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TOPPLING CHRISTOPHER COLUMBUS; PUBLIC STATUES AND MONUMENTS

Ross Sandler^{a1}

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Christopher Columbus is in trouble. Political pressure to remove Columbus monuments most recently dates from 1992 during the preparations for the 500th anniversary of Columbus's first voyage. The movement to remove the monuments accelerated in the summer of 2020 following the murder of George Floyd.

Columbus, according to many contemporary historians and writers, was the first of many exploiters and destroyers of the civilizations that already existed and flourished in the Western Hemisphere. One of the leading books, David E. Stannard's *American Holocaust* (Oxford U. Press 1992) graphically and persuasively detailed the annihilation of the existing indigenous civilizations. Stannard starts with Columbus's own acts that led to the destruction of 8,000,000 Caribbean people within twenty years. Stannard then moves through similar acts of annihilation in Central America, South American and North America. This readable, authoritative, and polemical book, and others that followed, have produced a general agreement that Columbus was guilty of kidnapping, enslavement, and brutality directed at the indigenous peoples of the New World.

The anti-Columbus forces have run up against the strong feelings in the Italian American community. Italian immigrants to the United States suffered discrimination and prejudice. Beginning in the late Nineteenth Century the Italian American community adopted Columbus as proof of the Italian community's legitimacy and entitlement to be considered as full Americans. Many of the Columbus statues and monuments were paid for by members of the Italian American community as a response to, and in defiance of, the discrimination experienced by many Italian immigrants. Italian immigrants, by embracing Columbus as one of their own, placed themselves at the very beginning of the Western involvement with the Americas. This identification legitimized Italian immigrants as fully entitled to being Americans and poked a hole in the traditional stories of English settlement of North America.

The defenders of Columbus also point to his positive qualities--his seamanship, perseverance, courage, and diplomatic skills that allowed him to conceive and lead his first epochal voyage of discovery. These positive qualities are what have been memorialized in hundreds of monuments, place names and art works.

These cultural crosscurrents of loyalties to the American ideals and identification with past injustices have produced significant recent litigation, in some of which Columbus prevailed, while in other cases Columbus did not.

State and local governments, courts have held, have the right to decide what civic monuments they want to display on public land. They can put up and take down a monument as a function of their constitutional right to free speech. Limitations on governmental speech are political.

Government answers only to the voters when it decides whether it likes or doesn't like a public monument installed on public land by a prior government.

Allegations of discriminatory intent or actual discrimination by defenders of the Columbus statues have been futile. On the other hand, where there are bona fide rights in the form of contract, trust, or statutory obligations, the courts can limit actions by governments. The extent of those limitations will be determined as the cases climb up the appellate ladder.

The Monument Lab, a not-for-profit organization funded by the Mellon Foundation and dedicated to understanding public monuments, reported in 2021 that there were 149 monuments to Columbus in the United States. Columbus was number three behind Abraham Lincoln (193 monuments) and George Washington (171 monuments). Bloomberg News reported that prior to 2021 some 36 Columbus monuments had been removed. More Columbus monuments have since been removed.

Syracuse, New York

In the early twentieth century the Italian American community of Syracuse lobbied for and helped pay for the Columbus statue which was installed in 1934 in its prominent place in front of the Onondaga County Courthouse in Syracuse's civic center. The statue of Columbus stands on top of a tall granite column in an area that came to be called Columbus Circle. Embedded in the base supporting the statue in relief are four bronze, full-bonneted heroic heads of American Indians chiefs, below which are bronze reliefs showing Columbus meeting with Indians who are shown in subservient poses. The statue stands on land that the Onondaga Nation asserts had been their land for centuries.

By 1987 Syracuse's Columbus monument had deteriorated to the point that it required substantial rehabilitation. Costs were estimated at \$450,000. The local Italian American community again raised a substantial amount, \$137,500, but not enough to do the job. The City of Syracuse came through with \$137,000. The remainder of the money came from the State of New York which allocated \$200,000 from the State's Environmental Quality Bond Act. This fact later proved decisive in preserving the monument.

