

BETTING IN FAR AWAY PLACES: USING GAMBLING LAW TO TEACH U.S. TERRITORIAL LAW (AND VICE-VERSA)

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I. INTRODUCTION

Law students tend to be woefully ignorant when it comes to America's overseas territories.¹ This is a pity, because these societies are rich in culture, history, and legal tradition.² Thus, knowing something about them helps to make a student a more interesting and well-rounded person and lawyer.

Few law schools, however, have the luxury of offering an entire course on U.S. territorial law.³ Thus, for those of us who

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1. In this respect, U.S. law students are no different from the U.S. public, which also has little knowledge about the territories. See, e.g., Kyle Dropp & Brendan Nyhan, *Nearly Half of Americans Don't Know Puerto Ricans Are Fellow Citizens*, N.Y. TIMES (Sept. 26, 2017), <https://www.nytimes.com/2017/09/26/upshot/nearly-half-of-americans-dont-know-people-in-puerto-ricans-are-fellow-citizens.html>; Susannah Cahalan, *Most Americans Can't Find These US Territories on a Map*, N.Y. POST (Feb. 12, 2017, 12:44 AM), <https://nypost.com/2017/02/12/most-americans-cant-find-these-us-territories-on-a-map/>; see also Holger Droessler & Kristin Oberiano, *Teaching U.S. Territories*, ORG. AM. HIST., <https://www.oah.org/tah/labor-history/teaching-u-s-territories/> (last visited Dec. 30, 2024) ("In our experience, most [college] students have little to no prior knowledge about U.S. territories.").

2. For a further discussion, see, for example, Tom C.W. Lin, *Americans, Beyond States and Territories*, 107 MINN. L. REV. 1183, 1191–202 (2023). As Lin notes, "[w]hile each of the Territories consists of beautiful islands in the Pacific or Atlantic Oceans, each Territory also has its own distinct culture, demography, economy, governance, history, and American origin story." *Id.* at 1191–92.

3. See AM. BAR ASS'N, REPORT TO THE HOUSE OF DELEGATES 2 (2021), https://cdn.ymaws.com/www.usvibar.org/resource/resmgr/files2/digest_2021/ABA_Resoluti_on_300.pdf ("In recent years, some schools, such as Yale Law School and Columbia Law School, have begun to offer courses focused on the laws of the territories. However, most law schools do not."). In 2021, St. Mary's University in San Antonio, Texas, began offering an LL.M. degree with a concentration in territorial law that can be completed either in-person or online. See *Territorial Law Concentration*, ST. MARY'S UNIV. SCH. L., <https://law.stmarytx.edu/academics/programs/ll-m-degrees/territorial-law-llm/> (last visited

recognize the value of exposing our students to the territories, we must do the next best thing—slipping in references to them in the courses we *do* get to teach. For me, that has meant, for the better part of the past 20 years, mentioning the territories in my gambling law course.

Gambling law is itself a niche field,⁴ so the students who take my gambling law course tend to be intellectually curious. This fact, coupled with the different experiences that America's territories have had with respect to gambling, makes it easy to fruitfully intertwine the two subjects.

The remainder of this Article proceeds as follows. In Part II, I describe the status of gambling in the territories as of January 1, 2024. In Part III, I explain how I work information about the territories into my gambling law course.

II. GAMBLING IN AMERICA'S TERRITORIES

As is well known, America currently has five inhabited overseas territories: American Samoa, Guam, the Northern Mariana Islands ("NMI"), Puerto Rico, and the United States Virgin Islands ("USVI").⁵ It also has nine uninhabited overseas territories—one in the Caribbean Sea (Navassa Island) and eight in the Pacific Ocean (Baker Island, Howland Island, Jarvis Island, Johnston Atoll, Kingman Reef, Midway Atoll, Palmyra Atoll, and Wake Island).⁶

Dec. 30, 2024); E-mail from Jennifer S. Stevenson, Assistant Dean for Int'l Programs, ST. MARY'S UNIV. SCH. L., to the author (Jan. 10, 2024, 12:28 EST) (on file with the author). This initiative should do much to help raise the field's profile.

4. See ROBERT M. JARVIS ET AL., GAMING LAW AND GAMBLING LAW: CASES, MATERIALS, AND PROBLEMS 81 (2d ed. 2021) [hereinafter CASEBOOK] ("Most law schools never have had . . . a [gambling law] course, and the subject has had to fight hard for acceptance among academicians.").

5. For general works about the territories, see DANIEL IMMERWAHR, HOW TO HIDE AN EMPIRE: A HISTORY OF THE GREATER UNITED STATES 9 (2019); DOUG MACK, THE NOT-QUITE STATES OF AMERICA: DISPATCHES FROM THE TERRITORIES AND OTHER FAR-FLUNG OUTPOSTS OF THE USA, at xiii (2017). For legal works, see STANLEY K. LAUGHLIN, JR., THE LAW OF UNITED STATES TERRITORIES AND AFFILIATED JURISDICTIONS (1995); ARNOLD H. LEIBOWITZ, DEFINING STATUS: A COMPREHENSIVE ANALYSIS OF UNITED STATES TERRITORIAL RELATIONS (1989).

6. See IMMERWAHR, *supra* note 5, at 10; MACK, *supra*, note 5, at xx; LAUGHLIN, *supra* note 5, at 4; LEIBOWITZ, *supra* note 5; see also MARK J. RAUZON, ISLES OF AMNESIA: THE HISTORY, GEOGRAPHY, AND RESTORATION OF AMERICA'S FORGOTTEN PACIFIC ISLANDS (2016); Joseph Blocher & Mitu Gulati, *Navassa: Property, Sovereignty, and the Law of the Territories*, 131 YALE L.J. 2390, 2394 (2022). Some sources describe the United States as having eleven uninhabited overseas territories because they include Bajo Nuevo Bank and Serranilla Bank, both of which are in the Caribbean Sea. However, U.S. ownership of these

American Samoa became a U.S. territory in 1899 following the partitioning of the Samoan islands by Germany, Great Britain, and the United States.⁷ Guam became a U.S. territory in 1898 following the end of the Spanish-America War.⁸ The NMI became a U.S. territory in 1976 following the holding of a local plebiscite.⁹ Puerto Rico became a U.S. territory in 1898 following the end of the Spanish-America War.¹⁰ The USVI became a U.S. territory in 1917 following its sale by Denmark to the United States for \$25 million.¹¹ Of the five, only Puerto Rico has a sizeable landmass or population.¹²

reefs is contested by Colombia. For a further discussion, see *Unoccupied Territories: The Outlying Islands of America's Realm*, CTR. FOR LAND USE INTERP., <https://clui.org/projects/unoccupied-territories-outlying-islands-americas-realm/unoccupied-territories-outlying-islands-americas-realm-0> (last visited Dec. 30, 2024).

