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# Reworking the Colonial Formula-Puerto Rico into the Twenty-First Century

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# REWORKING THE COLONIAL FORMULA

## Puerto Rico into the 21st Century

Pedro A. Cabán

### Crisis of Colonial Management

Almost four decades after the United States government announced to the United Nations that Puerto Rico was no longer a colony, Congress is once again considering the island's political status. Legislation is currently pending in the US Senate that may end Puerto Rico's colonial status. On August 2, 1989 the US Senate Committee on Natural Resources and Energy passed a bill to "provide for a referendum on the political status of Puerto Rico."<sup>1</sup> The legislation calls for the people of Puerto Rico to choose on June 4, 1991 from among three options; 1) independence, 2) annexation into the Union as the fifty first state, or 3) redefinition of the current Commonwealth arrangement.

This most recent episode, in a long history of Congressional involvement in defining the nature of Puerto Rico's political-juridical status, suggests that the federal government considers the prevailing relationship deficient and in need of revision. Eight days of Congressional hearings made it painfully obvious that profound economic and social maladies afflict Puerto Rico. Moreover, it was apparent to all concerned that the resolution of these problems is highly unlikely under the prevailing political status, a status the international community recognizes as colonial

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I would like to thank Angelo Falcón and José Sánchez for their comments on an earlier version



in nature. The unspoken issue at the hearings was the efficacy of colonialism for managing the island's political economy.

Crisis in colonial management of Puerto Rico is not new. What is new is the growing momentum for the federal government to reassess its colonial policy, and the seeming realization that the time has come to devise a more cost efficient and workable resolution to the vexing problem of Puerto Rico's political status.

### The Commonwealth and the Economics of Colonialism

Puerto Rico's political status is defined by Public Law 600 (PL 600) and the Puerto Rico Federal Relations Act it created. PL 600 went into effect on July 3, 1950 and authorized the government in Puerto Rico to draft a constitution and establish a republican form of government. The Partido Popular Democrático (PPD), the party in power at the time, was a major force in bringing this project to fruition.

The US Senate committee that wrote the legislation reasoned "that it is in line with the policy of the Government to provide the largest possible measure of local self government for people who are under the flag of the United States."<sup>2</sup> The legislation was widely promoted as a fundamental restructuring of the colonial relationship to permit Puerto Ricans to manage their domestic political economy. Yet the same committee emphasized that the new bill did not diminish the island's subordination to the federal government: "The measure would not change Puerto Rico's fundamental political, social and economic relationship to the United States." Congressman Vito Marcantonio, who was an outspoken advocate for independence and scorned Muñoz Marín and the PPD expressed the same view, although in an unequivocal and flamboyant manner. In opposing the measure he argued:

This bill is merely a snare and a delusion and a fraud perpetrated on the people of Puerto Rico to make them believe we are giving them something. We are giving them nothing...We are misleading them, and we are aiding the present

ruling clique of Puerto Rico to dodge the responsibility they assumed at the time they won their election to bring an end to the colonial status.<sup>3</sup>

On March 3, 1952, 47% of registered voters in Puerto Rico approved a constitution for the island. Approximately 20% of the voters rejected the constitution, while independence forces boycotted the referendum. The "Commonwealth," known in Spanish as "the Estado Libre Asociado," was proclaimed on July 25, 1952. It was presented to the world as a new political entity with autonomous powers over domestic affairs and proudly proclaimed as the end of colonialism for Puerto Rico. However, the US grant of self-government was provisional since, "...[C]onstitutionally, Congress may repeal Public Law 600, annul the Constitution of Puerto Rico and veto any insular legislation which it deems unwise or improper. From the perspective of constitutional law the compact between Puerto Rico and Congress may be unilaterally altered by the Congress."<sup>4</sup>

The creation of the Estado Libre Asociado (ELA) is best understood in the context of domestic and international politico-economic developments in the immediate post war era. It came about when dominant political forces in the colony, intent on preserving their hegemony, allied with US capital and metropolitan state interests.<sup>5</sup> The national and international attention lavished on Puerto Rico converted the little known and poverty stricken island into the center of "Freedom and Power in the Caribbean."<sup>6</sup>

While the ELA preserved the structure of colonial rule, it also gave government officials the necessary autonomy and flexibility to promote a new model of accumulation. For potential investors, Puerto Rico loomed as a new tropical investment paradise, replete with political stability, low wages and a compliant government. Puerto Rico was an ideal investment site for these firms for two reasons. First, Puerto Rico was exempted from federal regulations over industrial labor relations, wage policy, environmental quality, and other regulations. Second, ELA retained the economically attractive features of the colonial relationship--federal tax credits and exemption



from taxation, duty free access to US markets, and monetary stability. For almost twenty years labor-intensive industries fueled the island's economic growth.

