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Redefining Puerto Rico's Political Status

Pedro Cabán*

Almost four decades after the U.S. government announced to the United Nations that Puerto Rico had ceased to be a colony, Congress reconsidered the country's political status. In 1989, the 101st Congress initiated a legislative process that was designed to produce a bill to authorize a referendum on the political status of Puerto Rico. Although status-related legislative activity continued into the 102nd Congress, no bill was ever drafted. The House and Senate draft bills would have called on the people of Puerto Rico to express their preference for one of three options: 1) independence, 2) annexation into the Union as the 51st state, or 3) redefinition of the current Commonwealth arrangement. The most significant feature of the proposed legislation was explicit language calling for the implementation of the preferred option.

Although Puerto Rico's political-juridical status has been the subject of congressional scrutiny and debate since as far back as 1898, the current referendum process is unique because it is the first time since 1917 that Congress has taken a lead in defining the nature of Puerto Rico's status. Congressional interest in reworking the colonial formula appears at a particularly dynamic period in world history. Seemingly unrelated geopolitical and international economic developments bear directly on the issue of Puerto Rico's probable decolonization¹ and suggest answers to why the U.S. government has finally decided to revisit the colonial question.

* I would like to thank Angelo Falcón, Edgardo Meléndez, José Sánchez, and Rosalíe Morales Keams for their comments. This is an expanded and updated version of "Reworking the Colonial Formula: Puerto Rico into the Twenty-First Century," which appeared in *Radical America* 23, no. 1 (Jan.-Feb. 1989):9-20.

U.S. colonial policy toward Puerto Rico has historically been propelled by two considerations: utilizing Puerto Rico's strategic location in a region of critical geopolitical significance, and securing a favorable investment climate for U.S. business. Since the end of World War II, Puerto Rico has been promoted as a bulwark against the spread of communism in the Caribbean, and its shores have been used as a base for U.S. military intervention in the region. This perception has gradually changed, however, with the end of the Cold War, the reversals of socialist and social-democratic regimes in Central and Latin America, and widespread popular skepticism about the notion that communism breeds revolution in the region.

Puerto Rico has been an extremely profitable base of operations for U.S. business. Three periods have been particularly important in the country's twentieth-century economic growth, all characterized by export-oriented industries producing for the U.S. market: 1) a sugar-based economy under the control of absentee corporations, 2) U.S.-led labor-intensive manufacturing in apparel and textile products, and 3) most recently, large-scale capital-intensive pharmaceutical and electronics firms and sophisticated financial and communications services under the control of global enterprises. However, with the passing of each phase, the U.S. government has been compelled to assume an ever larger role in sustaining Puerto Rico's economy, playing an increasingly important role in sustaining social welfare, government operations, and industrial production. Moreover, given the nature of the economic growth that is taking place, congressional critics are questioning whether the prevailing relationship is still necessary to attract U.S. investments.²

The current congressional debates on the future political status of Puerto Rico occur in the context of a less threatening geopolitical climate but an increasingly volatile international economic scene. Seldom explicitly discussed, but always on the minds of policy-makers, is whether the colony of Puerto Rico is still essential to preserve the geopolitical and economic interests of the United States. Complicating these discussions is the realization that Puerto Rico is plagued by a series of social, economic, and political maladies that will likely remain unattended under the prevailing political status. Clearly, events in Washington leave little doubt that the U.S. government considers the prevailing relationship deficient and in need of serious revision. Accordingly, debates between Congress and the Executive Branch have been guided by two sets of concerns—whether decolonization will compromise U.S. national security and undermine the profitability of U.S. business, and whether the prevailing status can be reworked into a more cost-efficient and politically manageable relationship. Crisis in colonial man-

agement of Puerto Rico is not new. What is new is Congress's explicit commitment to resolve the vexing problem of Puerto Rico's political status.