Protests against the Columbus statue began as early as 1991. In 2018, Syracuse Mayor Ben Walsh appointed an Interfaith Committee to create a dialog and to advise on the Columbus statue. The murder of George Floyd accelerated those discussions and on June 20, 2020, a month after the murder of George Floyd, Mayor Walsh announced that he was convening a "Columbus Circle Action Group" to advise on the creation of an "all-season, education and learning site" in the downtown park where the city's statue of Christopher Columbus stands. Four months later on October 9, 2020, Mayor Walsh announced that Syracuse would remove the statue of Columbus and redevelop the civic park into a "Heritage Park."

An Italian American organization dedicated to protecting the Columbus statue, along with 27 individuals of Italian descent, sued to stop the removal of the statue. The City defended its decision and the Onondaga Nation asked to intervene in the lawsuit in support of removal of the Columbus statue. The Onondaga Nation alleged that the Onondaga Nation had standing

because the Onondaga Nation been subjected to five centuries of devastation by European colonialism and also because the Columbus statue stood on the “original homelands” of the Onondaga Nation. The Onondaga Nation further alleged that the Columbus statue “is a significant cause of historic trauma for the Onondaga Nation and its citizens.”

In March 2022 Onondaga County Supreme Court Justice Gerald J. Neri ruled against the City of Syracuse and the Onondaga Nation and, at least temporarily, saved Syracuse's Columbus statue from being removed. Judge Neri ruled that the City of Syracuse was under contract to protect and preserve the statue, citing the agreement between the City of Syracuse and the State of New York that the City had signed in 1992 when it obtained the State Environmental Bond funds. The provision required the City to preserve the monument for its useful life. As the judge noted, the statue was made of bronze and could last a thousand years.

The City of Syracuse intends to appeal. Meanwhile, the Columbus statue, like a human tenant fighting a landlord/s eviction notice, remains standing in Syracuse's Columbus Circle.¹

West Orange, New Jersey

Similar demonstrations in the summer of 2020 following the murder of George Floyd caused Mayor Robert Parisi of West Orange, New Jersey to announce his intent to remove West Orange, New Jersey's Columbus Monument. The West Orange monument was funded by a civic organization, The Valley Civic Association, and erected in 1992 in honor the 500th anniversary of Columbus's first voyage. The large granite stone monument was engraved with an image of Columbus with the words “Discoverer of America” and “Foresight Faith Courage.” Mayor Parisi claimed that the monument's message perpetuated divisiveness and constituted a symbol of hate and oppression.

The Italian American One Voice Coalition sued West Orange over the removal. Andre DiMino, the executive director of the Italian American One Voice Coalition, noted that the Columbus statues were dedicated as an apology and atonement for the brutal denigration and discrimination endured by Italian Americans in the late 1890s and early 1900s. “Attacking Columbus,” he said, “is an attack on Italian Americans.”

The One Voice Coalition claimed standing to sue because some of its members would visit the monument on Columbus Day. The Coalition alleged that West Orange violated its constitutional rights of equal protection because Mayor Parisi had acted with discriminatory intent against Italian Americans when he directed that the monument be taken down. The Valley Civic Association, the private donor that had originally paid for the monument in 1992, did not join the litigation. This proved decisive.

U.S. District Court Judge Claire C. Cecchi ruled against the Italian American One Voice Coalition and in favor of West Orange. Judge Cecchi ruled that the Italian American One Voice Coalition lacked standing to sue. The Coalition had no property interest which would trigger constitutional protections because neither the Coalition nor its members owned the monument or paid for it. West Orange, New Jersey removed its Columbus monument in June 2021.²

Newark, New Jersey

Newark's Mayor Ras Baraka, without litigation, followed West Orange's lead and on June 26, 2020, removed a Columbus statue from Newark's Washington Park and placed it in storage. Newark's Columbus monument had been a gift of the Italian American community and was dedicated in October 1927. Vandals had attempted to topple the statue which created a public safety issue. Mayor Baraka said that the removal of the Columbus statue “should not be perceived as an insult to the Italian American community. It is a statement against the barbarism, enslavement, and oppression that this explorer represents.”