On January 19, 1953 the United States unilaterally removed Puerto Rico from the United Nations list of non-self-governing territories, and obtained a permanent exemption from submitting further reports on its social and economic conditions to the Secretary General. Puerto Ricans, the US told the world, had freely chosen through open democratic elections to retain their long-standing association with the United States. In this way the federal government sought to mitigate international criticism of its colonial policy and to authenticate its crusade for post-war global decolonization. Since then, the United States has tried to convince an increasingly skeptical global community that Puerto Rico is not a colony.<sup>7</sup>

The PPD, under the leadership of Luis Muñoz Marín, its founder and first elected governor of Puerto Rico, was a major force behind this symbolic change in the colonial formula. Originally

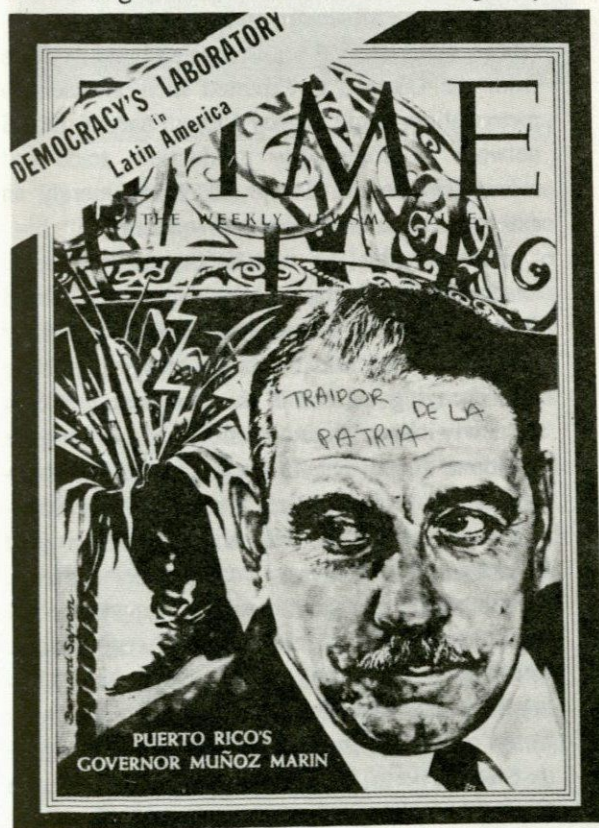
formed in the late 1930s as an anti-imperialist populist movement, the PPD readily dominated Puerto Rico's political scene for nearly three decades. But by 1948 it abandoned the goal of independence and called upon the people of Puerto Rico to support a program of economic integration into the US through a refurbished colonial formula. The PPD's decision to abandon independence and intensify the island's subordination to the metropolitan economy was seen in some sectors as a betrayal which, many consider, precipitated the nationalist uprisings of the 1950s.

In the bipolar post-war world, conceived by the US in terms of preserving national security in the face of Soviet expansion, there was little patience in Congress for an independent, conceivably social democratic, regime in the Caribbean. The PPD leadership recognized this and consolidated its emerging hegemony by legitimizing the objectives of a US foreign policy that was predicated on suffocating national liberation struggles throughout the world.

#### "Perfecting The Commonwealth"

The redefined colonial relationship did not represent the culmination of the PPD's efforts to rework the terms of Puerto Rico subordination. On the contrary, it was the foundation upon which the PPD would pressure the federal government for enhanced autonomy in order to "perfect" the Commonwealth relation. Throughout the 1950s and 1960s, the PPD lobbied the federal government in a failed effort to obtain increased decision-making powers, particularly over those areas that affected economic performance. The PPD had two goals. First, to sustain an internationally favorable investment climate for foreign capital. Second, to fortify its domestic political base. If successful, this would have also prevented its most serious political opposition, the statehood movement, from emerging as a viable alternative.

However, after 1952, Muñoz Marín could not leverage his considerable international prestige and close personal ties with the Kennedy Administration to amend Public Law 600. In 1967, amid



*Graffiti found on library copy.*



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deteriorating economic conditions, growing popular appeal for the statehood movement, and apparent US impatience with continuous pestering for more autonomy, Muñoz Marín called for a plebiscite

Unlike its predecessor in 1952, the 1967 referendum was not an initiative by the US Congress, and thus, had no legal force to affect Puerto Rico-US relations.<sup>8</sup> The PPD anticipated overwhelming popular support for the Commonwealth proposal, which would give it "the authorization to develop the Estado Libre Asociado...to the maximum level of self-government."<sup>9</sup> Moreover, the PPD hoped the plebiscite results would solidify its electoral standing and ultimately convince Congress to grant the Commonwealth autonomous powers over critical areas of the political economy. The 1967 plebiscite failed to accomplish any of this; in fact, it intensified the divisions within the PPD, led to the emergence of a younger and more sophisticated leadership in the statehood movement, and contributed to the PPD's electoral defeat in 1968.

