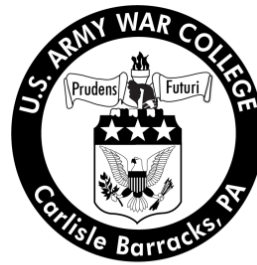


# The Struggles of an Eternal American Colony

by

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United States Army War College  
Class of 2012

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**THE STRUGGLES OF AN ETERNAL AMERICAN COLONY**

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## **ABSTRACT**

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This paper explores the controversial political status of Puerto Rico, its relationship with the United States and its ongoing debate of self-determination. It looks back and reflects upon the events throughout its history that have had an impact on its current condition, from its first native inhabitants, through its development as a Spanish colony, and its commonwealth status under United States sovereignty. The paper examines the circumstances that created the three major political ideologies that exist on the island today and the effects if any each may have on regional security. Contributions made by the island and its people in support of U.S. National Security Strategies are presented. This paper will conclude with a recommendation that will guarantee a permanent solution to Puerto Rico's political status.





## THE STRUGGLES OF AN ETERNAL AMERICAN COLONY

Whenever those states which have been acquired as stated have been accustomed to live under their own laws and in freedom, there are three courses for those who wish to hold them: the first is to ruin them, the next is to reside there in person, the third is permit them to live under their own laws, drawing tribute, and establishing within it an oligarchy which will keep it friendly with you.

—Niccolò Machiavelli<sup>1</sup>

Located in the Caribbean, along the treacherous divide between the Atlantic Ocean and Caribbean Sea, consisting of approximately 3,500 square miles of an array of distinct ecosystems, Puerto Rico has been a key piece of real estate throughout its history. Its position within the Caribbean was strategically crucial during territorial conquests and colonization of the New World and as an extension of U.S. power in the Americas. From its colonial rule under the Spanish Empire since its discovery in 1493 to its present day status of an unincorporated territory of the United States, this island of enchantment has endured over five centuries of foreign governance while seeking to discover itself. In the words of U.S. Senator Henry Cabot Lodge, Puerto Rico was the “most beautiful of the Greater Antilles, with its large population and a commanding strategic position....”<sup>2</sup> As the world powers sought to apply its rule over the island, its peaceful and somewhat complacent inhabitants sought to identify themselves bringing life to its everlasting question of self-determination.

Hidden under the guise of Commonwealth, Puerto Rico’s political status remains controversially an “organized but unincorporated territory” of the United States, as established by the Jones-Shafroth Act of 1917.<sup>3</sup> A look into the island’s history is necessary to provide a frame of reference to understand its current political status was

never intended to be permanent. Puerto Ricans have struggled to obtain a permanent and legal status of self-rule throughout its history. This struggle for self-determination gave root to three principle ideologies expressed within multiple political parties throughout the island's history: Statehood, Independence and Free Associated State. An analysis of each of these political alternatives will address the benefits and challenges both the United States and Puerto Rico must face in choosing the best for both. The island's desire for self-determination presents the ambiguity of Puerto Rican politics as an enigma of its status: its passion to defend its national pride and distinct cultural identity on one side, and the ongoing need to mediate the island's standing and relationship with the United States on the other.

A probe into the legal determinations upheld within the Insular Cases will provide an interpretation of the thought process used to support these decisions. The Insular Cases were various U.S. Supreme Court decisions concerning to the legal status and applicability of the constitution upon the territorial islands obtained after the end of the Spanish-American War.<sup>4</sup> By looking closely at the decisions of the Insular Cases one can argue there are slight contradictions from the constitution; decisions likely influenced by the imperialistic mindset still vivid at the time. This paper disputes the arguments presented within the Insular Cases that forced Puerto Rico away from becoming an incorporated territory followed by one of the options of permanent self-governance. The U.S. Supreme Court should review the Insular Cases and reverse the decisions that clearly violated the rights of all U.S. citizens residing in Puerto Rico. To break the imperialist stigma, Congress should provide a federally sanctioned plebiscite

with options to vote for one of two forms of permanent non-territorial status: statehood or independence; an independence that is full or in free association.

To understand the Puerto Rican culture of today, one must look to history and bring to light the events that may have manifested into one of Machiavelli's courses of action as stated in the epigraph. From its pre-colonial period, Puerto Rico was mostly inhabited by Taino and Carib Indians who had made their way through the Lesser Antilles from South America. Taino Indians were a peaceful tribe skilled in hunting and agriculture, while the Carib Indians were a fierce warrior tribe who raided Taino settlements to plunder their food and valuables, and enslave their women. Upon the arrival of Spanish conquistadores in 1493, both tribes succumbed to slavery by the colonizers,<sup>5</sup> merging the distinct traits of each tribe over the years. Towards the early 1500's, Spanish law, under pressure from the Roman Catholic Church, modified the systems of slavery into one that prohibited harsh punishment of the Indians and provided them with military protection from other hostile tribes; and an education of the Spanish language and Catholic faith as a method of compensation for labor provided.<sup>6</sup> Yet, cruel treatment remained a reality and many of the indigenous people, discontent these conditions, found their way off the island. As the indigenous work force began to decline as a result of the exodus of the relentless indigenous population eluding Spanish rule, African slaves were brought to the island to maintain the labor balance,<sup>7</sup> eventually adding to the cultural development of the island.