The pedestal for the statue will be reused. Plans call for a monument honoring Harriet Tubman to be placed on the pedestal.

New Haven, Connecticut

The New Haven, Connecticut statue of Columbus was gifted to the City of New Haven in 1892. The statue was paid for by 200 Italian immigrants and was installed in New Haven's Wooster Square, a public park in an area that was a heavily Italian American neighborhood. In 1952 the original large copper Columbus statue was recast in bronze and placed on the same site in Wooster Square. The Columbus statue was an important focal point for the activities of the American Italian Women for Greater New Haven which conducted an annual wreath-laying ceremony at the base of the statue.

Demonstrators in 2017 vandalized New Haven's Columbus statue with red paint splattered on the statue and the words “Kill the Colonizer” spray painted on its base.

On June 17, 2020, a month after the murder of George Floyd, the New Haven Park Commissioners voted to remove the statue. The City physically removed the statue one week later, on June 24, 2020. The American Italian Women for Greater New Haven sued, asserting discrimination in violation of its equal protection, due process, and First Amendment rights.

U.S. District Court Judge Janet C. Hall ruled that the American Italian Women for Greater New Haven had standing to sue based on the organization's activities at the statue but ruled that New Haven had the right to remove the statue as a matter of its free speech. Quoting the Supreme Court, Judge Hall wrote that the “messages of permanent monuments in a public park constituted government speech, even when the monuments were privately funded.” Judge Hall continued that New Haven was free to choose the monuments it displays without the constraints of the First Amendment.³

Pittsburgh, Pennsylvania

In the summer of 2020 following the murder of George Floyd, Pittsburgh, Pennsylvania opted to remove a Columbus statue that had stood for 65 years in Pittsburgh's Schenley Park. With approval of the Pittsburgh Art Commission Mayor Bill Peduto, over the weekend of October 10-11, 2020, just before Columbus Day, had city workers wrap the fifty-foot statue and granite base entirely in thick, opaque plastic. The statue and the base on which it stands were

wrapped from the top to the ground, and looks surprisingly artistic as if the artist Christo had wrapped the statue as one of his environmental sculptures.

The Italian Sons and Daughters of America sued the city. After two years of litigation Judge John McVay of the Allegheny County court of Common Pleas ruled in favor of the City of Pittsburgh. Judge McVay, following a similar litigation in Virginia over the removal of a statue of Robert E. Lee, ruled that Pittsburgh was lawfully exercising speech when it decided to take down a public monument on public property. Judge McVay ruled that privately funded monuments placed in public parks represent government speech. The accountability for the choices made by government in the form of speech is through the election process.⁴ The Columbus statue remains wrapped in plastic.

Plainfield, New Jersey

Legal issues have also surrounded paintings. Columbus prevailed in a case involving a large valuable painting owned by City of Plainfield, New Jersey. In 1919, J. Ackerman Coles, a philanthropist, gave to Plainfield, through a charitable trust, a large eight-by-twelve-foot painting by Albert Bierstadt entitled “The Landing of Columbus.” The painting shows Columbus and many followers being peacefully greeted on the shore by half-dressed indigenous people. Columbus's ships are in the background and the indigenous people are kneeling in subservient poses and greeting Columbus and his men who are celebrating just having beached their boats on the shore.

Three months after the murder of George Floyd, Plainfield applied to the New Jersey Attorney General for permission to sell “The Landing of Columbus.” Plainfield estimated that the painting was worth \$15 million. In making the application Plainfield alleged that the painting no longer provided aesthetic enjoyment to the community and that it was a source of constant controversy.