7. See Convention to Adjust Amicably Questions Between the United States, Germany, and the United Kingdom in Respect of the Samoan Group of Islands, Dec. 2, 1899, 31 Stat. 1878. Under this agreement, Germany received Western Samoa (today the independent nation of Samoa), the United States received Eastern Samoa (now American Samoa), and Great Britain received recognition of its claims to various parts of Africa. *Id.* For a further discussion, see Joseph Waldo Ellison, *The Partition of Samoa: A Study in Imperialism and Diplomacy*, 8 PAC. HIST. REV. 259, 283 (1939).

8. See Treaty of Peace of December 10, 1898, Spain-U.S., art. II, Dec. 10, 1898, 30 Stat. 1754 ("Spain cedes to the United States the island of Porto Rico and other islands now under Spanish sovereignty in the West Indies, and the island of Guam in the Marianas or Ladrões."). For a further discussion, see MURAT HALSTEAD, *THE STORY OF THE PHILIPPINES AND OUR NEW POSSESSIONS, INCLUDING THE LADRONES, HAWAII, CUBA AND PORTO RICO* 308 (The Project Gutenberg ed., 2004) (1898) (ebook). Of course, Cuba (1902) and the Philippines (1946) later both became independent countries, while Hawaii (1959) became a U.S. state. See Jorge Duany, *The Puerto Rican Diaspora to the United States: A Postcolonial Migration?*, in POSTCOLONIAL MIGRANTS AND IDENTITY POLITICS: EUROPE, RUSSIA, JAPAN AND THE UNITED STATES IN COMPARISON 193, 195 (Ulbe Bosma et al. eds., 2012).

9. See Covenant to Establish a Commonwealth of the Northern Mariana Islands in Political Union with the United States of America, Pub. L. No. 94-241, 90 Stat. 263 (1976), (codified as amended at 48 U.S.C. § 1801). For a further discussion, see HOWARD P. WILLENS & DEANNE C. SIEMER, *AN HONORABLE ACCORD: THE COVENANT BETWEEN THE NORTHERN MARIANA ISLANDS AND THE UNITED STATES* (2001). Previously (1947–76), the NMI had been administered by the United States as part of the United Nations' Trust Territory of the Pacific Islands. See *Issue on the Trust Territory of the Pacific Islands*, DECOLONIZATION no. 16.1, Apr. 1980, at 3, 15–16, https://www.un.org/dppa/decolonization/sites/www.un.org.dppa.decolonization/files/decon_num_16-1.pdf.

10. See sources cited *supra* note 8.

11. See Convention Between the United States and Denmark for Cession of the Danish West Indies, Den.-U.S., Aug. 4, 1916, 39 Stat. 1706. Numerous hiccups delayed the treaty from being implemented until 1917. See *Purchase of the United States Virgin Islands, 1917*, U.S. DEP'T STATE, <https://2001-2009.state.gov/r/pa/ho/time/wwi/107293.htm> (last visited Dec. 30, 2024). For a further discussion, see CHARLES CALLAN TANSILL, *THE PURCHASE OF THE DANISH WEST INDIES* (1932).

12. See *Size of US States by Area*, NATIONS ONLINE, <https://www.nationsonline.org/oneworld/US-states-by-area.htm> (last visited Dec. 30, 2024); *Population of the US States and Principal US Territories*, NATIONS ONLINE, <https://www.nationsonline.org/oneworld/US-states-population.htm> (last visited Dec. 30, 2024). As these sources report, American Samoa occupies 76 square miles and has 45,000 residents; Guam occupies 209 square miles

Due to space constraints, it is not possible in this Article to provide a complete history of the development of gambling in each territory.¹³ Accordingly, the discussion below is meant merely as a primer.

Before proceeding, it may be helpful to point out that there are seven principal types of gambling: casinos;¹⁴ charitable gambling;¹⁵ lotteries;¹⁶ online gambling;¹⁷ pari-mutuels;¹⁸ social

and has 169,000 residents; the NMI occupies 182 square miles and has 51,000 residents; Puerto Rico occupies 3,424 square miles and has 3,057,000 residents; and the USVI occupies 134 square miles and has 105,000 residents. *Size of US States by Area, supra*; *Population of the US States and Principal US Territories, supra*.

13. Such treatments do exist elsewhere. For a history of gambling in American Samoa, see Robert M. Jarvis, *Taaloga Faitupe: Gambling in American Samoa*, 41 UCLA PAC. BASIN L.J. (forthcoming 2025). For a history of gambling in the NMI, see Robert M. Jarvis, *Gambling in the Northern Mariana Islands*, 26 GAMING L. REV. 316, 316 (2022) [hereinafter *NMI Gambling*]. For a history of gambling in Puerto Rico, see Fredric E. Gushin & Paul R. Cortés-Rexach, *Puerto Rico Faces the Future with Major Changes to Its Gaming Laws*, 2 GAMING L. REV. 27 (1998); Rachel A. Volberg & Pedro A. Vales, *Gambling and Problem Gambling in Puerto Rico: Report to the Puerto Rico Treasury Department*, U. CALGARY, 1, 1–3 (Jan. 1998), <https://prism.ucalgary.ca/server/api/core/bitstreams/6c05ab29-4984-4262-85d5-4e0b8361db2f/content>. For a history of gambling in the USVI, see Jeff Dense, *The Socioeconomic Impact of Gaming in the Virgin Islands*, 8 GAMING L. REV. 175, 175 (2004). A history of gambling in Guam does not currently exist, although one is in the works. See Robert M. Jarvis, *Gambling in Guam*, 29 GAMING L. REV. (forthcoming 2025). In the meantime, buried deep within the materials accompanying the final report of the Morin Commission, the federal government's 1976 study on gambling, is a student paper that contains a brief description of the development of gambling in Guam. See Peter W. Waldmeir, *Federal Enclaves*, in COMMISSION ON THE REVIEW OF THE NATIONAL POLICY TOWARD GAMBLING, GAMBLING IN AMERICA 933, 951–52 app. 1 (Oct. 1976), <https://books.google.com/books?id=ogHE8hmvHJMC&pg=PA933>.