By 1527, concerned by the ignominy of being of dark-skin and the increasing numbers of this mestizo population, the king of Spain established a law in Puerto Rico that white men only marry white women in order to increase white population as a

measure to ensure white supremacy.<sup>8</sup> The Spanish colonizers continued to impose their will upon the indigenous people while simultaneously assuming an inherent role in the colonization process throughout the sixteenth and seventeenth century. It was from this process the fundamental roots of the Puerto Rican race came to be: the indigenous Taino Indians, the Spanish conquistadores and the African slaves; the combination of which has become an identity and source of pride for the vast majority of Puerto Ricans today. Nonetheless, this new breed began to take an identity of its own, clearly distinguished not only by their physical traits, but in by their ideals. Those born on the island became known as creoles, while their European brethren were considered as white.<sup>9</sup> This distinction did not reject the uniqueness of their Spanish heritage; it accepted the uniqueness of their own identity. Simply put in the words of Dr. Antonio Pedreira, “the Puerto Rican considered himself a Spaniard *from here* with ideas and reactions different from those *from there*.”<sup>10</sup>

Puerto Rico’s strategic location played an important role as Spain’s principle military outpost guarding the entrance to the Caribbean, making it a prized objective to other nations seeking riches in the Caribbean.<sup>11</sup> Achieving victory against multiple attacks from English and Dutch naval forces from the late sixteenth century well into the eighteenth century, the creoles’ unification intensified, strengthening their very own consciousness. Events such as the American Revolutionary War, the French Revolution, and the Latin American wars of independence had a profound effect on the island. Their sense of being, their differences from the whites eventually manifested into their desire for self-rule.

By the nineteenth century, the creoles had matured into a Puerto Rican people of the island. Just as their ideas and reactions were different from the Spaniards, so were their own interests. Highly intellectual in comparison to their beginnings over 300 years before, this was their awakening, their newly founded identity and they wanted to control it. But rather than take arms in a revolution as other Latin American countries, Puerto Rican leadership opted to negotiate for political rights under the Spanish crown. The tendency to not fight may be attributed to the large population of Spanish soldiers and police, which made it difficult to arm revolts.<sup>12</sup> The high number of Spanish loyalist who came to Puerto Rico from South American countries obtaining their independence may have inhibited rebellious initiatives as well.<sup>13</sup> No one can truly pinpoint the reason Puerto Ricans displayed a pacific nature. The complacency shown during the initial period of colonialism may have played a factor. The fact remains Puerto Ricans had matured into a peaceful culture.

It wasn't until September 23, 1868 that the first pro-independence uprising took place. Known as the "Grito de Lares" (The Cry of Lares) for its origin in the west central town of Lares, it was short lived as Spanish militia contained the rebels as they attempted to take over an adjacent town the following morning. Not many islanders supported the idea of independence; they simply wanted control over their own affairs. Though the revolution had failed, it triggered Spain to eventually grant more political autonomy to the island,<sup>14</sup> in hope to prevent its separation. Spain had lost control of other territories, leading to the assumption it granted additional autonomy to Puerto Rico to avoid potentially losing it. Although what followed for the island was the Charter of Autonomy of 1987, Puerto Ricans had proposed two distinct systems of governance to

replace Spain's authoritarian rule. One was full annexation "into Spain as a province, while the other advocated political and administrative autonomy with continued ties to the Spanish empire."<sup>15</sup> This same sentiment would carry into the next century under a different flag.

Spanish citizenship was granted to native born Puerto Ricans, along with the enactment of Spanish legislation for the Charter of Autonomy on 25 November, 1897.<sup>16</sup> The Charter granted self-governance by an insular parliament of which eight members were elected and seven others appointed by the Spanish crown.<sup>17</sup> Spain retained the power to appoint the governor-general who exercised supreme authority,<sup>18</sup> but more important was the fact that the Charter granted full rights and protection from the colonial constitution.<sup>19</sup> Puerto Rico held its first elections on March 27, 1898.<sup>20</sup> Spanish rule over Puerto Rico was a case in point of Machiavelli's model having resided on the island through its development that allowed them to live under their own rule.

But the U.S. declared war on Spain in April 25, 1898, and victory came to the U.S. by year end when the Treaty of Paris was signed on December 10, 1898, ceding Puerto Rico and other Spanish territories to the United States.<sup>21</sup> There were those on the island that believed Puerto Rico would obtain its independence as in Cuba's situation, but U.S. officials had never announced its intentions regarding Puerto Rico's future when it declared war on Spain; thus, creating the problem of what status the island should assume.<sup>22</sup> Dr. Ramón E. Betances, who fomented the "Grito de Lares" and is considered the Father of the Puerto Rican Motherland, commented in a letter to the president of a pro-independence group, "Cooperate with the North Americans in this time of our freedom; but do not help in the country's annexation. If Puerto Rico does not

act quickly, it will forever be an American colony.”<sup>23</sup> As it may appear, Betances’ prophecy still holds true.

After the Treaty of Paris was signed, Puerto Rico remained under U.S. military rule. The Puerto Rican Republican Party was formed shortly after U.S. occupation. The party’s primary goal was to achieve statehood by running on the platform that English should be taught in all schools to place the island in a better position towards becoming a new state. Although U.S. presence was welcomed by the vast majority of Puerto Ricans the party was not at ease under military control and maintained its conviction of self rule under a civilian government.<sup>24</sup>

U.S. military authorities shared a different perspective. As explained by Theodore Roosevelt, Jr., “like most countries, we were convinced that we had the best form of government ever devised in the world and that our customs and habits were also the most advisable,”<sup>25</sup> Driven by this belief of U.S. superiority, the U.S. military established a plan of nation building to bring the island’s infrastructure up to their standards. The revamping of the island also included the Americanization of its people. This term was most likely and ironically first used during the assimilation of Native American Indians. It was later used as the process of indoctrinating foreigners entering the United States in every way, in speech, in political ideas and principles.<sup>26</sup> Theodore Roosevelt continued to pursue its application in Puerto Rico when he became president.