In 1973, the PPD once again attempted to resurrect its cherished dreams for "perfecting" the Commonwealth. Muñoz Marín obtained presidential approval for a special commission to study US-Puerto Rico relations. The Committee's report was released in October 1975 as the "Compact of Permanent Union" and recommended a thorough restructuring of the colonial relationship. It called for granting Puerto Rico the right to participate in international organizations, jurisdiction over territory held by the United States, control over tariff and immigration policy, the right to enter into commercial treaties, exemption from the Federal Fair Labor Standards Act, authority to regulate environmental quality standards, and other recommendations for increased autonomy.

The report left no doubt that Commonwealth status deprived the insular administration of the minimal policy tools needed to regulate the island's political economy. If the colonial formula was not reworked, the report seemed to argue, Puerto Rico would relinquish its status as a center for capital accumulation. The Compact was a plea by the PPD to the US government to grant the

Commonwealth the flexibility it needed to respond to the changing requirements of capitalist development.

What the PPD feared most was that economic deterioration would thwart its aspirations for re-establishing its political hegemony after its defeat in the 1968 elections. But the Compact was not only linked to a new model of capital accumulation and political dominance, it also required a drastic reduction in US authority over its possession—something the federal government rejected then and continues to resist.

### Section 936 and the "New Colonialism"

The post-World War II industrialization policy, known as Operation Bootstrap, succeeded in large part because it guaranteed that Puerto Rico would be a more profitable site than competing regional manufacturing centers in the United States. Until the mid-1970s, this policy responded well to the needs of US capital, which was overwhelmingly labor-intensive and had relatively low capital requirements. Moreover, since these firms imported raw materials and semi-processed commodities from the US and re-exported their products to metropolitan markets, they formed part of the US network of commodity production, trade and money circulation. Puerto Rico was merely an extension of the metropolitan economy.

However, by the mid-1970s, the traditional structure of production was undergoing profound disruption. Policy makers learned to their dismay that Puerto Rico was no longer competing solely with decaying regions in the mainland, but with the newly industrializing economies. As result, the traditional firms, which were losing their competitive advantage, evacuated Puerto Rico with alarming frequency. Faced with a profound crisis in investor confidence and economic deterioration, planning strategy was altered in response to the investment needs of multinational corporations. The goal of recreating a more favorable investment climate was behind Governor Hernández Colón's decision in 1974 to form the Committee to Study Puerto Rico's Finances. In 1975, the Committee presented a sobering analysis of the



local economy.<sup>10</sup> Its recommendations presaged the supply side dogma of the Reagan Administration. It called for eliminating those regulations that impeded corporate profitability and for reduced public sector financing of basic social services. The Committee endorsed the orthodox palliative that vibrant economic growth would increase the aggregate social wage and lead to an overall material improvement of society.<sup>11</sup>

**"We think there's a reason now for U.S. business not to go to the Far East: Puerto Rico."**

— José R. Madera, Chairman, CEO, and Administrator, Economic Development Administration

**PUERTO RICO VS. THE FAR EAST: SOME COMPARISONS**

Factor	Puerto Rican operations	Far East operations
Operating environment	U.S.	Foreign
Monetary, military, communication, government, and legal systems	U.S.	Foreign
Language	Bilingual (Spanish and English)	Primarily Non-English
Potential impacts of quotas, duties, embargoes, "free trade" agreements	None	When economic conditions dictate
Political stability	Yes	Varies with country
Turnaround time for visits by U.S. mainland management or by subsidiary management to U.S.	Same day	Multiple-day
Products "Made in U.S.A."	Yes	No
Currency fluctuation potential	No	Yes
Availability of bilingual engineers and skilled managers	Yes	Varies, but generally low
Easy communications (virtually same business time zones as U.S. mainland)	Yes	No

Source: Public Policy Center, SRI International

Time Magazine, October 22, 1984 (Special Advertising Section)

By the late 1970s, capital-rich, highly mobile and technologically sophisticated firms were moving their operations in large numbers to Puerto Rico. They did so to exploit the island's skilled, yet cheap labor, and to take advantage of new industrial incentives. But they were also induced to invest in Puerto Rico by generous federal tax credits.

In 1976, Congress amended the tax exemption policy for US firms with branches in Puerto Rico. The revised tax code, known as Section 936 of the Internal Revenue Code, permits US subsidiaries in Puerto Rico to repatriate profits to the United States and receive a federal tax credit. Under the previous law, firms were taxed if they remitted accumulated profits while they continued to conduct business in Puerto Rico. Thus, the old system provided an incentive for firms to liquidate their operations at the expiration of the tax

exemption period and to transfer their accumulated profits to the booming and lucrative Eurodollar markets. Ostensibly Congress enacted Section 936 to halt these abuses.