14. The term “casino” typically is used to describe a gambling establishment (either on land or on water) that offers both slot machines and table games (e.g., baccarat, blackjack, craps, and roulette). See WILLIAM N. THOMPSON, *GAMBLING IN AMERICA: AN ENCYCLOPEDIA OF HISTORY, ISSUES, AND SOCIETY* 43–47 (2d ed. 2015). A casino that is part of a dog track, horse track, or jai-alai fronton often is referred to as a “racino.” *Id.* at 345–50.

15. “Charitable gambling” refers to gambling conducted by non-profit organizations as fundraisers. The bulk of such gambling consists of bingo contests, pull-tabs, and raffles. See CASEBOOK, *supra* note 4, at 135. The term also includes “Monte Carlo events,” which feature casino games at which, in exchange for donations of real money, patrons are given play money. At the end of the night, such money can be redeemed for donated prizes. *Id.* at 161.

16. Since the demise of the Louisiana State Lottery Company in 1907, no state or territory has allowed privately-run lotteries. Thus, at present all authorized lotteries are run by the government. The proceeds (after administrative costs and prizes are paid) are used for public projects. See Ronald J. Rychlak, *Lotteries, Revenues and Social Costs: A Historical Examination of State-Sponsored Gambling*, 34 B.C. L. REV. 11, 45 n.219 (1992); see also THOMPSON, *supra* note 14, at 257–68.

17. Currently, numerous federal laws prohibit online gambling. See, e.g., Interstate Wire Act of 1961, 18 U.S.C. § 1084; Unlawful Internet Gambling Enforcement Act of 2006, 31 U.S.C. §§ 5361–67. However, online gambling within a specific state or territory is legal so long as it: (1) has been authorized by the state or territory; and (2) does not reach across the state or territory's boundaries. See also THOMPSON, *supra* note 14, at 222–24.

18. See THOMPSON, *supra* note 14, at 324–26. The term “pari-mutuel” refers to the type of betting found at dog tracks, horse tracks, and jai-alai frontons. In pari-mutuel betting,

gambling;¹⁹ and sports betting.²⁰ As discussed in more detail in Part III.C. of this Article, in 2018 Congress outlawed cockfighting, the territories' most popular sport on which to bet.²¹

A. American Samoa

American Samoa prohibits nearly all forms of gambling and treats violations as misdemeanors.²²

Over the years, American Samoa has rejected numerous casino authorization proposals.²³ Since 1961, however, it has authorized bingo games and raffles conducted by non-profit organizations.²⁴

players play against each other with the “house” merely acting as the event’s organizer, for which it receives a commission (*i.e.*, a percentage of the total amount bet). In other forms of betting (such as most casino games), players play against the house, with the house winning or losing money on each bet placed (a small built-in mathematical edge in each game assures that the house comes out ahead in the long run).

19. “Social gambling,” also known as “casual gambling,” consists of low-stakes gambling conducted among friends, neighbors, or co-workers in a private home or other non-public place. It is designed primarily to legalize small wagering on card games such as bridge and poker. Social gambling laws strictly prohibit anyone from making money for organizing or acting as the host of such games. For a further discussion, see REX M. ROGERS, *GAMBLING: DON’T BET ON IT* 16–17 (2005).

20. In 1992, Congress passed the Professional and Amateur Sports Protection Act of 1991 (“PASPA”), 28 U.S.C. §§ 3701–04, which banned sportsbooks everywhere in the United States except Nevada. See Bill Bradley, *The Professional and Amateur Sports Protection Act—Policy Concerns Behind Senate Bill 474*, 2 SETON HALL J. SPORT L. 5, 5–6 (1992) (describing the Act from the perspective of its principal proponent). In 2018, however, the U.S. Supreme Court struck down PASPA on Tenth Amendment grounds. *Murphy v. Nat’l Collegiate Athletic Ass’n*, 584 U.S. 453, 486 (2018). The Court’s decision has led to a sports gambling boom. For a further discussion, see Kevin A. Schweitzer, *Big Bet: Legal Sports Betting Creates More Work for Lawyers and Invites More Scrutiny of the Gambling Industry*, 109 A.B.A J., Dec. 2023/Jan. 2024, at 32, 32 (explaining that 38 states and the District of Columbia now have some form of legalized sports betting).

21. See Jon Perez, *Cockfighting Ban Now Law*, SAIPAN TRIB. (NMI) (Dec. 24, 2018), https://www.saipantribune.com/news/front_page/cockfighting-ban-now-law/article_24dfe173-0685-5dd9-b4b8-a10b626fed83.html (reporting on the passage of § 12616 of the Agriculture Improvement Act of 2018, Pub. L. 115-334, 132 Stat. 4490 (codified at 7 U.S.C. § 2156)). By the time Congress acted, every U.S. state already had banned cockfighting. *Id.*

22. See AM. SAMOA CODE ANN. §§ 46.4301, .4303 (2021).

23. See *Online Casinos Accepting Players from American Samoa*, WORLD CASINO DIRECTORY, <https://online.worldcasinodirectory.com/american-samoa> (last visited Dec. 30, 2024) (“[N]o land-based casinos have ever existed in the territory. . . . And even though many propositions for cruise ship casinos and land-based [casinos] have been made, to date, all have been rejected.”).

24. See AM. SAMOA CODE ANN. § 46.4302 (2021); Waldmeir, *supra* note 13, at 956. Today, church-run bingo games are American Samoa’s favorite pastime. For a further discussion on bingo in American Samoa, see, for example, Mitchell Robitaille, *Bingo—The Ultimate Source of Samoan Entertainment*, TEACHING AMSAM (Mar. 18, 2012),

B. Guam

Guam prohibits nearly all forms of gambling and treats most violations as misdemeanors.²⁵ In 1960, however, Guam authorized bingo games and raffles conducted by non-profit organizations.²⁶ In 1976, social gambling was legalized.²⁷

In 1952, games of chance began being conducted by vendors at the Guam Island Fair and Liberation Day Carnival, which commemorates the liberation of Guam from the Japanese during World War II.²⁸ In 2017, such gambling, which had expanded to include such casino games as baccarat, blackjack, and poker, was banned.²⁹ In 2019, with attendance at the carnival having plummeted due to the lack of gambling, the ban was lifted.³⁰

In 1976, the Guam legislature passed a bill authorizing casinos but the legislation was vetoed by Governor Ricardo J. “Ricky” Bordallo.³¹ More recently, between 2008 and 2021, a fierce intra-government battle pitting the Attorney General of Guam against the Guam Department of Revenue and Taxation took place over whether the latter’s licensing of slot machines was authorized by Guamanian law, and in 2021, the Guam Supreme Court finally

<https://teachingamsam.wordpress.com/2012/03/18/bingo-the-ultimate-source-of-samoan-entertainment/> (expatriate’s blog post about bingo in American Samoa).