Both the political structure and educational system were primary targets of the Americanization process. Then Secretary of War Elihu Root believed that for any type of government to succeed in Puerto Rico, it had to first establish an education system and he felt that it was “a duty of highest obligation resting upon the United States”<sup>27</sup> to do so.

Consequently, by late 1899, a new Board of Education as well as an English language school was established in Puerto Rico. Each municipality also employed one teacher from the United States to assist teaching English.<sup>28</sup> Scholarships were offered to children of prominent families to travel stateside and study at the Carlisle Indian Industrial School where its core curriculum was founded in the Americanization process.<sup>29</sup> However, although the intentions outlined by Elihu Root may have been benevolent in nature, they undermined both the intellectual character that existed on the island, and the intentions of the Spanish crown that supported Puerto Rico's autonomous rule.

Further, argument is made that the United States was still undergoing its own growth and development exhibiting imperialistic tendencies. Its Manifest Destiny to expand westward, dominating and oppressing the Native Indians in the process was the established and accepted norm at the time. This was quite the contrary to its own fight against British imperialism the Revolutionary period. This Dr. Jekyll and Mr. Hyde persona would manifest itself throughout many of the political and legal decisions regarding the treatment of Puerto Rico and its other territories.

Puerto Rico remained under U.S. military rule until April 12, 1900 when the Foraker Act was conceived as a temporary legislation to provide revenue and civil government for the island.<sup>30</sup> It authorized a U.S. appointed civilian government to be established on the island.<sup>31</sup> This was seen by Puerto Ricans as an improvement from military rule for it provided similar governance as the island previously experienced. The U.S. president appointed the governor and the eleven member Executive Council (of whom five had to be Puerto Rican), and a thirty-five member Chamber of Delegates



who were elected by the islanders. The power still remained in hands of the American governor and six Executive Council members, while the Chamber was limited to local affairs.<sup>32</sup> The Act established an elected Resident Commissioner in Washington, who was limited to a voice with no vote in Congress. The one major difference the Foraker Act had from the Spanish Charter was the absence of any reference to the status of U.S. citizenship.<sup>33</sup>

The language established within the Treaty had left the status of citizenship for native born Puerto Ricans uncertain and left to be defined by the U.S. courts.<sup>34</sup> Many Puerto Rican politicians favored U.S. citizenship at the time the Foraker Act was enacted, but simultaneously did not want to lose the totality of the sentiments and traits characteristic of the Puerto Rican people.<sup>35</sup> U.S. Congress debated on the citizenship for Puerto Ricans, which led to questions regarding the future relationship between the island and the U.S., and whether granting U.S. citizenship would ultimately entail statehood. To this affair, a provision written within the Foraker Act made all Puerto Ricans “citizens of Porto Rico [sic], and as such entitled to the protection of the United States.”<sup>36</sup>

The Foraker Act became the legal catalyst for the Insular Cases, which were the U.S. Supreme Court decisions concerning the status of the territories acquired through the Treaty of Paris.<sup>37</sup> Parting from the Territorial Clause, which granted Congress the power to dispose and regulate in respect to U.S. territories,<sup>38</sup> these decisions allowed federal courts to determine Puerto Rico was not incorporated as traditionally was the case of territories under the Northwest Ordinance of 1787. The Insular Cases established Puerto Rico as an unincorporated territory; thus, limiting the application of

U.S. law on the island. The Northwest Ordinance was initially established as a process for northwestern territories to be incorporated into the Union before achieving statehood or opting for independence.<sup>39</sup> This process was also used in the annexation of Alaska and Hawaii.<sup>40</sup>

The Supreme Court based its decision to differentiate the circumstances between Alaska and Hawaii from Puerto Rico and Guam on simple language written in the treaties which territorialized each enclave.<sup>41</sup> Wording in both treaties explicitly stated in one way or another that both Alaska and Hawaii would be granted U.S. citizenship, making them incorporated territories on the path towards statehood.<sup>42</sup> In contrast, the Treaty of Paris simply stated the “civil rights and political status of the native inhabitants... shall be determined by the Congress.”<sup>43</sup> The Supreme Court went further to state in the insular case of *Downes v. Bidwell* that Congress was not obliged to incorporate any territory found to be “inhabited by alien races, differing from us in religion, customs, laws method of taxation, and modes of thought... according to Anglo-Saxon principles.”<sup>44</sup> It furthermore established Puerto Rico was “a territory appurtenant and belonging to the United States, but not a part of the United States....”<sup>45</sup> For this reason; Puerto Rico remains an unincorporated territory to this day, albeit with much more preeminent locally elected government.

Motivated by the inconsistencies and the unfavorable decisions of the Insular Cases, and the sense that the reality of statehood was dissipating, many followers of the Puerto Rican Republican Party were still unhappy with the lack of political power. As a result, by 1904, the Unionist Party was founded with the aspirations of obtaining the self-governance they so desired. They presented three options as means to achieve

self-rule. In order of precedence they were statehood, confederation, and lastly independence under the protection of the United States. This was the first time independence was ever formally presented as a viable political status, yet Unionists members, together with the Puerto Rican Republican Party continued advocating statehood.<sup>46</sup>

More years of disagreements and disappointments kept the island's political status in limbo. Continued efforts to Americanize the island's populace met resistance from a people whose bond to its heritage would not relent. The lack of political power to enact local policies and the constant rejection of petitions gave rise to the much felt oppression. All this generated much frustration among the local politicians. By 1913, the Unionist Party, whose membership now dwarfed all other parties, removed the pro-statehood and U.S. citizenship option from their platform.<sup>47</sup>

