, the US Congress enacted the Puerto Rico Oversight, Management, and Economic Stability Act (PROMESA), imposing the Financial Oversight and Management Board (FOMB), which curtailed PR's self-governance and internal limited democracy. PR has also faced intense judicial scrutiny, with the US Supreme Court (SCOTUS) issuing five opinions since 2016 and denying review on additional cases, making it one of the most litigated unincorporated territories in recent years. These developments highlight a profound transformation in PR's sociological, political, and economic structures – a transformation meticulously examined by Mónica Jiménez in *Making the Never-Never Land: Race and Law in the Creation of Puerto Rico*.

Jiménez's work, at the intersection of legal history, Puerto Rican studies, and law and society, emphasizes the central role of race in shaping and reconfiguring PR. The book argues that race and law have been key organizing principles in the US–PR relationship from the start, urging a broader view beyond the early twentieth-century Insular Cases to include the history of US settler colonialism and racial exclusion. Jiménez asserts that federal policies, SCOTUS decisions, and congressional actions carved out states of exception for racial undesirables, granting the federal government plenary power over these groups.

In the introduction, Jiménez poses questions often faced by Puerto Rican scholars: what does PR do for the US? What good is a bankrupt colony to the US? Why does the US keep it? The book suggests that PR produces debt – both individual and collective – fueling wealth extraction and financial capitalism. As a captive space for debt production, PR generates billions in revenue for banks, hedge funds, and investors. This is particularly relevant considering the archipelago's prolonged economic crisis, which Jiménez argues has persisted for a century. Thus, crisis is the

norm for many Puerto Ricans, forming the backdrop to daily life. Beyond debt, the book demonstrates that PR has been integral to the legal constitution of the US empire.

As Jiménez shows, the Insular Cases and surrounding debates were not just about the disposition of new territories but the legal structures sustaining US imperialism. Between 1900 and 1922, these cases addressed issues related to taxes, tariffs, rights in new territories, territorial classification, nationality, and migration. SCOTUS introduced a distinction between incorporated territories destined for statehood and unincorporated territories without a promise of political equality. This was articulated in *Downes v. Bidwell* (1901), where PR was described as “a territory appurtenant and belonging to the US, but not a part of the US,” and “foreign to the US in a domestic sense” because it had not been incorporated into the US.

Jiménez illustrates the role of PR in structuring the US empire across the two sections of her book. The first section, composed by Chapters 1 and 2, focuses on SCOTUS’s decision in *Downes v. Bidwell* and the early decades of US colonialism in PR. The book demonstrates how *Downes* and the Insular Cases are steeped in ideologies of settler colonialism, anti-Black racism, and social Darwinism. To illustrate this, the book engages with the legal history of the Marshall Trilogy, *Dred Scott v. Sanford*, *Plessy v. Ferguson*, and the Guano Islands, advancing the argument that race has been central to US constitutionalism.

The second section explores the contemporary implications of *Downes* and the Insular Cases. Chapter 3 examines how the US engaged in a series of experiments and policy changes to remake PR, highlighting the racialized assumptions driving these interventions, particularly in health, labor, and policing – key areas of the US colonial project. This chapter is crucial as it shows how SCOTUS’s recognition of Congress’s plenary power over the territories has enabled harmful legal interventions in PR, including the violent process of Americanization.

Chapter 4 discusses the reconfiguration of PR in the aftermath of World War II and the establishment of the Commonwealth of PR which served to legitimize US colonial relations both domestically and internationally. This period marked a significant transformation in local governance, creating the legal conditions for the establishment of democratic institutions and propelling a limited process of economic development. Chapter 5 examines PR’s role in the post-Cold War context, underscoring the failures of this colonial project and illustrating how the American state of exception laid the groundwork for the archipelago’s enduring crisis. The chapter explores the US response to PR’s economic and financial crisis, discussing the imposition of PROMESA, the operations of the FOMB, and their anti-democratic governance. It also addresses cases such as *Puerto Rico v. Sánchez Valle* (2016), *Puerto Rico v. Franklin California Tax-Free Trust* (2016), and *FOMB v. Aurelius Investment, LLC* (2020), showing how SCOTUS has sought to redefine local governance and reshape the operation of the US empire.

The book’s conclusion addresses PR’s ongoing transformation into a tourist destination and the resulting impact on poor and working-class communities. Jiménez discusses *US v. Vaello Madero* (2022), where SCOTUS reaffirmed PR’s colonial status and subordination to Congress’s plenary powers. Jiménez challenges Justice Gorsuch’s view that overruling the Insular Cases would resolve PR’s legal and colonial condition, arguing that doing so would not dismantle the colonial legal structures underpinning US imperialism. Ultimately, for PR to have a future, the US empire must end.

Jiménez introduces the critical concept of the American state of exception, highlighting how race has been central to shaping this legal framework within US colonial governance. While other scholars have explored the intersection of race and exceptionality, Jiménez emphasizes the constitutional dimensions of race in the US. However, the concept could have been more thoroughly developed, particularly in dialogue with existing scholarship (Atilés 2016; 2024; Reynolds 2017). Although she has explored the American state of exception elsewhere (Jiménez 2020), in this book it sometimes gets obscured in the broader historical narrative of US empire-building presented in the book. Its absence, especially in Chapter 5 and the Conclusion, is notable, as it could have provided crucial theoretical insight into PR's ongoing reconfiguration. Nevertheless, the book advances Puerto Rican scholarship by centering race and racialized legal processes in the colonial state of exception.

Making Never-Never Land is a meticulously researched, beautifully written, and deeply personal book that situates PR's history within the broader context of US empire. It interweaves the legal history of US imperialism with the sociolegal, economic, and political consequences of colonial domination. Through stories of migration, unemployment, displacement, experimentation, and crises, the book illustrates how race and racialized discourses have profoundly shaped the lives of millions. Jiménez masterfully details the history and impact of colonial law in action, while also highlighting the enduring resistance of the Puerto Rican people.

References

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