25. See 9 GUAM CODE ANN. § 64.10 (2024). *But see id.* § 64.17 (enhanced criminal penalties for possessing or using electronic gambling devices).

26. See *id.* § 64.70; Waldmeir, *supra* note 13, at 952.

27. See 9 GUAM CODE ANN. § 64.30 (2024) (requiring such gambling to take place on “private premises” and prohibiting anyone from charging or profiting from organizing or running such games). This law originated as Chapter 64.30 of P.L. 13-185 (Sept. 2, 1976).

28. See Dana Williams, *Liberation Carnival Rides, Games and Refreshments Have Kept Guam Amused for Generations*, PAC. DAILY NEWS (July 16, 2020), https://www.guampdn.com/news/local/liberation-carnival-rides-games-and-refreshments-have-kept-guam-amused-for-generations/article_77cb2d32-b2e5-5040-a8c4-a06f47e67886.html.

29. See Guam Pub. L. 34-15 (2017), https://www.guamlegislature.com/Public_Laws_34th/P.L.%20No.%2034-15.pdf.

30. See Dana Williams & Jasmine Stole Weiss, *For Generations, Liberation Carnival Has Been Filled with Controversy and Happy Memories*, PAC. DAILY NEWS (June 24, 2019), https://www.guampdn.com/news/culture/for-generations-liberation-carnival-has-been-filled-with-controversy-and-happy-memories/article_a275895a-04a6-59b7-b695-c345b8428cd9.html. For the law lifting the ban, see Guam Pub. L. 35-4 (Apr. 3, 2019) (codified at 9 GUAM CODE ANN. § 64.62 (2024)), https://www.guamlegislature.com/Public_Laws_35th/P.L.%20No.%2035-4.pdf.

31. See David L. Teibel, *Casino-Bill Override Fizzles*, PAC. DAILY NEWS, June 22, 1976, at 1, 6 (reporting that the effort to override Bordallo’s veto failed by a vote of 7-11-2).

held that the machines were illegal and their licenses were invalid.³²

From 1977 to 2008, Guam had a dog track at Tamuning. It closed after its repeated attempts to become a racino failed.³³

Guam does not have a lottery. In July 2023, however, Senator Dwayne San Nicolas introduced Bill 145-37.³⁴ If passed, it would establish the Guam Lottery Commission and authorize it to oversee in-person and online lotteries.³⁵

C. Northern Mariana Islands

In 1985, the NMI amended its Constitution to prohibit gambling except to the extent that a territorial law, or a local ordinance, grants an exception.³⁶ Engaging in unauthorized gambling is a misdemeanor.³⁷

In 1983, non-profit organizations were authorized to offer bingo games and raffles.³⁸ Also in 1983, lotteries were authorized.³⁹ Currently, there is one lottery in the NMI. Operated by the Northern Marianas Sports Association, the territory's sports federation,⁴⁰ its proceeds help fund youth sports.⁴¹

32. See *Camacho v. Shimizu*, 2021 Guam 22 ¶ 32, available at 2021 WL 6067732 (Dec. 21, 2021).

33. See Mark-Alexander Pieper Pika, *2008 Year in Review: Voters Turn Down Proposal A, Greyhound [Track] Closes*, PIKA MONTHLY MAG., (Agana, Guam), Jan. 1, 2009, at 12, 12. In 2010, Guam outlawed betting on dog races. See 11 GUAM CODE ANN. §§ 5101–02 (2024). In 2022, it was announced that the track at Tamuning would be turned into an amusement park. See Steve Limtiaco, *Guam Greyhound Will Become Freedom Park*, PAC. DAILY NEWS (Jan. 14, 2022), https://www.guampdn.com/money/guam-greyhound-will-become-freedom-park/article_044d0360-74e8-11ec-943d-17fd6d46b335.html.

34. See Phill Leon Guerrero, *San Nicolas Bill Proposes Local Lottery*, GUAM DAILY POST (July 5, 2023), https://www.postguam.com/news/local/san-nicolas-bill-proposes-local-lottery/article_1d0482fa-1a1b-11ee-8ed5-f7ec3d9c67b0.html. To view the bill's text, see Leg. B. 145-37, 37th Leg., 1st Reg. Sess. (Guam 2023), [https://www.guamlegislature.com/37th_Guam_Legislature/Bills_Introduced_37th/Bill%20No.%20145-37%20\(COR\).pdf](https://www.guamlegislature.com/37th_Guam_Legislature/Bills_Introduced_37th/Bill%20No.%20145-37%20(COR).pdf).

35. See Guerrero, *supra* note 34 (discussing the bill's provisions).

36. See N. MAR. I. CONST. art. XXI, § 1.

37. See 6 N. MAR. I. CODE §§ 3151–52 (legislative intent and findings), 3154–55 (definitions and types of games), and 3159 (criminal penalties) (2024). In 1995, pachinko machines were exempted from the territory's ban on gambling after being declared “games of skill.” See 4 N. MAR. I. CODE §§ 1503–10 (2024); 6 N. MAR. I. CODE § 3156(a)(5) (2024).

38. See 6 N. MAR. I. CODE §§ 3157, 3161–66 (2024).

39. See 1 N. MAR. I. CODE §§ 9301–23 (2024); 6 N. MAR. I. CODE § 3156(a)(3) (2024).

40. See *Northern Marianas Sports Association - NMSA*, FACEBOOK, <https://www.facebook.com/northernmarianassports/> (last visited Dec. 30, 2024).

41. See 1 N. MAR. I. CODE § 9506(d)(5) (2024).

Casinos have been legal in the NMI since 2014.⁴² At present, proposals to legalize online gambling and sports betting are being actively discussed.⁴³

D. Puerto Rico

Except as otherwise authorized, Puerto Rico prohibits gambling and treats violations as misdemeanors.⁴⁴

Puerto Rican law permits a wide variety of gambling: pari-mutuels (since 1910);⁴⁵ “picas” (since 1927);⁴⁶ lotteries (since 1934);⁴⁷ casinos (since 1948);⁴⁸ bingo games (since 1950);⁴⁹ and sports betting (since 2019).⁵⁰

42. See 4 N. MAR. I. CODE §§ 2301–34 (2024); 6 N. MAR. I. CODE § 3156(a)(7) (2024). These laws permit one territory-wide casino license and an unlimited number of local casino licenses.