In 1916 Congress had considered a proposal that would increase self-governance on the island and provide U.S. citizenship to its inhabitants. The Puerto Rican Republican Party supported this proposal, but many Unionist Party members were not content with the idea of U.S. citizenship without statehood. On March 2, 1917, President Woodrow Wilson signed into law what would come to be known as the Jones Act, which imposed statutory U.S. citizenship to Puerto Ricans, provided civil rights, and increased self-governance. The president still maintained control by appointing the governor, attorney general and Supreme Court judges. Congress also retained the power to stop any action taken by the Puerto Rican legislature. As in the Foraker Act, the Jones Act did not stipulate a path to statehood or independence.<sup>48</sup>

With much similarity to the infamous Dred Scott Case, the decision by the Supreme Court in the case of Balzac v. Porto Rico in 1922 again undermined the rights of U.S. citizens that reside on unincorporated soil. In this insular case, Jesús M. Balzac had been prosecuted under criminal defamation in the district court in Puerto Rico. Because Puerto Rico's code of criminal procedures did not allow trial by jury, Balzac appealed to the Supreme Court declaring his Sixth Amendment rights under the U.S. Constitution were violated.<sup>49</sup> The Supreme Court asserted the decision of the lower courts in Puerto Rico that the "provisions of the Constitution... do not apply to a territory belonging to the United States which has not been incorporated...."<sup>50</sup> It went on to say the Jones Act, although having granted U.S. citizenship, "did not have the effect of incorporating Porto Rico...."<sup>51</sup> Furthermore, it explicitly stated that incorporation into the Union cannot be implied albeit citizenship is a step towards incorporation. The Jones Act lacked any language that could infer that Congress intended to incorporate Puerto Rico.<sup>52</sup> The Supreme Court's ruling on the Balzac case became the federal judicial mandate which established that rights of U.S. citizenship for those residing in Puerto Rico were unequal to those residing on the U.S. mainland. It allowed treatment of U.S. citizens residing in Puerto Rico in the same manner as noncitizen "alien races" as defined under the Insular Cases. Still to this day, any U.S. citizen as defined in the 14<sup>th</sup> Amendment of the U.S. Constitution, who elects to establish residency in Puerto Rico shares the same limited rights as mandated by the Balzac ruling.

The thought of being second class citizens remained in the back of the minds of many Puerto Rican politicians. The language question continued to fuel political discord. Many supporters of independence viewed the unincorporated territory status as U.S.

colonial control and believed it to be detrimental to their culture as well as the economy.<sup>53</sup> Although few in numbers, expressions towards full independence began to grow and members of a pro-independence Nationalist Party formed in 1922, rallied in protest.

Between 1936 and 1937, Nationalist Party members, defiant towards U.S. rule engaged in extreme violent activities to include the assassination of the U.S. appointed chief of the Puerto Rican police force and the failed attempt to assassinate President Truman. The turmoil continued and ultimately led to the Ponce Massacre of 1937 where police and Nationalists engaged in a bloody shooting where over twenty one people, including two police officers were killed and over 150 wounded.<sup>54</sup>

In 1938, during a continued period of unrest, the Popular Democratic Party (PPD for its Spanish acronym) was formed. Its founder, Luis Muñoz Marín, and its many of its members were strong politicians who rose from within pro-independence affiliations. They were not anti-Americans as the Nationalist Party, but anti-colonial. Many of the PPD's ideologies were in line with the America's New Deal economic reforms, non-supportive of the Americanization process and committed to the social justice of the common people.<sup>55</sup> Muñoz Marín shied away from the issue of political status and focused on economic growth. In its first appearance on electoral ballots of the 1940 elections, he lost the resident commissioner race, but the party took the Senate by one vote and tied the House.<sup>56</sup> This was a moral victory for the PPD, although they still had to deal with the U.S. Congress who still controlled the presidentially appointed governor and cabinet members.

During the rise of the PPD, worldwide events were generating concern of war within President Roosevelt's administration. Then Governor of Puerto Rico, Blanton Winship, a veteran of the Spanish-American War and World War I, stressed the importance of Puerto Rico "as a strategic point for defense of the Panama Canal, the South Atlantic and Gulf States, and the trade routes of the Caribbean."<sup>57</sup> These thoughts forged the consensus to activate a new Army Department in Puerto Rico by July, 1939;<sup>58</sup> establishing an air base that same year on the west coast and a naval operation base on the east by 1943.<sup>59</sup> Puerto Rico became a key element of the triangular defense to protect the entire Caribbean alongside Panama and MacDill Field in Florida.<sup>60</sup> 65,000 Puerto Ricans served in the U.S. armed forces during World War II, roughly 47,000 more than those that served during World War I,<sup>61</sup> underscoring the vital roles of the island and its people in U.S. national security.

By this time, Muñoz Marin was coming to the realization that independence would negatively affect Puerto Rico economically and by 1945 changed the PPD's platform to one that looked for ways to end colonial relationship with the U.S. while maintaining its economic, military and other bonds with the United States. A few members of the PPD still favoring independence broke from the party a year later and created the Puerto Rican Independence Party (PIP), which till this day advocates full independence. But Muñoz Marin placed emphasis on economical development with the advancement in industrialization, rather than the issue of island's status. And by asserting that without democracy throughout the Americas, neither statehood, independence nor social justice could be achieved, he gained support of the island's

governor at the time, Rexford Tugwell.<sup>62</sup> Tugwell would become the last U.S. appointed governor of Puerto Rico.