The impact of the new tax regime on the economy was dramatic. Multinational firms in the pharmaceuticals, electronics and precision instruments sector migrated in even large numbers to the island. These Section 936 corporations, not only transformed Puerto Rico's manufacturing sector, but its financial sector as well. By granting tax exemptions on certain types of earned interest deposited in domestic financial markets, Congress encouraged the Section 936 corporations to retain their assets in Puerto Rico. In short, Congress created a complementary fund market to provide low cost capital for investment purposes.

Combined with the generous industrial incentives and subsidies, fiscal inducements, tax exemptions and low wages, Section 936 has converted Puerto Rico into an incredibly profitable investment site for international conglomerates. In 1988 US firms in Puerto Rico realized profits of \$8.9 billion, or about 19.7% of their declared global profits attributable to direct foreign investment activity.<sup>12</sup> In the process, Puerto Rico's economy became excessively reliant on Section 936 corporations. By 1983, 41% of total commercial bank deposits were attributable to these firms and approximately one third of the labor force was either directly or indirectly dependent on these Section 936 corporations for employment.<sup>13</sup>

The federal government is acutely aware of how important the Section 936 tax credit is to employment and investment in the island, and knows that "a phase-out of Section 936 would cause economic dislocation in Puerto Rico."<sup>14</sup> Nonetheless, in its annual reports on the "possessions corporation system of taxation," the Treasury Department argues that Section 936 is a giveaway for the multinational corporations that results in billions of dollars in lost revenue for the federal government. Since 1976, the Treasury has periodically tried to persuade Congress to rescind the credit as a way of reducing the federal deficit. Only because of a monumental lobbying effort by the PPD, its Congressional allies and the Puerto



Rico-USA Foundation,<sup>15</sup> was the Treasury's 1985 campaign to abolish the credit defeated. But, the Treasury, with its revenue enhancing allies in Congress, has enacted measures that have offset the tax benefits of Section 936.

**HYPOTHETICAL EXAMPLE OF A PUERTO RICO INCOME TAX CALCULATION FOR A U.S. MAINLAND FIRM WITH \$1,000,000 FROM PRETAX INCOME IN ITS PUERTO RICAN SUBSIDIARY**

Pretax income:	\$ 1,000,000				
Less 5% Puerto Rico production worker payroll credit	<u>—50,000</u>				
Adjusted pretax:	\$ 950,000				
Annual Income Tax Calculation by Period					
Years:	1-5	6-10	11-15	16-20	20-25
Tax Exemption	90%	75%	65%	55%	50%
Taxable Income	\$95,000	\$237,500	\$332,500	\$427,500	\$475,000
Taxes Paid	\$27,200	\$ 86,375	\$128,375	\$171,125	\$192,500
Effective Tax Rate	<u>2.72%</u>	<u>8.64%</u>	<u>12.84%</u>	<u>17.11%</u>	<u>19.25%</u>

Source: Arthur Andersen, Inc.

Time Magazine, October 22, 1984 (Special Advertising Section)

The implications of this squabbling are theoretically significant. It suggests that the federal government and capital are divided as to the benefits and costs of sustaining Puerto Rico as a colony. Certain developments seem to indicate the growing influence of the finance sectors in the Puerto Rican economy. US multinational banks and financial and investment firms have rapidly expanded their operations on the island and are increasingly financing regional development projects. In addition, the insular government has enacted legislation to convert Puerto Rico into an offshore banking site. This sector of capital is less reliant on Section 936, cheap labor and the economic benefits of colonialism than the multinational corporations engaged in production. Further research is needed to uncover the dynamics of this conflict among sectors of capital and the implications for US-Puerto Rico relations.

Puerto Rico has become one of the most profitable assembly, packaging and testing platforms in the world for multinational firms and is evolving into an important offshore banking site as well. But this high-end economic growth has not mitigated the deplorable social and economic conditions that plague the island. Puerto Rico's per capita income is less than one third that of

the US ( \$5,157 in 1988, or about 47% of the per capita income of Mississippi, the poorest state ); unemployment unofficially strikes about 25% of the labor force; and labor participation rates are extremely low, about 41%.

According to a recent US government report, "Chronic high poverty rates persist in Puerto Rico."<sup>16</sup> In 1979, nearly two-thirds of the island's population earned incomes below the federal poverty level. Puerto Rico is acutely dependent upon the federal government to sustain consumption and the operations of the government. In 1988 federal transfers to the island reached almost \$6 billion, which accounted for 21 percent of the island's personal income and 31 percent of the Commonwealth government's annual receipts. Illiteracy afflicts 11% of the population, and thus shatters the prospects for much of the population to participate in the more sophisticated economy that is evolving. The Commonwealth spends only \$1,400 per student (less than any state in the union). Because of the entrenched unemployment, out-migration has once again increased and was estimated at 280,000 from 1980 to 1988 (about 8.5% of the population).

It is against this backdrop of contradictory development outcomes that the current debate over Puerto Rico's political-juridical status has to be understood. In reality, the US government has kept the colony economically afloat and politically stable. While it developed fiscal tools to promote accumulation, it has had to allocate ever larger amounts of public capital to sustain the material and social reproduction of the colony. Given the nature of late capitalist expansion, which is highly mobile and extremely sensitive to changes in factor costs, this federal intervention to sustain minimal social standards is not surprising.