Court approval was needed to sell the Landing of Columbus because the City of Plainfield had accepted the painting in the form of a charitable trust with the City acting as trustee. Plainfield could not sell the paintings without approval of the court in what is called a cy pres proceeding. Plainfield claimed that they could no longer comply with the donor's condition that the painting be displayed for the enjoyment of the public. In its court papers Plainfield stated that it preferred to sell the \$15 million painting and use the funds to support other worthwhile civic programs.

The New Jersey court refused to allow Plainfield to sell the painting. The donor's intention, the court ruled, was for the painting to be displayed and not sold. The court ruled that where possible the court's obligation was to preserve the trust as intended by the donor. The court found that preservation of the Bierstadt painting for display was possible and not impracticable. The court wrote that if the City of Plainfield found the painting's current location offensive, the City was permitted to relocate the painting or donate it to a museum so that the painting could still be displayed as intended by the donor.⁵

Columbus, Ohio

Other cities have removed Columbus statues without litigation. In June 2020, one month after George Floyd's murder, Columbus, Ohio, removed its large 20-foot-high Columbus statue that stood in front of the city hall. Columbus Mayor Andrew Ginther applauded the removal, stating that "For many people in our community, the statue represents patriarchy, oppression and divisiveness. That does not represent our great city, and we will no longer live in the shadow of our ugly past." The statue was placed in storage. According to Mayor Ginther, artwork reflecting anti-racism, diversity and inclusion will replace the statue.⁶ The name of the City, however, remains Columbus.

Boston, Massachusetts

Boston's marble statue of Christopher Columbus standing in Christopher Columbus Park suffered a more dramatic removal. In June 2020 following George Floyd's murder vandals for a second time beheaded the marble statue of Columbus. The decapitated head was found nearby but the second beheading was too much for Boston Mayor Marty Walsh who directed that the Columbus statue be removed and put into storage. He said that given the "conversations" we are having in the country, Boston would have to assess the historic meaning of the statue. Meanwhile the statue remains in storage.

Philadelphia, Pennsylvania

The Italian government in 1876, in honor of Philadelphia's celebration of the 100th anniversary of the Declaration of Independence, gave Philadelphia a marble Columbus statue. The 10-foot-tall statue stands on a 12-foot-tall base and was installed in Fairmont Park. In 1976 Philadelphia moved the Columbus statue to Marconi Plaza in South Philadelphia, one of Philadelphia's oldest and largest Italian American communities.

In early June 2020 following the murder of George Floyd large groups of protesters appeared at the Columbus statue in Marconi Plaza and even larger groups at a statue of controversial former Mayor and Police Commissioner Frank Rizzo that stood in front of Philadelphia's Municipal Services Building. The protests at the Mayor Rizzo statue threatened violence and on June 3, 2020, under the cover of night, Mayor Jim Kenney invoked his emergency powers to remove the statue of Mayor Rizzo. Mayor Kenney justified the mid-night removal because he feared that the protesters would be injured if the nine-foot, 2000-pound bronze statue suddenly toppled and fell on them.

The events at the Columbus statue in Marconi Plaza produced a different result. Local Italian counter-protesters from the South Philadelphia Italian American community, some of whom were armed with clubs and rifles, confronted the protesters at the Columbus statue. The protectors of the Columbus statue stayed through the night, fearing that Mayor Kenney would attempt to remove the Columbus statue under the same emergency authority that he had invoked to remove the statue of Mayor Rizzo.

On June 14, 2020, the Friends of Marconi Plaza along with two individuals filed an emergency petition for a restraining order to prevent Mayor Kenney from removing the Columbus statue. Mayor Kenney backed off from immediately removing the Columbus statue and instead filed a formal application with the Philadelphia Art Commission for the requisite administrative permission to remove the Columbus statue.