43. See *infra* note 71 and accompanying text.

44. See P.R. LAWS ANN. tit. 33, § 1250 (2024).

45. See Act of Mar. 10, 1910, No. 23, now P.R. LAWS ANN. tit. 15, §§ 181–98aa (2024). At present, there is one horse track in Puerto Rico: the Hipódromo Camarero in Canóvanas, a thirty-minute drive from San Juan. See *Hipódromo Camarero*, DISCOVER P.R., <https://www.discoverpuertorico.com/profile/hipodromo-camarero/7737> (last visited Dec. 30, 2024). Betting on dog races was legal in Puerto Rico from 1936 to 1957. See P.R. LAWS ANN. tit. 15, §§ 221–31 (2024). Betting on jai-alia matches was legal in Puerto Rico from 1950 to 1961. See *id.* §§ 341–46.

46. See P.R. LAWS ANN. tit. 15, §§ 80–81 (2024). Picas are a traditional form of betting akin to roulette (but played with mechanical horses). *Id.* Only municipalities may conduct picas, and they may do so only during carnivals celebrating their patron saints. *Id.*

47. See *id.* §§ 111–28 (paper lottery) and 801–18 (electronic lottery, more formally known as the “additional lottery”). For a history of Puerto Rico’s lottery, see Carrie Hagen, *The Puerto Rican Roots of the Mega Millions Jackpot: The First Modern Lottery in the United States Raised Funds to Fight Tuberculosis*, SMITHSONIAN MAG. (Oct. 19, 2018), <https://www.smithsonianmag.com/history/powerballs-puerto-rican-roots-180957844/>.

48. See P.R. LAWS ANN. tit. 15, §§ 71–79a, 82–91 (2024); see also Charles Fernandez, *Gambling Legalized in Puerto Rico: Island Makes Bid for Resort Trade*, PITT. PRESS, June 6, 1948, at 8. Puerto Rico was the second U.S. jurisdiction to legalize casinos (Nevada, in 1931, was the first). See *Puerto Rico’s Casino Industry is Marking 75 Years- \$1.4 Billion to Good Causes in Last 10*, PGRI PUBLIC GAMING (Aug. 10, 2023), <https://publicgaming.com/news-categories/casino-news/11521-puerto-rico-s-casino-industry-is-marking-75-years-1-4-billion-to-good-causes-in-last-10> (noting that Puerto Rico currently has eighteen casinos). For a further discussion, see Robert M. Jarvis & Jane E. Cross, *Casino Gambling in the Caribbean*, 24 GAMING L. REV. 337, 352–53 (2020) (describing Puerto Rico’s casinos).

49. See Act of May 18, 1950, No. 242, now P.R. LAWS ANN. tit. 15, §§ 151–57 (2024). Bingo games may only be offered by non-profit organizations. *Id.*

50. See Act of June 29, 2019, No. 81. This legislation has not yet made it into *Puerto Rico Laws Annotated*. In the meantime, an English translation can be found at <https://bvirtualogp.pr.gov/ogp/Bvirtual/leyesreferencia/PDF/2-ingles/81-2019.pdf> (last visited Dec. 30, 2024).

E. U.S. Virgin Islands

Except as otherwise authorized, the USVI prohibits gambling and treats violations as misdemeanors.⁵¹

The USVI permits various types of gambling: raffles (since 1921);⁵² lotteries (since 1937);⁵³ pari-mutuels (since 1951);⁵⁴ casinos (since 1995);⁵⁵ and internet gambling (since 2001).⁵⁶

51. See V.I. CODE ANN. tit. 14, §§ 1221–23 (banning lotteries), 1224–25 (general definitions and criminal penalties), and 1226 (authorizing the seizure of gambling equipment) (2024). See generally sources cited *supra* note 37 (summarizing the USVI's gambling laws).

52. See tit. 14, § 1222(b). Only non-profit organizations may hold raffles and only if permission is granted by the territory's police commissioner. *Id.* This law first appeared in the 1921 CODE OF ST. CROIX, tit. IV, ch. 6, § 29, and the 1921 CODE OF ST. THOMAS AND ST. JOHN, tit. IV, ch. 6, § 27. See V.I. CODE ANN. tit. 14, § 1222 (2024) (under "Revision note").

53. See V.I. CODE ANN. tit. 32, §§ 241–61 (2024). Since 1971, the lottery has been run by the Virgin Islands Lottery Commission; see also *Home*, V.I. Lottery, <https://www.winusvilottery.com/> (last visited Jan. 3, 2025) (webpage of the official Virgin Islands Lottery). For the history of lotteries in the USVI prior to 1971, see Waldmeir, *supra* note 13, at 954. As Waldmeir explains, "St. Thomas had authorized a lottery under Danish rule [but it] proved financially unsuccessful. In 1937, St. Thomas and St. John enacted ordinances creating an official lottery under direct supervision of the Governor of the Virgin Islands." *Id.*

54. Initially, pari-mutuels in the USVI were authorized by local ordinances. See Waldmeir, *supra* note 13, at 953 ("By the end of 1951, all three [islands] had legalized parimutuel betting on horseraces at licensed racetracks."). They now are regulated by a uniform territorial law. See V.I. CODE ANN. tit. 32, §§ 201–214a (2024). In 2016, legislation was passed allowing the USVI's two horse tracks (Randall "Doc" James Racetrack in St. Croix and Clinton E. Phipps Racetrack in St. Thomas) to operate as racinos. See *id.* §§ 801–1001. The effort to redevelop them, however, has been delayed by two 2017 hurricanes (Irma and Maria) and a now-resolved 2018 lawsuit; see also Judi Shimel, *Horse Racing Commission Hears About Progress—or Lack Thereof—of V.I. Racetrack Reconstruction*, ST. THOMAS SOURCE (June 9, 2023), <https://stthomassource.com/content/2023/06/09/horse-racing-commission-hears-about-progress-or-lack-thereof-of-v-i-racetrack-reconstruction/> (pointing out that "[s]o much time has passed since races have been held at either racetrack that virtually no horse owner still holds valid certification").