In this chapter, I discuss the relationship between Puerto Rico's Commonwealth status and economic growth in the post-war period. I examine the attempts by the PPD, or *Partido Popular Democrático*, repeated since the late 1940s, to gain more autonomous powers for the insular government and the declining relevance of the colonial relationship for U.S. business. I conclude with a review of the legislative process during the 101st Congress and examine the critical issues that framed Congress's debates on the future of Puerto Rico.

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 PPD, the party in power at the time, was a major force in bringing this project to fruition.

The U.S. 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."³ 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."⁴

On March 3, 1952, 47 percent of registered voters in Puerto Rico approved a constitution. Approximately 20 percent of the voters rejected that constitution, while independence forces boycotted the referendum. The "Commonwealth," known in Spanish as the *"Estado Libre Asociado" (ELA)*, was proclaimed on July 25, 1952, and presented to the world as a new political entity with autonomous powers over domestic affairs—ostensibly the end of colonialism for Puerto Rico. However, the U.S. 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."⁵

While PL 600 was an important element of Puerto Rico's favorable investment climate, it did not affect economic regulations that were originally

set up in 1900 through the Foraker Act. In fact, the essential measures that attracted U.S. investments in manufacturing and which locked the country's economy into the metropolitan network of production and trade were in place well before the establishment of the Commonwealth. Exemptions from federal taxation, a common monetary system, inclusion in the U.S. Customs area, provisions for the collection and return of excise taxes, access to U.S. financial markets, special treatment under federal tax laws, insular maritime legislation, partial exemption from the Fair Labor Standards Act, prohibitions against commercial treaties with foreign nations, direct federal transfers to individuals and the public bureaucracy, and application of Taft-Hartley legislation were on the books before 1952. The federal government retained control over monetary and trade policy and kept the original Foraker Act provisions that authorized the colonial administration to establish a tax system.

Nonetheless, PL 600 was significant because it created a set of social institutions and arrangements that enhanced the prospects for long-term corporate investments and profitability. In the process, it established a political and economic environment that accelerated Puerto Rico's integration into the U.S. economy as a low-wage manufacturing center. Although the structure of colonial rule was preserved, the colonial state was given the requisite autonomy to devise planning and social policies consistent with the requirements of a new and more advanced phase of capitalist development.

The creation of the ELA is best understood in the context of domestic and international politico-economic developments in the immediate post-war era, when dominant political forces in the colony, intent on preserving their hegemony, sought alliance with U.S. capital and metropolitan state interests.⁶ The national and international attention lavished on Puerto Rico converted that little-known and poverty-stricken country into the center of "freedom and power in the Caribbean."⁷

While the ELA preserved the structure of colonial rule, it also gave government officials in Puerto Rico 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 areas. Second, ELA retained the most economically attractive features of the colonial relationship—federal tax credits and exemption from taxation, duty-free access to U.S. markets, and monetary stability. In the immediate post-war period Puerto Rico virtually guaranteed U.S. business the *highest* profit rates in the hemisphere.

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 having to submit annual reports on the country's social and economic conditions to the Secretary General. Puerto Ricans, the United States told the world, had freely chosen through open democratic elections to retain their long-standing association with the United States. The nature of this compact of mutual association was, and continues to be, legally and politically obscure. However, the ELA was pronounced as being internally self-governing and sovereign over those matters not prohibited by the Constitution of the United States. The PPD joined U.S. policy-makers in a campaign to mystify the country's colonial status. The ELA was part of a strategy to mitigate international criticism of the United States as a colonial power and to authenticate the U.S. crusade for post-war global decolonization. Since 1952, the United States has tried to convince an increasingly skeptical global community that Puerto Rico is not a colony.⁸

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, PPD officials abandoned their goal of independence and called upon the people of Puerto Rico to support a program of economic integration into the United States through a refurbished colonial formula. The PPD's decision to abandon independence and intensify the country's subordination to the metropolitan economy was seen in some sectors as a betrayal, which many believe precipitated the nationalist uprisings of the 1950s.