Puerto Rico's internationalized economy virtually precludes the Commonwealth government from enacting socially responsible policies without in the process jeopardizing the investment climate. It is the combination of federal incentives and Puerto Rico's giveaways to the multinationals that sustains moderate economic growth. This tenuous feature of the current political arrangement has



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sustained moderate economic growth. This tenuous feature of the current political arrangement has been skillfully exploited by the statehood and independence parties. The colonial model is in crisis and it is they, we are told, who offer a feasible way out of the dilemma.

### Senate Bill 712

In the ensuing twenty two years since the last plebiscite, status-related activity has been uneventful and largely unnoticed by the public. Status bills were routinely introduced in Congress, and invariably died inconspicuously in various committees. From 1976 to 1983, the pro-statehood Partido Nuevo Progresista (PNP) controlled the insular government, but lacked a sufficient electoral mandate to risk calling for a referendum on status. When the PPD returned to power in 1984, it did so with a slim margin of victory and with a sitting US president who had endorsed statehood. The time, it seemed, was not propitious for resurrecting the status issue.

Until now, the US Congress has preferred to avoid tinkering with the colonial formula. In part, this is because a more competitive political party system has evolved in Puerto Rico, which Congress has seen as revealing an indecisiveness among Puerto Ricans about their preferred status. However, since neither the PNP nor the PPD command overwhelming electoral support, neither pushed the status issue. Instead, each party attempted to extract more funds from the federal government in order to expand its political base before calling for a referendum. But the most compelling reason for the US government's inaction up to the present, is that status change opens a virtual Pandora's box of tough policy issues. Until recently Puerto Rico has been a boon to US economic and political interests. However, the federal budgetary deficits, endemic inefficiency and corruption of the insular administration, entrenched poverty, the internationalized nature of Puerto Rico's dependent economy, continued international criticism of the US for its colonial policy, and numerous other factors have encouraged Washington to revisit the colonial question.

The federal government is intensely preoccupied with how each of the status options affects its geo-political objectives, federal financing, investment strategies and social conditions. While the colony undoubtedly is still a lucrative venture for certain sectors of US capital and is presumably vital to national defense, it is also a drain on the federal treasury. Puerto Rico's dependence and economic growth shape the contours of its political elites' appeals to the electorate. But each political party also wants to allay the US government's fears about growing budgetary deficits and about jeopardizing national security. The referendum debate has been shaped by these conflicting interests and uncertain projections.

In contrast to almost two decades of inconsequential status activity, the past year has seen a flurry of action culminating in Senate Bill 712. The Senate Committee on Energy and Natural Resources, by a narrow margin of eleven to eight, approved the Bill, indicating substantial skepticism among the Senators about the merits of the legislation.<sup>17</sup> The House is expected to draft its version of a status bill by March 1990. In all likelihood a conference committee will devise a compromise measure for a vote by the full Congress in late Spring.

This most recent episode in the politics of status began in earnest when Senators Johnston and McClure of the Senate Committee on Energy and Natural Resources arrived in Puerto Rico on February 27, 1989. They came to discuss draft legislation for a binding referendum on status with the presidents of the three political parties.<sup>18</sup> Each Party president agreed to submit status proposals to the Senate Committee. Three sets of public hearings were held during the summer of 1989 in Washington and San Juan to refine and reconfigure the parties' status proposals. In November 1989, the Senate Finance Committee held hearings in Washington to consider the financial components of the legislation, and it is expected to draft a report in March 1990.

During the summer hearings, Committee Chairperson Senator Johnston cautioned that the effects of any status change would have to be revenue neutral, meaning that a change in status



could not entail federal expenditures beyond current levels. He noted that because of "the harsh fiscal reality facing Congress...", the committee would "make budget 'neutrality' an objective during its consideration..." of the status options. It was Congress' intention, Johnson intoned, to respect the wishes of the people of Puerto Rico and to abide by the referendum results. S-712 provides that, upon ratification, the referendum results will be binding on Congress (the self-executing provisions of the bill).<sup>19</sup> Johnston also observed, while the United States respected international law as it related to self-determination for the people of Puerto Rico, Congress would be ultimately guided by the Constitution of the United States and applicable Supreme Court rulings. Each party's proposal was scrutinized and challenged by the Senate Committee and the Bush administration.<sup>20</sup> Seventeen of the twenty provisions in the PPD proposal were rejected by the committee. It rejected any changes in current law that entailed a reduction or constraint in the exercise of Congressional and Executive Branch powers over Puerto Rico. State Department representative Mary V. Mochary argued that the enhanced Commonwealth proposal would create an unprecedented political status and "...would grant to Puerto Rico significant attributes of sovereignty which would be incompatible with remaining part of the United States."<sup>21</sup> The State Department objected to delegating to Puerto Rico any authority vested in the executive branch by the Constitution. The PPD wanted assurances that Section 936 would be retained indefinitely. However, Treasury Department official Kenneth W. Gideon instructed Congress that it "should make clear that tax benefits such as Section 936 cannot be regarded as benefits that will last indefinitely" but as incentives for investments subject to Congressional revision.<sup>22</sup> In short, the US government rejected all PPD proposals designed to grant the Commonwealth limited autonomous powers.