Tugwell played a major role influencing Congress' decision to introduce legislature in 1947 that would provide the island the self-governance it had sought for centuries by allowing Puerto Ricans to elect their governor. The bill also allowed the governor elect to appoint the remaining positions controlled by the U.S. Executive branch. During the elections of 1948, Luis Muñoz Marin became the first governor elect for Puerto Rico with over 61% of the votes.<sup>63</sup> Muñoz Marin was ready to work towards the will of the people, not the will of Washington; making one of his first mandates the appointment of a new commissioner of education who promoted the teaching of all subjects in Spanish, with English as a second language.<sup>64</sup>

Having obtained internal self-rule, Muñoz Marin continued to advocate for greater political autonomy while maintaining Puerto Rico's economical bond with the U.S.<sup>65</sup> He conceived the notion that a local constitution, compatible with that of the U.S. must be created to give form to the internal government of the island; that the U.S. and Puerto Rico relationship be separate in local matters, but under regulatory statute; and that this process be agreed by both Puerto Rico and the U.S. and vetted by the people by way of referendum.<sup>66</sup> Thus, on July 3, 1950, Congress approved Public Law 600, which granted the people of Puerto Rico the authority to create its own constitution within well defined parameters specified by Congress.<sup>67</sup> The process spanned over several years from its initial draft by an assembly of elected constituents from August 1950 to February 1952 through its Congressional legislature and approval by the President on July 3, 1952.<sup>68</sup>

Within the original Spanish written version of Puerto Rico's constitution, the wording used to describe the status of the island was "Estado Libre Asociado" (ELA), which literally translates to Free Associated State, but U.S. legislatures opted to translate it as a single word, commonwealth, in the English language version. The word commonwealth has several definitions, which allows for the ambiguity of defining Puerto Rico's true political status. Even with its own constitution; Puerto Rico remains a U.S. unincorporated territory. Although Puerto Rico's constitution granted greater autonomy to its leaders, the U.S. maintained its sovereignty over the island. The *"Final Declaration of the Constitutional Convention of Puerto Rico"*, states that Puerto Rico is acquiring complete self-government, the last vestiges of colonialism having disappeared in principle... any changes to the new legal regime would require the mutual consent of Puerto Rico and the United States.<sup>69</sup> Puerto Rico's Constitution was ratified on July 25, 1952.<sup>70</sup>

In early 1953, the United States successfully sought to terminate its yearly requirement to report on Puerto Rico's status per article 73 of the United Nations Charter<sup>71</sup> on the notion the island was no longer a non-self governing territory.<sup>72</sup> The United Nations accepted Puerto Rico's new constitutional status under the provision that Puerto Rico had entered voluntarily into such agreement with the United States. Therefore, Puerto Rico was removed from the list of non-self-governing territories without truly having resolved its issue of self-determination.

From this point on in history, with the exception of a few minor changes, Puerto Rico has remained an unincorporated territory, subject to congressional jurisdiction under the Territorial Clause of the U.S. Constitution, under the guise of an ambiguous



definition of the word, commonwealth. The three ideologies (statehood, independence and commonwealth) are represented by the current political parties as they continue their struggle to achieve their party's platform. Of the three, only two are constitutionally recognized as non-territorial options.

One of the two non-territorial options is the statehood ideology. Though old in concept, is represented by the youngest of the three main parties, the New Progressive Party (PNP for its Spanish acronym). The PNP advocates for statehood under the position that the current status does not grant full constitutional rights and that the U.S. citizenship they enjoy is not constitutional per the 14<sup>th</sup> Amendment, but by a revocable statute. As a state, all U.S. citizens on the island will enjoy full constitutional rights equal to the citizens of the mainland USA. As a state, Puerto Rico would be subject to equal taxation on all "duties, imposts and excises" per the Tax Uniformity Clause.<sup>73</sup>

The second ideology is that supported by the PPD as previously discussed, who advocate for full autonomy while maintaining U.S. economic relations. Also known as the status quo, it is also a territory under the U.S. Constitution, subject to congressional authority under the Territorial Clause. The Territorial Clause does grant Congress the power to, however unlikely; relinquish its sovereignty over its territory. Under this status, U.S. citizen cannot vote for president. Their ideal position is to maintain a permanent union with the U.S. that was non-territorial, non-state, with full autonomy, while retaining U.S. citizenship.

The final ideology, also recognized as a non-territorial option, is independence. Advocated by the Puerto Rican Independence Party (PIP for its Spanish acronym), they seek by all pacific means available,<sup>74</sup> full independence from the United States to form a

new and separate country with full sovereignty. Party leadership believe that Puerto Rico is capable of sustaining a viable economy based on tourism, manufacturing, agriculture and service industries under a new foreign trade plan void of U.S. tariffs.

There have been only three plebiscites on the status of the island since 1967, all favoring the status quo,<sup>75</sup> to include last two which were sponsored by the PNP while in power. None were federally sponsored; hence the outcomes were non-binding. The first two presented the options for commonwealth, statehood and independence; in 1967 the commonwealth option defeated statehood by 21.4%, and statehood closed the gap to a difference of only 2.3% in 1993.<sup>76</sup> For 1998, five options were presented: Statehood, Independence, Free Association, "Territorial" Commonwealth and None of the Above. The PPD campaigned for the None of the Above option to a victory over statehood by 3.5%. A closer look at the actual number of voters during the general election antecedent to the plebiscite shows a oddly high number of voters who chose not to participate: 180,882 less in 1993 and 401,435 who stayed at home in 1998. For a population that considers politics its national sport, these are surprisingly high numbers of non-participants. This low voter turnout rate may be attributed to voter's knowledge that as a non-binding vote, it's a just a wasted effort.