In the bipolar post-war world, conceived of by U.S. legislators 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 U.S. foreign policy that was predicated on suffocating national liberation struggles throughout the world. In their eyes, Puerto Rico stood as a shining example of the economic and social gains that could be achieved by the third world through dependent capitalist development, and political subordination to the United States.

'Perfecting the Commonwealth'

The redefined colonial relationship did not represent the culmination of the PPD's efforts to rework the terms of Puerto Rico's 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 which, if successful, would have also prevented its most serious political opposition, the statehood movement, from emerging as a viable alternative: first, to sustain an internationally favorable investment climate for foreign capital; second, to fortify its own domestic political base. The gradual expansion of Puerto Rico's autonomous powers was seen by the PPD leadership as essential to achieve both goals. With increased decisional capacity over economic matters, Puerto Rico would continue to respond to the needs of U.S. business and thus promote growth. Congressional approval for amendments to the Federal Relations Act would also enhance the standing of the PPD and convince the electorate that ELA was a permanent solution to Puerto Rico's uncertain political identity. With the necessary correctives, the PPD seemed to argue, Puerto Rico would be spared from eventually having to choose between statehood and independence.

Muñoz Marín developed a particular conception of the *Estado Libre Asociado* based on the principles of compact and consent between two equal peoples. According to a State Department study authored by Arthur Borg, Muñoz Marín argued

In approving the law (PL 600) and submitting it to the Puerto Rican people, Congress was asking them to consent to its taking effect. If they gave it their approval, the argument ran, the result would be that the Puerto Rican constitution and the new Federal Relations Act would be legitimized by the consent of the Puerto Rican people.⁹

By 1959 Muñoz Marín had further developed the concept of "compact." He noted, "The idea of compact determines a basic change in the relationship. It takes away from the very basis of the relationship the nature and onus of colonialism. It cannot be revoked or changed unilaterally."¹⁰ Clearly the problem with all of this was that the formulation was only in Muñoz Marín's mind, since Congress had not legislated away its constitutional powers over territorial matters, and specifically over Puerto Rico. In passing PL 600, Congress was merely expanding the range of Puerto Rico's powers over local self-government.

On March 23, 1959, less than seven years after the proclamation of ELA, Puerto Rico's Resident Commissioner introduced legislation in Congress to alter and clarify PL 600.¹¹ But the persistent congressional opposition to the

implicit claim of sovereignty contained in the bill forced the PPD to substitute a substantially revised bill in September 1959. The new measure was subjected to intense congressional scrutiny, detailed studies by Executive Branch agencies, and wide-ranging debate in public hearings. The public hearings revealed the absence of consensus among Puerto Rico's political leadership on what type of changes should be effected in the colonial relationship. The U.S. government also opposed any changes in legislation that restricted the constitutionally defined prerogatives of the federal government to regulate Puerto Rican affairs. After two years of legislative activity, Congress failed to act on the measure, and it died quietly in early 1961.

Throughout the 1960s, Muñoz Marín pursued his intellectual and political campaign to lay the foundations for an expansion of ELA's autonomous powers. However, even he could not leverage his considerable international prestige and close personal ties with the Kennedy Administration to amend PL 600. But he was able to obtain White House approval for the establishment in 1964 of a U.S.-Puerto Rico Commission. The Commission's work led to one of the most comprehensive reports on Puerto Rico's status, and its members recommended holding a plebiscite. In 1967, amid deteriorating economic conditions, growing popular appeal for the statehood movement, and apparent U.S. impatience with lobbying for more autonomy, Muñoz Marín called for a plebiscite.

Unlike its predecessor in 1952, the 1967 referendum was not an initiative by Congress, and thus had no legal force to affect relations.¹² 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."¹³ 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 (*Partido Nuevo Progresista*, or PNP), and contributed to the PPD's electoral defeat in 1968.

In 1973 the PPD returned to office, and once again attempted to resurrect its cherished dreams for "perfecting" the Commonwealth. Muñoz Marín obtained presidential approval for a special commission to study U.S.-Puerto Rican relations. That Commission'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 the Commonwealth status deprived the insular administration of the minimal policy tools needed to regulate Puerto Rico's political economy. If the colonial formula were 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 U.S. government to grant the Commonwealth the flexibility it needed to respond to the changing requirements of an emerging new economic order.