The Committee also voiced strong reservations against the PNP proposal to establish Spanish as the official language of Puerto Rico. Apparently, the senators were skittish about endorsing this

provision given the growing popularity of the English-only movement in the States. The Committee also cautioned the PNP not to expect immediate and substantial growth in federal transfer payments without a concurrent phasing in of federal taxes.

Administration officials reacted most favorably to the statehood proposal, and repeatedly noted that statehood posed the least difficulty with respect to the issues of concern to the Executive Branch. Nonetheless, objections were raised over the use of Spanish in the US District Court, tariffs on imported coffee, the 200 mile jurisdiction of territorial waters and the provision for Congress to enact an omnibus bill that would "ensure that the people of Puerto Rico attain equal social and economic opportunities with the residents of the several states." These proposals were quietly dropped from the final version of the Bill. While the PNP called for retaining Section 936, the Bill provides for a five year phasing-out period.

Displaying solicitous and studious reflection, the Senate Committee entertained the proposals of the Partido Independentista Puertorriqueño (PIP). Despite its seemingly understanding demeanor, Washington officials rejected one of the party's key proposals. They were emphatic that the US must retain a military presence in an "independent" Puerto Rico. Brigadier General M. J. Byron testified "the Department of Defense considers Puerto Rico as a strategic pivot point of major importance to US national security..." and recommended retaining all current key military installations. Although he did not categorically reject the PIP's request for the US to recognize "the right of the people of Puerto Rico to strive toward the total demilitarization of its territory," Byron cautioned that such a policy would involve degradation of US military capabilities and impose enormous financial costs for the federal government.<sup>23</sup>

More to the point, the State Department witness testified that "owing to the strategic importance of existing military installations and operations in Puerto Rico," the provision calling for the Republic of Puerto Rico to close its territory



to any and all military forces of foreign nations was "directly at odds with US global military interests."<sup>24</sup> Given this resistance, the PIP was forced to recognize the legitimate security interests of the United States and said the issue of the military bases was negotiable.

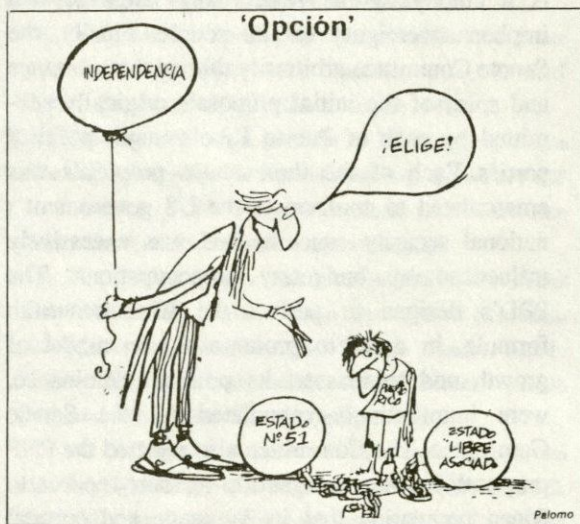
Because of Puerto Rico's excessive reliance on multinational corporations, the PIP called for a twenty-five year phasing-out period for Section 936. S-712, however, terminates the tax credit upon the proclamation of independence and does not provide for alternative tax credits. Also rejected was the PIP proposal for unrestricted free trade between the Republic of Puerto Rico and the United States. The Senate Committee simply approved a Joint Transition Commission to develop provisions for governing trade relations, and merely stated that Congress will consider negotiating mutual free trade relations. The notion that Congress should compensate Puerto Rico for over ninety years of occupation was obviously anathema. The US is willing to provide block grants for a period of nine years--the actual amount would be negotiated by the Commission, but it is estimated to be about \$3.8 billion annually.

The US rejected any role for the United Nations in monitoring the referendum process. Senator Johnston reasoned that, since the bill conforms to the PIP's proposal on the transfer of sovereignty and self determination, the US has complied with the requirements of international law. Senators McClure and Johnson frequently instructed witnesses that Puerto Rico is not a colony and emphasized the resolution of Puerto Rico's status is strictly a domestic affair and not subject to United Nations mediation.