55. See V.I. CODE ANN. tit. 32, §§ 401–533 (2024). At present, the USVI's sole casino is the Divi Carina Bay Casino in St. Croix. See *Home*, DIVI CARINA BAY CASINO, <https://carinabay.com/> (last visited Dec. 30, 2024); Jane Shaw, *Casinos in United States Virgin Islands*, CASINOS.US (Jan. 16, 2024), <https://www.casinos.us/united-states-virgin-islands/>. The Divi casino opened in 2000. See *U.S. Virgin Islands—Casino Opens in St. Croix*, MIA. HERALD, Mar. 20, 2000, at 18G. Years earlier, slot machines had been legal for a brief time in both St. John and St. Thomas (1943 to 1944). See Waldmeir, *supra* note 13, at 953.

56. See V.I. CODE ANN. tit. 32, §§ 601–46 (2024). The USVI was the second U.S. jurisdiction to authorize internet gambling (just months after Nevada became the first); see also *Internet Gaming is Now Legal in the V.I.*, ST. CROIX SOURCE (Aug. 4, 2001), <https://stcroixsource.com/2001/08/04/internet-gaming-now-legal-vi-0/>.

III. DISCUSSING TERRITORIAL LAW IN A GAMBLING CLASSROOM

Although it certainly would be possible to give an entire course just on territorial gambling law, I never have done so. Instead, during my gambling law course, which is a general course (with an emphasis on Florida law due to my law school being in Fort Lauderdale), I use the territories to help me teach my students about casinos, lotteries, and sports betting. In doing so, I also expose my students to territorial law.

A. Casinos

When discussing casinos in my gambling law course, I make use of the territories in four different ways. First, to familiarize my students with slot machines, I have them look at the Johnson Act,⁵⁷ the federal law that governs gambling devices, and its unique treatment of America Samoa. Second, to acquaint them with casino advertising regulations, I have them read *Posadas de Puerto Rico Associates v. Tourism Co. of Puerto Rico*.⁵⁸ Third, as a case study in casino (mis)development, I assign my article on the NMI's Imperial Pacific International ("IPI") casino.⁵⁹ And fourth, I talk about the USVI's shipboard casino laws.⁶⁰

The Johnson Act, which was passed by Congress in 1951 at the urging of Senator Edwin C. Johnson of Colorado,⁶¹ makes it illegal "to transport any gambling device to any place in a State or a possession of the United States from any place outside of such State or possession" unless the "State . . . has enacted a law providing for [its] exemption . . . from the provisions of this section."⁶² In a different section, the Johnson Act provides: "The term 'State' includes the District of Columbia, Puerto Rico, the Virgin Islands, and Guam."⁶³ Thus, as has been recognized by the American Samoa High Court, American Samoa cannot opt out of

57. 15 U.S.C. §§ 1171–78.

58. See *Posadas de P.R. Assocs. v. Tourism Co. of P.R.*, 478 U.S. 328 (1986).

59. See *NMI Gambling*, *supra* note 13.

60. See also V.I. CODE ANN. tit. 25, § 501 (2024).

61. For the statute's legislative history, see Rufus King, *The Rise and Decline of Coin-Machine Gambling*, 55 J. CRIM. L. CRIMINOLOGY & POLICE SCI. 199, 204–06 (1964).

62. 15 U.S.C. § 1172(a).

63. *Id.* § 1171(b).

the Johnson Act.⁶⁴ This makes it, as I point out to my students, the only U.S. jurisdiction that is unable to do so.⁶⁵

In *Posadas*, the U.S. Supreme Court held that Puerto Rico's law prohibiting local casinos from engaging in advertising aimed at residents (as opposed to tourists) did not violate the First Amendment, even though no similar restrictions were placed on Puerto Rico's cockpits, horse tracks, or lottery.⁶⁶ According to the Court, Puerto Rico's legislature was free to differentiate casino gambling from other forms of gambling and to take steps to protect the island's residents from what it perceived as the unique harms of casino gambling.⁶⁷ After discussing the wisdom of the legislature's policy, as well as the Court's sound reasoning, we move on to the Court's implicit overruling of *Posadas* in *Greater New Orleans Broadcasting Ass'n, Inc. v. United States*.⁶⁸

The IPI saga demonstrates how the promised riches of casino gambling do not always materialize. In 2014, the NMI granted its only territory-wide gambling license to IPI, a Hong Kong company that promised to turn the NMI into a gambling mecca catering to wealthy Chinese tourists.⁶⁹ By the time the COVID epidemic hit in 2020, the FBI was investigating IPI for money laundering; OSHA was investigating IPI for hazardous working conditions; IPI was deep in debt; and the NMI had received a mere pittance of the revenue that IPI had agreed to pay.⁷⁰ At present, the NMI is trying

64. See *Ae Ae v. Am. Sam. Gov't*, 4 Am. Samoa 3d 184, 189 (2000) ("The plain language of the statutory scheme thus explicitly demonstrates that it is not the intent of Congress to allow certain possessions, including American Samoa, to enact laws legalizing gambling devices."); see also COMMISSION ON THE REVIEW OF THE NATIONAL POLICY TOWARD GAMBLING, FINAL REPORT 22 (1976), <https://babel.hathitrust.org/cgi/pt?id=mdp.39015000582000&seq=7> ("The . . . Johnson Act . . . [contains a] specific proscription as to gambling devices as applying only to American Samoa . . .").

65. Because of its vintage, the Johnson Act does not mention the NMI. However, under § 502(a)(2) of its covenant with the United States, the NMI has the same rights as Guam with respect to any U.S. law of general application. Covenant to Establish a Commonwealth of the Northern Mariana Islands in Political Union with the United States of America, Pub. L. No. 94-241, 90 Stat. 263 (1976), (codified as amended at 48 U.S.C. § 1801). In 1983, the NMI utilized this provision to opt out of the Johnson Act. See 6 N. MAR. I. CODE § 3153 (2024) ("Pursuant to the authority vested by 15 U.S.C. § 1172, the Commonwealth of the Northern Mariana Islands is exempted from the provisions of 15 U.S.C. § 1172.").

66. See 478 U.S. 328, 341-44 (1986).

67. See *id.* at 343.

68. 527 U.S. 173 (1999) (finding unconstitutional the federal government's restrictions on advertising by Louisiana and Mississippi casinos). For a further discussion, see Thomas H. Mueller, *Casino Advertising: The Aftermath of Greater New Orleans*, 4 GAMING L. REV. 219 (2000).