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 U.S. authority over its possession—something the federal government rejected then and continues to resist.

During its four years in office (1973-1976), the PPD Administration led by Rafael Hernández Colón did not embark on a campaign to alter the status of the island. Possibly lulled into thinking that the PPD's loss to the statehood party in 1968 was an aberration, Hernández Colón did not view the PNP as a serious electoral threat. Although he set about to reintegrate disaffected sectors of the traditional PPD coalition, his administration was forced to contend with Puerto Rico's most serious recession since the post-war era. In an effort to counter the downturn, Hernández Colón imposed harsh economic measures, with the result that the PPD began to undermine its electoral base. The PPD's inability to extricate the economy from the recession, along with its unpopular austerity programs, set the stage for a victory by the PNP in 1976. However, the elections of 1976 also proved the existence of widespread underlying popular support for the statehood party, and thus reinvigorated the dormant status issue.

After its sobering defeat, PPD strategists re-evaluated the party's electoral strategy in the context of a campaign to enhance the autonomous powers of the Commonwealth. In 1978, the PPD introduced *La Nueva Tesis*, its vision of a new federal relationship for Puerto Rico. Rafael Hernández Colón wrote that in order to confront the changing economic and social demands of the 1980s, Puerto Rico required much greater "political authority over its own life." He called for a number of changes in PL 600, including increased insular control over labor-management relations, salaries and "all the conditions of employment in our economy."¹⁴ *La Nueva Tesis* was closely patterned on the recommendations of the Compact of Permanent Union. However, it contained a withering attack against statehood, arguing that the

resulting loss of tax benefits and increased reliance on federal support would create dependency and lead to the destruction of Puerto Rico's nascent middle class.¹⁵

The PPD was prepared to reactivate the status issue and to make it a focal point of the 1980 elections. For the first time some of its leaders testified before the United Nations Decolonization Committee and met with representatives of the Cuban delegation that had submitted a resolution supporting Puerto Rico's right to self-determination. During the 1980 campaign the PPD came under bitter criticism for its supposed alliance with the Cubans. This collusion with the presumed enemy of Puerto Rico may have been decisive in PPD's subsequent defeat.¹⁶

Romero Barceló, the incumbent governor, campaigned in part on the premise that if re-elected he would call for a referendum on Puerto Rico's status in 1981. Both parties were staking their electoral futures on the belief that the elections would finally determine Puerto Rico's status preference. Yet the election results were indecisive. Although Romero Barceló was elected governor, his margin of victory was the smallest in any of Puerto Rico's general elections.¹⁷ With such a miniscule mandate, the PNP feared possible rejection of the statehood option if a referendum was held. Not surprisingly, Romero Barceló did not promote a status change during his tenure. However, his administration was characterized by a bitter ideological campaign against those sectors of society promoting autonomy and independence.¹⁸ Independence, socialist, and nationalist forces in Puerto Rico were readily labelled terroristic, and Romero's administration worked assiduously to create the myth that they were closely allied to Cuba. The PPD came under attack and its leadership was portrayed as suspect because of its activities in the United Nations. Since the end of World War II, Puerto Rico's political leadership has effectively promoted fears of communist subversion and Cuban intervention as a means to discredit independence forces. However, what was striking about the Romero period was its virulence against this sector, and its ideological affinity with the Reagan era. Combatting communism in Puerto Rico was, for the PNP, the equivalent of the Reagan Administration's policy of confrontation with the Nicaraguan Sandinistas and El Salvador's FDR-FMLN.