The legislative process, as well as the substance of the bill, have been widely criticized as precipitous, inherently anti-democratic and palpably colonial. Independence forces not affiliated with the PIP repudiate S-712 as an explicit violation of the principles of self-determination. Carlos Gallisa, president of the Partido Socialista Puertorriqueño (PSP), provided one of the most dramatic moments in the hearings when he challenged the very legitimacy of the referendum process. Gallisa called upon the Senate Committee

to recognize that Puerto Rico is a colony and argued that otherwise "nothing here will be resolved. And we will be repeating the useless exercise of 1967 and the celebration of another sham election such as the previous one."<sup>25</sup> He also called upon Congress to comply with United Nations Resolution 1514 (XV), the "Magna Carta of Decolonization."

Nora Matias Rodríguez, President of the Colegio de Abogados de Puerto Rico, testified that Senate Bill 712 should be amended to provide for a constituent assembly that would draw up an alternate proposal conforming to internationally accepted standards of self-determination. She called the provisions for unrestricted and perpetual access to the territory of Puerto Rico for military



purposes a flagrant violation of the principles of self-determination.<sup>26</sup>

### Will a Referendum be held?

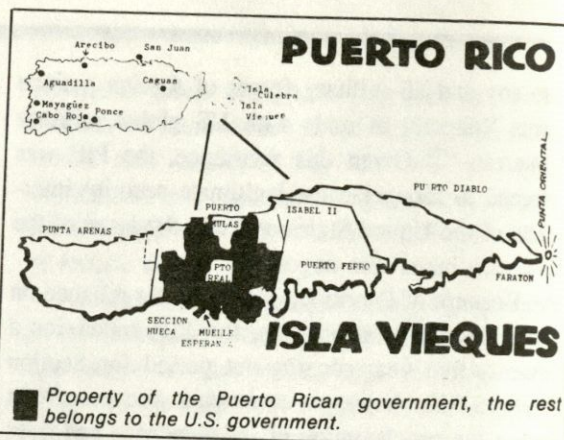
This essay began by discussing the nature of the colonial process and the economic and political factors that led to the establishment of ELA as a redefined colony. Since 1952, Puerto Rico's economy has been evolving in such a way as to weaken the role of the Commonwealth government in the accumulation process. But the US government has historically resisted granting



Puerto Rico increased powers to manage its political economy. Instead it has enacted policies to encourage US investments and provided direct support to sustain those major sectors of the population discarded by the process of growth.

The legislative process associated with the passage of Senate Bill 712 has been a conspicuous exercise in imperial power. The Senate Committee has unilaterally decided that the proposed referendum conforms to standards of international law. It rejects any legal or moral claims the United Nations, the World Court or other international bodies may have to monitor the referendum and to assure that Puerto Rico's right to self determination has been respected. While the US government denies that Puerto Rico is a colony, S-712 rejects any language that implies sovereignty for its people. Finally, the Senate Committee arbitrarily diluted the substance and spirit of the initial proposals originally submitted by each of Puerto Rico's major political parties. Each of the three status proposals was emasculated to conform to the US government's national security concerns and was excessively influenced by budgetary preoccupations. The PPD's designs to perfect the Commonwealth formula, in order to promote a new model of growth and to reassert its political dominance, were humiliatingly repudiated by the Senate Committee. The Committee also rejected the PNP proposal that was designed to reassure the Puerto Rican population that its language and cultural heritage would be preserved under statehood. Finally, as conditions for its participation in the referendum the PIP was forced to abandon vital sovereign powers of an independent Republic of Puerto Rico and accept what can only be described as austere economic conditions.

So far, the referendum process has made it clear that the US government is searching for an efficacious and economical arrangement that will guarantee it unrestricted military access to Puerto Rico and preserve the vital economic interests of US firms. In the process, the competing interests of different sectors of capital, the federal bureaucracy, the Congress and Puerto Rico's political party leadership (whose participation, after all is



nacla, Nov.-Dec., 1978

required to lend a semblance of legitimacy to the process), have all surfaced. This has hindered the legislative process, and confounded negotiations.

The Senate Committee's proceedings revealed that, while the prevailing colonial formula is unworkable, the US government has no intention of revising the existing legislation to enhance the autonomous powers of the Commonwealth. The smart money bets that the referendum will not be held in 1991 or any time soon. Until now, the US government has not been able to devise a formula that is satisfactory to all those who have a stake in the status issue. Unless the conflicting array of demands by political and economic forces is resolved, the US would apparently rather keep its hobbled colony.