There are those who make the valid argument that it is the United States' responsibility to lead its territories towards the path of self-determination, whether independence or incorporation on the basis of congressional power to do so. This author not only agrees with this argument, but also argues that Congress has failed in its responsibilities to finalize action pertaining to Puerto Rico's political status. It is in the United States' best interest to comply with the Treaty it signed with Spain over one

hundred years ago to determine the “civil rights and political status of the native inhabitants of the territories...,”<sup>77</sup> which it has not yet accomplished. Furthermore, it is only Congress and not the Puerto Rican political process that has the “power to dispose of and make all needful Rules and Regulations respecting the Territory... belonging to the United States.”<sup>78</sup> The U.S. has also failed to adhere to the articles of the International Covenant on Civil and Political Rights (ICCPR) in that it has not ensured “all individuals within its territories and subject to its jurisdiction the rights recognized in this present Covenant, without distinction of any kind....”<sup>79</sup> Only when the U.S. finally determines the civil rights and political status of Puerto Rico, and for that matter Guam, who is the other remaining territory, will it succeed in abating its taint of imperialism.

Therefore, it is recommended that a congressionally sanctioned and binding plebiscite be held with options that are recognized as non-territorial: statehood and independence. Independence may also be considered in free association, like in the case of the sovereign countries of the Republics of Marshall Islands and Palau and the Federated States of Micronesia which maintain association with the U.S. by compact.<sup>80</sup> All are members of the United Nations.<sup>81</sup> By doing so, the U.S. must also accept its responsibilities do not end with Puerto Rico. This action will set precedence for all other territories in the U.S. inventory: American Samoa, Guam, U.S. Virgin Islands and the Commonwealth of Northern Mariana Islands (CNMI); all of whose inhabitants are born U.S. citizen, except for American Samoans, who are American Nationals.<sup>82</sup> Because of their Commonwealth status, Puerto Rico and CNMI are the only two U.S. territories removed from the United Nations’ list of non-self-governing territories,<sup>83</sup> yet all have sought greater self-governance. Specifically, Guam has failed in numerous attempts to

establish its own constitution so to achieve commonwealth status, while the U.S. Virgin Islands has also held local plebiscites to determine their political status.<sup>84</sup> The attempts by all territories modify their current relations with the U.S. is more reason that the U.S. must initiate actions towards complete self-determination, be it under full constitutional rights or by full sovereignty. Upon accepting its responsibilities in enacting the plebiscite, Congress must bear in mind the rights established within the ICCPR not to discriminate by language.<sup>85</sup> Puerto Ricans understand that “English is the language of opportunity, but Spanish is the language of its heritage” and wish to preserve both.<sup>86</sup>

Understanding the extremely high number of voters who support the current status, the recommendation of a congressionally sanctioned plebiscite cannot be accomplished without consideration of the immediate consequences likely to manifest. Therefore, this process must be drawn out over ten to twelve years. Congress should announce its intent to sanction a referendum ten years out. This would allow the members of the PPD to accept that unincorporated territorial status was always meant as a temporary and transitional status prior to becoming incorporated. All party leaders must guide the members providing with factual advantages and disadvantages. Also during this period, U.S. and Puerto Rican delegates must outline the transition process for both options and come to binding agreement of each in the event of its selection. On learning of the results ten years later, Congress must ensure the pre-agreed transition process is carried out to the point where no further assistance is required.

In closing, Puerto Rico has endured over 500 years of relatively peaceful existence in comparison to other nations within the western hemisphere. Its political status has been wrapped in controversial decisions of an understandably imperialist

frame of mind. Puerto Ricans have developed from an indigenous tribe to a Puerto Rican race with intellectual desires to resolve matters by way of dialog and reason. Groomed by cultural alloy from the Taino Indian, the Spanish and African influence, Puerto Ricans have shown their resiliency over the centuries to adapt to the environment of the time and have forged the path to self-determination.

Having overcome centuries of colonial rule Puerto Rico and its people found they had to prove their worthiness again to their new imperialistic masters that considered them alien to their own land. Fighting for options that would seem feasible for both sides, Puerto Ricans sought statehood knowing they would be in good hands, but were forced to a second class status while sharing the bond of citizenship. Their resiliency tested again, it held fast in spite of the fact that the citizenship that had once seemed perpetual was now transient and awaiting disposition.

The imperialistic logic applied to Supreme Court rulings in regard to the insular cases have generated an ambiguity in Puerto Rico's status as it now must rely on the same body to make amends. Going forth in its determination of righteousness for Puerto Rico, the U.S. must also consider not only the hardship Puerto Ricans have endured, but the commitment and sacrifices they have made throughout its shared history in defense of U.S. interests. Pending execution and fulfillment of the recommendation to hold a congressionally sanctioned plebiscite with only the options of statehood and independence, it remains to be seen if U.S. policy will validate the title of this study.

## Endnotes

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<sup>2</sup> Henry Cabot Lodge, *The war with Spain* (New York: Harper & Brothers Publishers, 1899), 168.

<sup>3</sup> Puerto Rican Federal Relations Act, 48 U.S.C. 731, ch. 145, 39 Stat. 951, March 2, 1917.

<sup>4</sup> Arturo Morales-Carrión, *Puerto Rico: A Political and Cultural History* (New York: W.W. Norton & Company, 1983), 38.

<sup>5</sup> Irving Rouse, *The Tainos: Rise & Decline of the people who greeted Columbus* (Yale University, 1992), 5-7.

<sup>6</sup> Federico Ribes-Tovar, *A Chronological History of Puerto Rico* (New York: Plus Ultra Educational Publishers, 1973), 30.

<sup>7</sup> *Ibid.*, 45.

<sup>8</sup> Jay Kinsbruner, *Not of Pure Blood: The Free People of Color and Racial Prejudice in Nineteenth-Century Puerto Rico* (Duke University Press, 1996), 26.