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-1960s, this policy responded well

to the needs of U.S. 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 United States and re-exported their finished products to metropolitan markets, the Puerto Rican economy formed part of the U.S. 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 a 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 newer industries. These industries were concentrated in pharmaceuticals, electronics, and specialized medical equipment industries, and were overwhelmingly subsidiaries of multinational corporations. The goal of recreating a more favorable investment climate was behind Hernández Colón's decision in 1974 to form the Committee to Study Puerto Rico's Finances. In 1975, the Committee presented its sobering analysis of the local economy.¹⁹ Its recommendations presaged the Reagan Administration's supply-side philosophy. It called for eliminating those regulations that impeded corporate profitability and for reduced public-sector financing of basic social services. While 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, it argued that Puerto Rico lacked many of the policy instruments it needed in order to control the activities of multinational firms.²⁰ Moreover, its policy recommendations were an explicit rejection of the more balanced growth and socially responsible perspective of the PPD's *La Nueva Tesis*.

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 utilize the 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 U.S. firms with branches in Puerto Rico. The revised tax code, known as Section 936 of the U.S. Internal Revenue Code, permits U.S. 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 larger numbers to the island. These 936 corporations transformed not only Puerto Rico's manufacturing sector, but its financial sector as well. By granting tax exemption on certain types of earned interest deposited in domestic financial markets, Congress encouraged the 936 corporations to retain their assets in Puerto Rico. In essence, Congress created a complementary fund market to provide low-cost capital for investment purposes.

When combined with generous industrial incentives and subsidies, including fiscal inducements, tax exemptions, and low wages, Section 936 converted Puerto Rico into an incredibly profitable investment site for international conglomerates. In 1988, U.S. firms in Puerto Rico realized profits of \$8.9 billion, or about 19.7 percent of their declared global profits attributable to direct foreign investment activity.²¹ In the process, Puerto Rico's economy became excessively reliant on Section 936 corporations. Rather than repatriating to the United States those profits that were eligible for tax credits and where the net return on investments was not as great as in offshore banking sites, 936 corporations began to deposit their surplus profits in Puerto Rican banks. By 1983, 41 percent 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 936 corporations for employment.²² As a direct outgrowth of 936, Puerto Rico was increasingly shifting its structure of capital accumulation from manufacturing to financial services. One student of this process notes:

The financial income of export manufacturing 936 corporations became the fuel of the whole system. Billions of dollars in global profits were transferred to or declared in export manufacturing operations in Puerto Rico through a highly complex and sophisticated international financial network.²³

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."²⁴ 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-U.S.A. Foundation²⁵ 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.

The implications of this squabbling are theoretically significant. The federal government and U.S. firms are clearly divided as to the benefits and costs of sustaining Puerto Rico as a colony. Certain developments indicate the growing influence of the finance sector on the Puerto Rican economy. U.S. multinational banks and financial and investment firms have rapidly expanded their operations to Puerto Rico 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 now engaged in production. But periodic congressional review of Section 936 leaves little doubt that the enormous benefits accruing to the manufacturing-finance multinational corporations are also perceived as somehow detrimental to the financial well-being of the U.S. economy.

Puerto Rico has become one of the most profitable assembly, packaging, and testing platforms in the world for multinational firms and has evolved 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 Puerto Rico. Puerto Rico's per capita income is less than one-third that of the United States (\$5,157 in 1988, or about 47 percent of the per capita income of Mississippi, the poorest state); unemployment unofficially strikes about 25 percent of the labor force; and labor participation rates are extremely low, about 41 percent.

According to a recent U.S. government report, "Chronic high poverty rates persist in Puerto Rico."²⁶ In 1979, nearly two-thirds of Puerto Rico'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 Puerto Rico 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 percent of the population, and thus shatters the prospects for much of the population to participate in the more sophisticated, evolving economy. The Commonwealth spends only \$1,400 per student (less than any U.S. state). Because of entrenched unemployment, out-migration

has once again increased and was estimated at 280,000 from 1980 to 1988 (about 8.5 percent of the population).