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#### FOOTNOTES

1. Senate Bill S-712 known as the "Puerto Rico Status Referendum Act."
2. Cited in José Trias Monge, *Historia Constitucional de Puerto Rico*, 4 vols. (Río Piedras, Puerto Rico: Editorial Universitaria, 1981), 3: 53.
3. Trias Monge, 3: 54 and 3: 56.
4. David Helfeld, "Congressional Intent and Attitude Toward Public Law 600 and the Constitution of the Commonwealth of



- Rico 21, No. 4 (May-June 1952): 307.
5. Emilio Pantojas-García, "Puerto Rican Populism Revisited: the PPD during the 1940s," *Journal of Latin American Studies*, 21, No. 3 (January 1989): 521-557.
  6. This is the title of Gordon K. Lewis' well known study *Puerto Rico: Freedom and Power in the Caribbean* (New York: Monthly Review Press, 1963).
  7. Robert Pastor notes, "Few domestic issues have consistently generated as much international debate as that of Puerto Rico. It has been on the UN agenda since representatives of the Puerto Rican Nationalist Party went to San Francisco for the signing of the UN Charter in 1945. Although the US Government may have convinced itself that it removed Puerto Rico from the international agenda in 1953, few others are convinced.", "Puerto Rico as an International Issue: A Motive for Movement?" in *Puerto Rico: The Search for a National Policy*. ed. Richard J. Bloomfield (Boulder, Colorado: Westview Press, 1985), p.114. He further observes, "The United States invests a great deal of energy, prestige and resources—mostly diplomatic, but occasionally economic and political each year to try to keep from being condemned as a colonial power." (120). For a generously documented and exhaustive analysis of Puerto Rico before the United Nations see Humberto García Muñoz, "Puerto Rico and the United States: The United Nations Role-1953-1975," *Revista Jurídica de la Universidad de Puerto Rico* 53, No. 1 (1984):1-265. For development since 1973 see Carlos Rivera Lugo, "Puerto Rico Ante la ONU (1976-1983): Autodeterminación y Transferencia de Poderes," in above: 267-299.
  8. The plebiscite was the outgrowth of the report submitted by the United States-Puerto Rico Commission on the Status of Puerto Rico. José Trias Monge, who was a member of the Commission and a high level PPD official observed the United States government would not be obligated in any way to accept the plebiscite results. *Historia Constitucional de Puerto Rico*, 3: 244.
  9. See above p. 245.
  10. Committee to Study Puerto Rico's Finances, *Report to the Governor*, December 11, 1975.
  11. Pedro A. Cabán, "The Colonial State and Capitalist Expansion in Puerto Rico," *Centro* 2, No. 6 (1989): 87
  12. Fernando Zalacáin, "La importancia económica de Puerto Rico para Estados Unidos," *El Nuevo Día*, 15 June 1989. Cited in *Pensamiento Crítico* 2 No. 2 (November 1989):1-2. Although Zalacáin may be correct in claiming that Puerto Rico is the source of a fifth of global earnings attributable to direct investments by U.S corporations, some economists view this figure with skepticism.
  13. John R. Stewart, *An Analysis of the President's Tax Proposal to Repeal the Possessions Tax Credit in Section 936 of the US Internal Revenue Code*, (San Juan, Puerto Rico, Puerto Rican Development Corporation, 1985): iii. According to *Caribbean Business*, 30 March 1989, this amounts to approximately \$9.5 billion.
  14. Testimony of Kenneth W. Gideon, Assistant Secretary Department of the Treasury, US Congress. Senate Committee on Energy and Natural Resources. *Hearings on S. 710, S. 711 and S. 712 To Provide for a Referendum on the Political Status of Puerto Rico*: 3 Parts, 1st Session 101st Congress. (Washington, D.C.: Government Printing Office, 1989): 3, p.205.
  15. This is the Washington-based organization with an affiliation of 70 multinational corporations and financial institutions that support retention of Section 936.
  16. US Government Accounting Office (GAO). *Puerto Rico: Update of Selected Information Contained in a 1981 GAO Report*. (Washington, D. C.: GAO, August 1989).
  17. Minority views were included in US Congress, Senate Committee on Energy and Natural Resources. *Report 101-120 to Accompany S-712: Puerto Rico Status Referendum Act*: September 6, 1989, 1st Session 101st Congress.
  18. The political parties and their presidents are Rafael Hernández Colón, Partido Popular Democrático (Commonwealth); former Governor Carlos Romero Barcelo, Partido Nuevo Progresista, (statehood), Rubén Berríos, Partido Independentista Puertorriqueño, (independence).
  19. The final version of the Puerto Rico Status Referendum Act may eliminate the self executing provision. Morris Udall, who chairs the House Interior and Insular Affairs Committee which has jurisdiction on the status issue, as well as Speaker of the House Tom Foley, have both indicated their opposition to the provision .
  20. The testimony and statements have been published: US Congress. Senate Committee on Energy and Natural Resources. *Hearings on S. 710, S. 711 and S. 712 To Provide for a Referendum on the Political Status of Puerto Rico*: 3 Parts, 1st Session 101st Congress. (Washington, D.C.: Government Printing Office, 1989).
  21. See above ( Part 3, p. 153 ).
  22. See Note 14 ( Part 3, p. 202 ).
  23. See Note 14 ( Part 3, p.142-143 ).
  24. See Note 14 ( Part 3, p.153).
  25. See Note 14 ( Part 2, p.132 ).
  26. See Note 14 ( Part 2, p. 441-442 ).