<sup>9</sup> Kal Wagenheim and Olga Jiménez de Wagenheim, *The Puerto Rican: A Documentary History* (Princeton: Markus Wiener Publishers, 1996), 33.

<sup>10</sup> Antonio Pedreira, *Insularismo: ensayos de interpretación puertorriqueña*, Reprint (San Juan: Biblioteca de Autores Puertorriqueños, 1957), quoted in Nancy Morris, *Puerto Rico: Culture, Politics, and Identity* (Westport, CT: Praeger Publishers, 1995), 22.

<sup>11</sup> Ribes-Tovar, *A Chronological History*, 96.

<sup>12</sup> Francisco Morales-Padrón, "Primer intento de independencia puertorriqueña," *Caribbean Studies*, 1(4) (1962) : 11-20, quoted in Nancy Morris, *Puerto Rico: Culture, Politics, and Identity* (Westport, CT: Praeger Publishers, 1995), 22.

<sup>13</sup> Morales-Carrión, *Puerto Rico: A Political and Cultural History*, 80.

<sup>14</sup> Francisco Moscoso, *La Revolución Puertorriqueña de 1868: El Grito de Lares* (San Juan: Instituto de Cultura Puertorriqueña, 2003), 27.

<sup>15</sup> Nancy Morris, *Puerto Rico: Culture, Politics, and Identity* (Westport, CT: Praeger Publishers, 1995), 22-23.

<sup>16</sup> Alfonso L. Garcia-Martinez, ed., *Puerto Rico: Leyes Fundamentales* (Rio Piedras, PR: Editorial Edil, 1996), 93, quoted in Pedro A. Malavet, *America's Colony: the Political and Cultural Conflict between the United States and Puerto Rico* (New York: New York University Press, 2004), 33.

<sup>17</sup> Puerto Rico Charter of Autonomy of 1897, title III, art. 5.

<sup>18</sup> *Ibid.*, title VII, art. 41.

<sup>19</sup> *Ibid.*, title IX, art. 63.

<sup>20</sup> Pedro A. Malavet, *America's Colony: the Political and Cultural Conflict between the United States and Puerto Rico* (New York: New York University, 2004), 34.

<sup>21</sup> Lodge, *The war with Spain*, 230.

<sup>22</sup> Theodore Roosevelt, Jr., *Colonial Policies of the United States* (Garden City, NY: Doubleday Doran, 1937), 84, quoted in Morris, *Puerto Rico: Culture, Politics, and Identity*, 23.

<sup>23</sup> Angel Rivero, *Crónica de la Guerra Hispanoamericano en Puerto Rico* (Madrid, 1922), 19, <http://quod.lib.umich.edu/p/philamer/ABZ5671.0001.001?rgn=main;view=fulltext> (accessed November 12, 2011).

<sup>24</sup> Morris, *Puerto Rico: Culture, Politics, and Identity*, 24.

<sup>25</sup> Roosevelt, Jr., *Colonial Policies of the United States*, 85, quoted in Morris, *Puerto Rico: Culture, Politics, and Identity*, 24.

<sup>26</sup> Theodore Roosevelt, *American Ideals* (New York: G. P. Putman's Sons, 1920), 25, <http://books.google.com/books?id=2wloAAAAYAAJ&printsec=frontcover#v=onepage&q&f=false> (accessed December 26, 2011).

<sup>27</sup> Morris, *Puerto Rico: Culture, Politics, and Identity*, 25.

<sup>28</sup> *Ibid.*, 25-26.

<sup>29</sup> Editorial Group, Puerto Rico Online Encyclopedia (PROE), "Osuna, Juan José," October 6, 2010. <http://www.encyclopediapr.org/ing/article.cfm?ref=10100601> (accessed December 27, 2011); Pablo Navarro-Rivera, "Acculturation under Duress: The Puerto Rican Experience at the Carlisle Indian Industrial School 1898-1918," *Centro Journal*, Spring 2006, <http://www.redalyc.org/src/inicio/ArtPdfRed.jsp?iCve=37718113> (accessed December 27, 2011).

<sup>30</sup> Edward J. Berbusse, S.J., *The United States in Puerto Rico 1898-1900* (Durham, NC: The University of North Carolina Press, 1966), 150.

<sup>31</sup> Malavet, *America's Colony: the Political and Cultural Conflict between the United States and Puerto Rico*, 37.

<sup>32</sup> Foraker Act of 1900, sec. 17-18, U.S. Statute at Large, 56<sup>th</sup> Cong., Sess. I, Ch. 191. P. 77-86 (April 12, 1900).

<sup>33</sup> Wagenheim and Jiménez de Wagenheim, *The Puerto Rican: A Documentary History*, 110.

<sup>34</sup> Malavet, *America's Colony: the Political and Cultural Conflict between the United States and Puerto Rico*, 37.

<sup>35</sup> Morris, *Puerto Rico: Culture, Politics, and Identity*, 27.

<sup>36</sup> Foraker Act of 1900, sec. 7. U.S. Statute at Large, 56<sup>th</sup> Cong., Sess. I, Ch. 191. P. 77-86 (April 12, 1900).

<sup>37</sup> Malavet, *America's Colony: the Political and Cultural Conflict between the United States and Puerto Rico*, 38.

<sup>38</sup> U.S. Constitution, art 4, sec. 3.

<sup>39</sup> Dick Thornburgh, *Puerto Rico's Future: A Time to Decide* (Washington, DC: Center for Strategic and International Studies, 2007), 9.

<sup>40</sup> *Ibid.*, 10.

<sup>41</sup> *Downes v. Bidwell*, 182 U.S. at 287, May 27, 1901, <http://caselaw.lp.findlaw.com/cgi-bin/getcase.pl?court=us&vol=182&invol=244> (accessed January 24, 2012).