69. See *NMI Gambling*, *supra* note 13, at 330-31.

70. See *id.* at 331-32.

to revoke IPI's gambling license⁷¹ and is considering authorizing online gambling and sports betting to recoup some of the revenue it has lost due to the IPI debacle.⁷²

Lastly, since the 1990s, nearly every ocean-going cruise ship has been outfitted with a casino.⁷³ To protect their local gambling establishments, most jurisdictions require cruise ships to keep their casinos closed while in port.⁷⁴ In 1999, the USVI, in an artful bit of drafting, amended its law to permit cruise ships visiting St. John or St. Thomas to keep their casinos open if they stay in port overnight (as opposed to arriving and leaving the same day).⁷⁵ This law omits St. Croix (the territory's other island) to protect its local casino.⁷⁶

B. Lotteries

The two territorial lotteries (in Puerto Rico and the USVI) operate in the same manner as lotteries in other parts of the country.⁷⁷ Nevertheless, I spend time on them because they were the first two lotteries to be introduced in the United States in the modern era. As previously explained, by 1907 lotteries were illegal in every state.⁷⁸ In 1964, New Hampshire became the first state to resume lottery operations, and today only five states lack a

71. Since 2020, IPI has waged a ferocious battle to keep its license despite owing the NMI \$62 million in licensing fees. The battle, however, now appears to be ending. *See* Imperial Pac. Int'l (CNMI), LLC v. Commonwealth Casino Comm'n, No. 1:22-cv-00007, 2022 WL 4448918 (D. N. Mar. I. Sept. 26, 2022), *rev'd sub nom.* Best Sunshine Int'l, Ltd. (BVI) v. Commonwealth Casino Comm'n, No. 22-16630, 2023 WL 4234249 (9th Cir. June 28, 2023), *cert. denied*, No. 22-16630, 2023 WL 4234249 (U.S. June 28, 2023) (rejecting IPI's effort to avoid paying by claiming *force majeure* and demanding arbitration).

72. *See Northern Mariana Islands Online Gaming May Be Possible Through New Bill*, PGRI PUBLIC GAMING (Dec. 15, 2023), <https://www.publicgaming.com/news-categories/politics/12145-northern-mariana-islands-online-gaming-may-be-possible-through-new-bill>.

73. *See* CASEBOOK, *supra* note 4, at 565 (explaining that the first cruise ship with a casino was Carnival's *Mardi Gras* in 1975). A notable exception is the Disney Cruise Line, which, in keeping with its family-friendly image, does not have casinos (but does hold bingo games). *Id.*

74. *Id.* at 571.

75. *See* V.I. CODE ANN. tit. 25, § 501 (2024) ("Notwithstanding title 14, chapter 61 and title 32, chapter 21 of this code, cruise ships anchored or docked at the piers in St. Thomas and St. John may operate their onboard casinos after 5 p.m. while in port for use only by their passengers."); *see also* USVI passes ship-casino law, TRAVEL WKLY. (Aug. 25, 1999), <https://www.travelweekly.com/Cruise-Travel/USVI-passes-ship-casino-law>.

76. The only casino in the USVI is the Divi casino in St. Croix. Shaw, *supra* note 55.

77. In addition, both the Puerto Rico and USVI lottery commissions belong to the North American Association of State and Provincial Lotteries. *See NASPL Member Lotteries*, NASPL, <https://www.naspl.org/naspl-lottery-members> (last visited Dec. 30, 2024).

78. *See* THOMPSON, *supra* note 16.

lottery.⁷⁹ While New Hampshire now is routinely given credit for reintroducing lotteries in the United States,⁸⁰ the credit really belongs to Puerto Rico (1934) and the USVI (1937). Thus, by discussing these lotteries, I am able to give my students a concrete example of how the territories are overlooked in everyday life.⁸¹

There is a second reason why I like to mention the territories when discussing lotteries. To help states fight lotteries, Congress made it illegal to use the mails to send or receive lottery tickets in 1895.⁸² The U.S. Supreme Court upheld this law in *Champion v. Ames*.⁸³ While unpacking this case, my students and I get to explore whether Congress's ban applies to lottery tickets mailed to or from the territories.⁸⁴

79. See CASEBOOK, *supra* note 4, at 84 (explaining that only Alabama, Alaska, Hawaii, Nevada, and Utah lack a state lottery—Alabama and Utah for religious reasons; Alaska because of its general opposition to gambling; Hawaii to maintain its family friendly image; and Nevada to protect its casino industry).

80. See, e.g., Keith C. Miller, *State Lotteries and Their Customers*, 9 U.N.L.V. GAMING L.J. 177, 178–79 (2019) (“What followed [the demise of Louisiana’s lottery] was a lengthy period of time when lotteries vanished from the U.S. landscape. Lotteries were so unpopular that over half a century passed before New Hampshire adopted a modest lottery and began its operation in 1964.”).

81. Of course, there are other ways to make this same point. See, e.g., Joseph T. Gasper II, *Visible and Invisible: The Case for a Territorial Reporter*, 91 FORDHAM L. REV. 1711, 1724–25 (2023) (“West does not publish any decisions of territorial courts in its regional reporters. There is no T. or T.2d, for example, in which the opinions of the Supreme Court of Guam or the Supreme Court of Puerto Rico can be found. The Territories are also not included, geographically, in the closest regional reporter.”); Anthony M. Ciolli, *Representation of United States Territories on the Federal Courts of Appeals*, 98 N.Y.U. L. REV. ONLINE 320, 329 (2023) (footnotes omitted) (“Today, the U.S. Virgin Islands remains without representation on the Third Circuit, even though the number of appeals originating in the U.S. Virgin Islands is roughly comparable to the number originating from Delaware, a jurisdiction which has two active and two senior judges on the Third Circuit.”).

82. See 18 U.S.C. § 1302 (prohibiting lottery tickets from being mailed across state lines); see also 19 U.S.C. § 1305 (prohibiting lottery tickets from being mailed into or out of the United States).

83. See 188 U.S. 321 (1903).

84. See generally *United States v. \$580 in U.S. Currency, Representing 550 P.R. Lottery Tickets*, No. 2016-27, 2018 WL 3579454 (D.V.I. July 24, 2018); *United States v. Five Hundred & Forty Dollars (\$540) in U.S. Currency, Representing 540 P.R. Lottery Tickets*, No. 2016-18, 2018 WL 3579453 (D.V.I. July 24, 2018); *United States v. \$5,925.00 in U.S. Currency, Representing 1,664 P.R. Lottery Tickets*, No. 2016-22, 2018 WL 3579452 (D.V.I. July 24, 2018); *United States v. \$485 in U.S. Currency, Representing 410 P.R. Lottery Tickets*, 2018 WL 3579451 (D.V.I. July 24, 2018); *United States v. \$2,900 in U.S. Currency, Representing 2,110 P.R. Lottery Tickets*, No. 2016-15, 2018 WL 3579450 (D.V.I. July 24, 2018).