It is against this backdrop of contradictory development outcomes that the current status debate has to be understood. In reality, the U.S. 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 jeopardizing the investment climate. The combination of federal incentives and Puerto Rico's giveaways to the multinationals sustains moderate economic growth. This tenuous economic feature of the island's current relationship vis-à-vis the United States has been skillfully exploited by the statehood and independence activists. The colonial model is in crisis and it is they, we are told, who offer a feasible way out of the dilemma.

The Senate and House bills

In the ensuing 22 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 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 U.S. president who had endorsed statehood. The time, it seemed, was not propitious for resurrecting the status issue.

Until now, Congress has avoided tinkering with the colonial formula. In part, this is because a more competitive political party system has evolved in Puerto Rico, which Congress has chosen to interpret as indecisiveness among Puerto Ricans about their preferred status. However, since neither the PNP nor the PPD commanded overwhelming electoral support, they didn't push 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 U.S. government's inaction up to the present is that a status change opens a virtual Pandora's box of tough policy issues. Puerto Rico has been a boon to U.S. firms and has been a key

component of U.S. national security strategy. However, federal budgetary deficits, endemic inefficiency and corruption by the insular administration, entrenched poverty, the internationalized nature of Puerto Rico's dependent economy, continued international criticism of the United States for its colonial policy, and numerous other factors 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 on the island. While the colony undoubtedly is still a lucrative venture for certain sectors of U.S. capital and is presumably vital to national defense, it is also a drain on the U.S. 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 U.S. 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, 1991 saw a flurry of action, culminating in two bills. The Senate Committee on Energy and Natural Resources approved Senate Bill 712 by a narrow margin of 11 to 8, which indicated substantial skepticism among the senators about the merits of the legislation.²⁷ The bill, however, was not reported out of the Agricultural Committee when the 101st Congress convened. The House Committee on Interior and Insular Affairs reported the Puerto Rico Self-Determination Act, HR 4765, favorably out of committee. Subsequently HR 4765 was approved by the full House of Representatives.

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.²⁸ 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 planned 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," it would "make budget 'neutrality' an objective

during its consideration" of the status options. It was Congress's intention, Johnston intoned, to respect the wishes of the people of Puerto Rico and to abide by the referendum results. Johnston also observed that 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.²⁹ Seventeen of the 20 proposals in the PPD project 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."³⁰ 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.³¹ In short, the U.S. government rejected all PPD proposals designed to grant the Commonwealth limited autonomous powers.

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 U.S. 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." Objection was also raised to recognizing Spanish as the official language of Puerto Rico. 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). But despite its seemingly understanding demeanor, Washington officials rejected one of the party's key proposals. They were emphatic that the United States 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 U.S. national

security" and recommended retaining all current key military installations. Although he did not categorically reject the PIP's request for the United States 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 U.S. military capabilities and impose enormous financial costs for the federal government.³²

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 U.S. global military interests."³³ 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 25-year phasing-out period for Section 936. Senate Bill 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 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 90 years of occupation was obviously anathema. The United States is willing to provide block grants for a period of nine years, the actual amount of which would be negotiated by the Commission, but it is estimated to be about \$3.8 billion annually.

Despite the PIP's inability to extract major economic concessions from the Senate, according to a congressional study Puerto Rico had a brighter economic future as an independent republic than a state. The Congressional Budget Office's report was the first official U.S. government document that acknowledged the economic viability of independence, noting "an independent Puerto Rico may be able to construct a set of incentives—through a combination of tax-sparing treaties and local subsidies—that would approach the attractiveness of current benefits under Section 936."³⁴ The study observed that "The potential loss of investment under statehood is large, both absolutely and compared with the fiscal benefits of statehood to Puerto Rico."³⁵

Throughout the legislative process Congress has 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 United States has complied with the

requirements of international law. Senators McClure and Johnston frequently instructed witnesses that Puerto Rico is not a colony and emphasized that the resolution of Puerto Rico's status is strictly a domestic affair and not subject to United Nations mediation. Their views were strongly endorsed by the State Department, which claimed that Puerto Ricans had already exercised self-determination in 1952 and 1967.