<sup>42</sup> Treaty concerning the Cession of the Russian Possessions in North America by his Majesty the Emperor of all the Russias to the United States of America: June, 1867, art III, [http://avalon.law.yale.edu/19th\\_century/treatywi.asp#art3](http://avalon.law.yale.edu/19th_century/treatywi.asp#art3) (accessed January 24, 2012); The Organic Act of 1900, art 1, sec. 4, <http://www.hawaiianbar.org/pdf/doc19.pdf> (accessed January 24, 2012).

<sup>43</sup> Treaty of Peace Between the United States and Spain, December, 10, 1898, art IX, [http://avalon.law.yale.edu/19th\\_century/sp1898.asp](http://avalon.law.yale.edu/19th_century/sp1898.asp) (accessed January 24, 2012).

<sup>44</sup> *Downes v. Bidwell*, 182 U.S. at 287, May 27, 1901.

<sup>45</sup> *Ibid.*

<sup>46</sup> Morris, *Puerto Rico: Culture, Politics, and Identity*, 29.

<sup>47</sup> Bolívar Pagán, *Historia de los partidos políticos puertorriqueños (1898-1956) vol I* (San Juan: Librería Campos, 1959), 160, <http://ufdc.ufl.edu/UF00078554/00002/160x> (accessed December 23, 2011).

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<sup>49</sup> *Balzac v. Porto Rico*, 258 U.S. at 302, April 10, 1922, <http://supreme.justia.com/cases/federal/us/258/298/> (accessed January 24, 2012).

<sup>50</sup> *Ibid.*, at 303.

<sup>51</sup> *Ibid.*, at 305.

<sup>52</sup> *Ibid.*, at 306-312.



<sup>53</sup> Morris, *Puerto Rico: Culture, Politics, and Identity*, 38.

<sup>54</sup> Wagenheim and Jiménez de Wagenheim, *The Puerto Rican: A Documentary History*, 179-180.

<sup>55</sup> Morales-Carrión, *Puerto Rico: A Political and Cultural History*, 244.

<sup>56</sup> *Ibid.*, 247.

<sup>57</sup> *Thirty-ninth Annual Report of the Governor of Puerto Rico, Honorable Blanton Winship* (San Juan, PR, 1939), 17-18, quoted in Arturo Morales-Carrión, *Puerto Rico: A Political and Cultural History* (New York: W.W. Norton & Company, 1983), 248.

<sup>58</sup> Morales-Carrión, *Puerto Rico: A Political and Cultural History*, 248; Global Security webpage, <http://www.globalsecurity.org/military/facility/borinquen.htm> (accessed September 24, 2011).

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<sup>61</sup> Morales-Carrión, *Puerto Rico: A Political and Cultural History*, 257.

<sup>62</sup> *Ibid.*, 249.

<sup>63</sup> *Ibid.*, 271; Morris, *Puerto Rico: Culture, Politics, and Identity*, 44.

<sup>64</sup> *Ibid.*

<sup>65</sup> Morris, *Puerto Rico: Culture, Politics, and Identity*, 47.

<sup>66</sup> *Ibid.*

<sup>67</sup> Malavet, *America's Colony: the Political and Cultural Conflict between the United States and Puerto Rico*, 43.

<sup>68</sup> Morales-Carrión, *Puerto Rico: A Political and Cultural History*, 273-274.

<sup>69</sup> Malavet, *America's Colony: the Political and Cultural Conflict between the United States and Puerto Rico*, 44.

<sup>70</sup> *Ibid.*

<sup>71</sup> Charter of the United Nations; June 26, 1945, art. 73, <http://www.yale.edu/lawweb/avalon/un/unchart.htm> (accessed, January 31, 2012)

<sup>72</sup> Morris, *Puerto Rico: Culture, Politics, and Identity*, 44.

<sup>73</sup> U.S. Constitution, art 1, sec. 8.

<sup>74</sup> Puerto Rican Independence Party's English Site, <http://www.independencia.net/ingles/welcome.html> (accessed February 11, 2012)

<sup>75</sup> *Elections in Puerto Rico* website, <http://electionspuertorico.org/cgi-bin/municipalities.cgi?municipio=pr&1932=on&1936=on&1940=on&1944=on&1948=on&1952=on&1956=on&1960=on&1964=on&1967=on&1968=on&1972=on&1976=on&1980=on&1984=on&1988=on&1991=on&1992=on&1993=on&1994=on&1996=on&1998=on&2000=on&2004=on&2005=on&2008=on> (accessed January 28, 2011).

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<sup>78</sup> U.S. Constitution, art 4, sec. 3.

<sup>79</sup> International Covenant on Civil and Political Rights, part II, art. 2.1, March 23, 1976.

<sup>80</sup> Officer of Insular Affairs webpage, <http://www.doi.gov/oia/Firstpginfo/islandfactsheet.htm> (accessed March 17, 2012).

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<sup>83</sup> United Nations webpage, <http://www.un.org/en/events/nonselgoverning/nonselgoverning.shtml> (accesses March 17, 2012)

<sup>84</sup> U.S. Government Accountability Office, *U.S. Insular Areas: Application of the U.S. Constitution*,

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<sup>86</sup> CNN, Starting Point with Soledad O'Brien, "Fortuño: We're Proud to be Americans," March 16, 2012, streamed video, 2:15 <http://startingpoint.blogs.cnn.com/2012/03/16/puerto-rico-gov-fortuno-says-puerto-ricans-are-proud-to-be-americans-responds-to-question-of-english-being-official-language/> (accessed March 17, 2012)