C. Sports Betting

The territories' biggest contribution to my course comes when we reach the subject of sports betting. Here, I focus on cockfighting. Cockfighting originated 2,500 years ago in southeast Asia and eventually became closely associated with the Philippines and Puerto Rico.⁸⁵ In the 19th century, cockfighting became popular in Hawaii after Filipinos and Puerto Ricans were recruited to work on the islands' sugar plantations.⁸⁶

In 2007, Louisiana outlawed cockfighting, thereby making the sport illegal in every U.S. state.⁸⁷ In contrast, cockfighting remained legal in every U.S. territory. Thus, when Congress passed a law in 2018 outlawing cockfighting in the territories,⁸⁸ Jenniffer González-Colón, Puerto Rico's resident commissioner, immediately began lobbying for its repeal.⁸⁹ When her efforts proved unsuccessful,⁹⁰ private citizens began filing lawsuits accusing Congress of failing to appreciate the sport's cultural, economic, and historical importance to the territories. To date, these actions all have failed⁹¹ due to the U.S. Constitution's

85. See ALAN DUNDES, *THE COCKFIGHT: A CASEBOOK*, at vii (1994). Despite this book's title, it is not a law school casebook but a collection of eighteen essays about cockfighting. See CASEBOOK, *supra* note 4, at 288.

86. See Kathryn M. Young, *Criminal Behavior as an Expression of Identity and a Form of Resistance: The Sociolegal Significance of the Hawaiian Cockfight*, 104 CALIF. L. REV. 1159, 1181 (2016).

87. See CASEBOOK, *supra* note 4, at 289 (explaining that Louisiana was the last U.S. state to outlaw cockfighting).

88. See Perez, *supra* note 21. Despite Congress's action, laws authorizing (or exempting from criminal prosecution) cockfighting remain on the books in Guam, the NMI, Puerto Rico, and the USVI. 9 GUAM CODE ANN. § 64.40 (2019); 11 GUAM CODE ANN. § 5205 (2017); 22 GUAM CODE ANN. §§ 39101–18 (2012); 6 N. MAR. I. CODE § 3197(b) (2024) (not yet available in bound form but viewable at https://cnmilaw.org/pdf/public_laws/21/pl21-31.pdf (last visited Dec. 30, 2024)); P.R. LAWS ANN. tit. 15, §§ 281-302b (2024); V.I. CODE ANN. tit. 14, § 181(e) (2024). American Samoa's laws contain no provisions on cockfighting. *Animal Protection Laws of American Samoa*, ANIMAL LEGAL DEF. FUND, <https://aldf.org/wp-content/uploads/2023/01/Animal-Protection-Laws-of-American-Samoa-2022-Animal-Legal-Defense-Fund.pdf> (last visited Dec. 30, 2024).

89. See Press Release, Congresswoman Jenniffer González-Colón, *Defending the Cockfighting Industry in the U.S. Territories* (Feb. 13, 2019), <https://gonzalez-colon.house.gov/media/press-releases/defending-cockfighting-industry-us-territories> (announcing that González-Colón has “introduced bipartisan legislation - cosponsored by all the delegates from the U.S. territories - to overturn the federal ban on cockfighting”).

90. In 2023, a new lobbying campaign was launched by Guam's congressional delegate, James Moylan. See Shane Tenorio Healy, *Delegate Looks at Repealing Federal Cockfighting Ban*, GUAM DAILY POST (Sept. 23, 2023), https://www.postguam.com/news/delegate-looks-at-repealing-federal-cockfighting-ban/article_90479aac-58fc-11ee-b5ed-935bd31c0bcf.html.

91. See *Salas v. United States*, 116 F.4th 830 (9th Cir. 2024) (refusing to reinstate cockfighting in the NMI); *Linsangan v. United States*, No. 20-17024, 2021 WL 6103047 (9th

Territorial Clause.⁹² As a result, they provide an excellent opportunity to teach students about the Territorial Clause and its application, through the *Insular Cases*,⁹³ to the territories, a topic most constitutional law courses omit.⁹⁴

IV. CONCLUSION

Law students should not be sent out into the world thinking that the United States consists of just the 50 states and the District of Columbia. Law professors can help ensure this does not happen by including a discussion of America's territories in every course they teach. Not only will doing so ensure that the next generation of U.S. lawyers are more knowledgeable than their predecessors, injecting some exotica into one's courses tends to liven things up. On this last point I speak from happy personal experience.

Cir. Dec. 22, 2021) (refusing to reinstate cockfighting in Guam); *Hernandez-Gotay v. United States*, 985 F.3d 71 (1st Cir.), *cert. denied*, 142 S. Ct. 336 (2021) (refusing to reinstate cockfighting in Puerto Rico).

92. The Territorial Clause, of course, authorizes Congress “to . . . make all needful Rules and Regulations respecting . . . Territory . . . belonging to the United States.” U.S. CONST. art. IV, § 3, cl. 2. It is the basis for all federal laws and regulations affecting the territories. See Cesar A. Lopez-Morales, *Making the Constitutional Case for Decolonization: Reclaiming the Original Meaning of the Territory Clause*, 53 COLUM. HUM. RTS. L. REV. 772, 779 (2022) (“[T]he source of Congress’ authority over the territories is the Constitution itself, as interpreted in a long line of Territory Clause precedent of the Supreme Court . . .”).

93. As is well known, the *Insular Cases* are an ill-defined group of U.S. Supreme Court cases decided beginning in 1901 that applied the Territorial Clause to America’s overseas possessions and now form the basis of modern territorial jurisprudence. See BARTHOLOMEW H. SPARROW, *THE INSULAR CASES AND THE EMERGENCE OF AMERICAN EMPIRE* 257 (2006) (“Almost every writer on the *Insular Cases* has his or her own particular list of cases, from as few as three to as many as twenty-three.”). In recent years, these decisions (however defined) have been increasingly criticized as being steeped in racist thought. See, e.g., *United States v. Vaello Madero*, 596 U.S. 159, 180 (2022) (Gorsuch, J., concurring) (“It is past time to acknowledge the gravity of this error and admit what we know to be true: The *Insular Cases* have no foundation in the Constitution and rest instead on racial stereotypes. They deserve no place in our law.”).

94. See Susan K. Serrano, *Elevating the Perspectives of U.S. Territorial Peoples: Why the Insular Cases Should Be Taught in Law School*, 21 J. GENDER RACE & JUST. 395, 413–16 (2018).