The legislative process, as well as the substance of the bill, has been widely criticized as precipitous, inherently anti-democratic, and palpably colonial. Independence forces not affiliated with the PIP have repudiated Senate Bill 712 as an explicit violation of the principles of self-determination. Carlos Gallisá, 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. Gallisá called upon the Senate Committee to recognize that Puerto Rico is a colony and argued that, if it did not, "then 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."³⁶ He also called upon Congress to comply with United Nations Resolution 1514 (XV), the "Magna Carta of Decolonization."

Nora Matías 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 that conforms 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 these standards.³⁷

The bill that came out of the Senate Committee contained a provision for making the results of the referendum binding on Congress and committed Congress to implementing the preferred solution (the self-executing provisions of the bill). In addition, the bill contained explicit definitions of the three status options and the economic, political, and social obligations the federal government would assume under statehood, independence, or an enhanced Commonwealth.

The House bill

The House Subcommittee on Insular and International Affairs also held hearings regarding the status of the island in Washington, in various cities in Puerto Rico, and in New York. Rather than subjecting each status option to the kind of rigorous fiscal analysis and political scrutiny conducted by the Senate, the House Subcommittee chose to defer discussions of these and other difficult issues until after the Puerto Rican people had expressed their

preferred option. The House favorably reported a bill out of committee that differed markedly from that of the Senate. House majority leader Thomas Foley and Morris Udall, chairman of the House Committee, had openly expressed their opposition to the self-execution provisions of the Senate bill. Puerto Rico's political parties threatened to boycott any referendum that failed to include a self-executing provision, claiming that without such a provision the referendum would be a mere beauty contest, totally at odds with the principles of self-determination. However, the parties grudgingly accepted a non-binding resolution after it became clear that the House would refuse to enact legislation that included self-execution. The House bill further differed in that it did not identify the status options. The electorate was expected to indicate its preference for one of the three options, or "none of the above."

HR 4765 enumerated a three-stage process toward decolonization. The first step was a non-binding vote—a preference contest. Next, the two congressional committees would draft bills on the results of the referendum in consultation with Puerto Rico's parties and the President by March 6, 1992. Finally, the bill provided that the legislation reported by the Joint Committee would become effective once the full Congress approved and in a second vote in Puerto Rico. The House bill also held out the option for further federal government action if the electorate rejected the bill in the second vote.

By the end of October 1990, Puerto Rico's political parties were clamoring for a status referendum bill. While each saw problems with the House and Senate versions, the political leaders were committed to sustaining the referendum process. Only the PPD became skittish about the referendum. Polls conducted by Puerto Rico's largest daily newspaper revealed the deteriorating strength of the Commonwealth forces. By early November 1990, only 34 percent of the electorate endorsed the Commonwealth option, while 41 percent of those polled favored statehood.³⁸ On November 17, the general leadership of the PPD in an extraordinary meeting essentially voted not to participate in the proposed 1991 referendum unless Congress approved legislation by February 3, 1991. Moreover, the PPD did the unthinkable by demanding that Puerto Rico be excluded from the territoriality clause of the U.S. Constitution, that any status legislation must recognize the sovereignty of the Puerto Rican people. Given the Senate's long-standing and firm opposition to recognizing Puerto Rico's sovereignty, the PPD's decision to boycott the referendum halt contributed to the process. By demanding an explicit recognition of Puerto Rico's sovereignty, the PPD was in reality postulating that it wanted to gain genuine autonomy for Puerto Rico. In the process, it drew much closer to advocating independence than at any time since the late 1930s.

Conclusion

This chapter began with a discussion of the nature of the colonial process and the economic and political factors that led to the establishment of the ELA as a redefined colony. Since 1952, Puerto Rico's economy has been evolving in such a way as to weaken the role the Commonwealth government plays in the capital accumulation process. The U.S. government has historically resisted granting Puerto Rico increased powers to manage its economy, instead enacting policies that encourage U.S. investments while providing direct "band-aid" support to sustain those major sectors of the population discarded by the process of distorted growth.