Mayor Kenney affirmed that the Columbus statue would not be removed or altered without the formal approval of the Art Commission. Two days later on June 16, 2020, Mayor Kenney directed City workers to encase the Columbus statue completely from the ground up in a plywood protective box.

Following hearings before the Philadelphia Art Commission and the Philadelphia Historical Commission, Mayor Kenney received permission to remove the Columbus statue. The Friends of Marconi Plaza again sued and succeeded on August 17, 2021, in enjoining any removal of the statue. Court of Common Pleas Judge Paula A. Patrick, citing Philadelphia's statutory and procedural rules governing the removal of publicly owned historical objects, overturned the administrative permissions to remove the Columbus statue, thereby preventing Mayor Kenney from taking any action to remove the Columbus statue. Judge Patrick ruled that the administrative agencies had acted arbitrarily and made multiple procedural and substantive errors in considering the removal of the Columbus statue.⁷ The City of Philadelphia has appealed Judge Patrick's ruling.

Meanwhile, the Columbus statue remains standing in Marconi Plaza completely encased in its plywood box. The City of Philadelphia, however, at the request of an Italian American councilmember, painted the plywood box for Columbus Day 2022 with the colors of the Italian flag; green, white, and red. Thomas DeFino, one of the residents of South Philadelphia who gathered in Marconi Plaza to celebrate their Italian American heritage, welcomed the City's paint job. He was quoted in the Philadelphia Inquirer as saying that the colors on the box “made us feel a little bit better,” and added, that Columbus “should have been taken out [of his box] at least for one day.”⁸

Chicago and New York City

The discussions in Chicago and New York City concerning their respective statues of Columbus led to opposite results. Chicago removed its Columbus statue, while New York City kept its.

Mayor Lori Lightfoot of Chicago and Mayor Bill de Blasio of New York City each established blue-ribbon advisory commissions that rendered lengthy and elaborate reports to their respective mayors.

Chicago's advisory commission recommended removal of Chicago's Columbus statue. The Chicago Monument Project noted that Columbus was regarded by the Italian American community as a symbol of cultural pride, but concluded that “the image of Columbus has become a bitter reminder of centuries of exploitation, conquest and

genocide. To many the display of the figure is seen as a justification of these historic wrongs.” The Project also cited adverse public response to the statute and recent physical attacks and asserted that long-term security related public safety would be “resource prohibitive”

Mayor Lori Lightfoot, following the Project's recommendation, immediately removed Chicago's Columbus statue from Grant Park on March 4, 2022 and placed the statue in storage. Mayor Lightfoot remarked that the statue had become so contentious that it had become a public safety concern. In April 2022 Mayor Lightfoot stated that she intended to bring the statue back, but did not say when or where that would happen. She conditioned the restoration of the Columbus statue on a satisfactory safety plan.

A majority on the New York City Advisory Commission on City Art, Monuments, and Markers reported in January 2018 that the issue was one of reckoning with history and truth. This reckoning required a movement towards “collective healing” to address past pain, contemporary issues represented by Columbus, and the importance of the monument as a symbol of pride for Italian Americans and others. The Advisory Commission opined that Columbus represented complexity and contradictions in American history and recommended a wide array of remedies to create a new public discourse. These remedies included temporary or permanent artworks and monuments that would create a “robust public dialog that more fully tells our history, rooted in a nuanced recognition of the pride, trauma, marginalization, and dispossession the monument represents.” The Advisory Commission envisioned new artwork at or near Columbus Circle as “on-site intervention” and counter monuments, among other educational efforts and public recognitions of indigenous peoples.

A majority of the members of the New York City's Mayoral Advisory Commission recommended that the city keep the Columbus statue standing high in Columbus Circle but recommended adding educational information and the fostering of a public dialog on the complexity of Columbus's role and the monument's meaning today. A minority of the members voted for removal and/or relocation of the Columbus statue from Columbus Circle.