The legislative process associated with the passage of Senate Bill 712 and House Bill 4765 has been a conspicuous exercise in imperial power. Congress has unilaterally decided that the proposed referendum conforms to standards of international law.

Each of the three status proposals originally submitted by the political parties has been emasculated to conform to the U.S. government's national security concerns, and Congress's deliberations have been excessively influenced by budgetary preoccupations. The Senate and House committees adopted very different strategies in devising their legislation. The Senate publicly aired its position with respect to the parties' proposals. The House, on the other hand, negotiated in private meetings and passed a relatively noncontroversial bill that deferred substantive discussions until the Puerto Rican people had advised Congress on their preference.

The referendum process made clear that the U.S. government is searching for a politically manageable and economical arrangement that will guarantee unrestricted military access to Puerto Rico and preserve the vital economic interests of U.S. firms. In the process, the competing interests of different sectors of capital, the federal bureaucracy, Congress, and Puerto Rico's political leadership (whose participation is required to lend a semblance of legitimacy to the process) have all surfaced. This has hindered the negotiation process.

The proceedings revealed that, while the prevailing colonial formula is unworkable, the U.S. government has no intention of revising the existing legislation to enhance the autonomous powers of the Commonwealth. Until now, the U.S. 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 U.S. may wind up keeping its hobbled colony at least to the end of the century.

Postscript

In the 101st Congress, Senate Bill S712 and House Bill HR4765 were reported out of the respective committees. HR4765 was approved in a floor vote by the full House, but S712 was not reported out of committee before the 101st Congress adjourned. When the 102nd Congress convened, the House Committee introduced its original bill (retitled HR 244); the Senate Energy and Natural Resources Committee proposed an amended bill (S 244) that excluded some controversial provisions of the original measure. But the bill died in committee when proponents for the measure failed to obtain a majority.

The status referendum process revealed a lack of consensus within the federal government on whether to support congressional efforts to enact status-related legislation. Congress was deeply divided on how to conduct the referendum and how to implement the referendum results. Open resistance emerged to any legislation that would have conferred on the Commonwealth autonomous powers in the areas on international commerce, trade, investment, employment, and international relations.

U.S. domestic political consideration, concerns about partisan recomposition of the legislature, antagonism to anticipated ethnic/racial demographic changes, and budgetary considerations all factored into the calculus that led to a rejection of the status referendum legislation. Surprisingly, however, the status hearings had revealed that neither the military nor the national security apparatus publicly perceived that an independent Puerto Rico would compromise U.S. geopolitical interests in the region.

The institutionalization of a highly competitive two-party system, in which statehood proponents hold a slim majority over the advocates for Commonwealth, also presented Congress with a dilemma. Any decolonization proposal had to address the reality that a sizeable portion of the U.S. citizens living in Puerto Rico preferred statehood. Both the statehood PNP and the Commonwealth PPD recognized the implications of this conundrum. The PPD, seeking to convince the U.S. government that Puerto Ricans had an intense national cultural identity that would make annexation unacceptable to the U.S. population, enacted legislation that established Spanish as the official language of Puerto Rico, and sought public approval for changes in the Puerto Rican constitution that codified the sanctity and distinctiveness of Puerto Rican cultural identity. However, the PPD's campaign was repudiated by the electorate, and fortified the position of the statehood forces.

Nonetheless, the recomposition of the political party system generates a new dynamic in the colonial formula. For three decades, from 1940 through 1968, Puerto Rico was essentially a one-party system. The statehood party

has attained virtual parity with the PPD, and has at its disposal the resources and technical expertise to generate support among key legislators in Washington. While the party may not overcome what Senator Moynihan called a nativist bias in the Senate, its presence makes any transformation of the current status unlikely. Unless the U.S. government is willing to provide the type of guarantees the independence party proposes for the Republic of Puerto Rico, support for the statehood option will probably remain stable. As long as the electoral basis of statehood remains strong, the prospects for independence are nil.