Not much has actually changed at Columbus Circle in New York City. The seventy-six-foot monument to Columbus remains. There are no educational or counter artworks visible, and the city's annual Columbus Day parade occurred on Monday, October 10, 2022, on Fifth Avenue without any major disruptions. Mayor Eric Adams was among the marchers.

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Monuments to Columbus present particularly difficult choices, not merely because of the identification with the Italian American community. Columbus also represents important American values.

Columbus's story resonates heavily with the American values of energy, persistence, invention, commerce, achievement, and wealth. Columbus began poor. His innate talents and willpower allowed him to become a successful sea captain. He then had a magical insight about possibilities that others failed to see. He doggedly pursued his insight, endured humiliations while seeking the financing for his voyages, and finally succeeded. His hard work initially brought him wealth and fame. The story of Columbus's achievements may be the first in the line of such American success stories as those of Alexander Hamilton, Thomas Edison, Henry Ford, and Bill Gates.

Columbus monuments also elicit feelings of patriotism. These patriotic feelings are present whether in the name of the Space Shuttle Columbia that took astronauts into space, or the name of the special District of Columbia created as the site for the new government of the United States of America. Columbus's arrival in the Western Hemisphere in 1492 was, for better or worse, the beginning of the events that led to the creation of the democratic and powerful United States of America. Monuments to Columbus are in that sense a creation story and speak to the better values of patriotism.

This is not to deny the truths of enslavement, brutality, and genocide. But it does help to explain the ambiguity of public feelings and choices about Columbus.

Public monuments live and die as a result of public choices. On July 9, 1776, after news reached New York City of the approval of the Declaration of Independence, a mob toppled the statue of George III that stood in Bowling Green. On April 9, 2003, the large statue of Saddam Hussein in Baghdad's Firdos Square was pulled down and destroyed by Iraqi civilians and United States Marines. And today, monuments to Soviet Union's soldiers and victories in World War II are being torn down in Poland, Ukraine, and other Eastern European countries.

The New York City Mayoral Advisory Commission on City Art, Monuments, and Markers attempted to set out fundamental principles to guide government in making decisions on putting up or taking down monuments. These principles include recognizing the power of public monuments to represent history, respect for the complexity of history and the multiplicity of narratives, inclusion of disparate groups, and justice for the peoples represented or ignored by the monuments.

The current political power of those alive today have made their stories and values heard. Their contemporary power is now determining what is or continues to be memorialized in public monuments. The murder of George Floyd successfully energized the anti-Columbus monument movement that resulted in political decisions to remove monuments. It will take equally energized political movements to decide what replaces the missing Columbus monuments and what values we wish to those monuments to symbolize.

Footnotes

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Ross Sandler is the Director of the Center for New York City Law and the Editor of CityLaw.

1. *Columbus Monument Corp. v. City of Syracuse*, 166 N.Y.S3d 90 (Sup. Ct Onondaga Cty 2022).
2. *Italian American One Voice Coalition v. Township of West Orange*, 2021 WL 3260855 (D.N.J. 2021).
3. *American Italian Women for Greater New Haven v. City of New Haven*, 2022 WL 1912853 (D. Conn 2022).
4. *Italian Sons and Daughters of America v. City of Pittsburgh* (Com. Pleas, Allegheny Cty, GD-20-010732).
5. *In the matter of the Bierstadt Paintings Charitable Trust Dated*, October 6, 1919, 2021 WL 3057076 (Sup Ct N.J. App. Div. 2021).
6. <https://www.npr.org/sections/live-updates-protests-for-racial-justice/2020/07/01/885909530/columbus-ohio-takes-down-statue-of-christopher-columbus>
7. *Friends of Marconi Plaza*, 2021 WL 6841421 (Pa. Com. Pl., filed January 20, 2022).
8. <https://www.fox29.com/news/box-covering-christopher-columbus-statue-in-philadelphia-painted-with-colors-of-italian-flag>