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## THE STATUS PARADOX

THE DEVELOPMENT OF PUERTO RICO'S LEGAL STATUS  
FROM COLONY TO COMMONWEALTH AND BEYOND

### 1. INTRODUCTION

Puerto Rico was discovered by Christopher Columbus on his second voyage to the Americas, which was followed by 400 years of Spanish Rule. Puerto Rico was the only colonial possession of the Spanish Empire in the Americas that had never gained its independence. In 1898, following the swift victory of the United States in the Spanish- American War, „there was only a changing of the guard” (BRÁS 1). Puerto Ricans actually welcomed the U.S. troops that, for them, symbolized liberty and freedom. History betrayed these hopes and sentiments. The island remained under direct military rule until 1900, when the U.S. Congress ratified the Foraker Law, establishing a civilian government (5). In 1902 the United States declared Puerto Rico a territory. However, at this time, Puerto Ricans lived in a „citizenship limbo,” already not being Spanish citizens (although legally their citizenship was not revoked upon ceding the island to the United States), while the term „Puerto Rican citizen” did not mean much for the island was not an independent country. In 1906, President Theodore Roosevelt, when visiting Puerto Rico and addressing to its already established Congress recommended that Puerto Ricans become U.S. citizens (REGIS „Much has happened/Timeline”). However, it was the result of the ardent campaigning of Luis Muñoz Rivera, then Resident Commissioner, and the United States’ entry into World War I that brought U.S. citizenship to Puerto Ricans. Luis Muñoz Rivera in his House Speech of May 5, 1916 addressed to the U.S. Congress that „[m]y country unanimously requested U.S. citizenship many times. It requested it under the promises of General Miles when he disembarked in Ponce. Give us statehood and we would welcome your glorious citizenship for us and our children” (REGIS „History

of citizenship” 3). He also added that „[w]e are the southerners of the twentieth century” (FERNANDEZ 55), probably referring to an earlier time of U.S. history when some of the Southern states applied for statehood. Although statehood did not follow, the need for human resources justified the ratification of the Jones Act in 1917, granting Puerto Ricans United States citizenship and a bill of rights. On April 1, 1917 President Woodrow Wilson welcomed the new citizens „not as stranger but as one entering his father’s house” (55). The Jones Act, however, did not change the colonial status of Puerto Rico. Self-government was only enhanced by creating the island’s Senate which replaced the former upper house, the Executive Council comprised by members appointed by the President. In 1949 Puerto Rico gained the right to elect its own governor, Luis Muñoz Marín. Largely as a result of his efforts, a significant change was achieved in the legal status of Puerto Rico. Public Law 600 ratified by the U.S. Congress paved the way for a new relationship between the island and its „master,” as it allowed for creating their own constitution and enter into a Commonwealth with the United States in 1952. Following a referendum on the island that ratified the new constitution Puerto Ricans created the *Estado Libre Asociado*, a „Free Associated States.”

This paper intends to outline the paradoxes inherent in the Commonwealth status and describe the steps taken to untie the conundrum. It must be noted that the „Puerto Rico Paradox” is loaded with a multiple layers of further dichotomies. Although detailed discussion of the plight and achievements of Puerto Ricans living on the mainland is beyond the scope of the present paper, it must be taken into account that as American citizens, Puerto Ricans can enter any of the fifty states unrestricted. They have done so in large numbers establishing large-scale Puerto Rican communities on the mainland. In fact, today half of the Puerto Rican nation lives on the continent, and only the other half resides on the island. Those living on the island constitute a separate nationality with distinct cultural and linguistic features, and a strong sense of identity. Yet, those who moved to the mainland, although still harbor some of this strong identity, share a lot more in common with other, primarily Hispanic immigrant groups, than with the problems pertaining to the homeland. This results in a dichotomy that is inextricably intertwined with the island’s legal status as well as with the movement of its inhabitants. Furthermore, the people of

Puerto Rico represent a racial and cultural mix. The island was originally inhabited by Amerindian tribes, commonly referred to as the *Taíno*. (TUMIN 3–5). The native inhabitants became slaves, while African slaves were also imported. The Spaniards comprised the ruling class. Race, however, became less emphasized over time due to the frequent intermarriages among the Indians, the blacks and the Spanish, nor is it regarded in the framework of the black and white dichotomy of the mainland United States.

Culture on the island with its Latin cadence and Spanish as the primary language of communication still reflects 400 years of Spanish rule. These are not only residues; these are aspects that cannot be erased. On the other hand, the past century has also left its mark on the island, in terms of economic and social development, and lessons in democracy. Under the American flag, Puerto Rico experienced a tremendous improvement of living conditions and extension of the latest economic developments and management practices onto the island. However, it has also resulted in an economic dependence. Forceful and subtle Americanization directed towards the island, as well as returning migrants with adopted American customs and values have also made an impact. The result, as Americans like to think, is a happy mix of the Latin culture of the South and the Anglosaxon of the north. From another perspective though, the result is a certain split identity, a schizophrenic state that further complicates any efforts to get out of the present conundrum.

## **2. THE PARADOX**

### **2.1. In the Commonwealth framework**

Since 1952 Puerto Ricans have debated whether the island should remain a commonwealth, become the fifty-first state of the Union, or become an independent nation. There have been three non-binding referenda for a vote on the status of Puerto Rico since it became a Commonwealth: in 1964, in 1993 and in 1998. All three were hotly contested. The results showed a majority of voters split between commonwealth or statehood and no resolution or even request to the United States Congress (that still has the right to legislate legal status for Puerto Rico) has been made to change the status. In the 1998 referendum, the strongest showing among the choices – between statehood, independence and a modified commonwealth status – was for „none of the above.”

## SUMMARY OF THE REFERENDA

Status should be	1967	1993	1998*
Commonwealth	60%	48.6%	
Statehood	39%	46.3%	47%
Independence	1%	4.4%	

\* There were 5 categories including options for „Free Association” and „non of the above”  
(Report 4)

Debate over the status question was not always confined to the territories and jurisdiction of Puerto Rico and the United States. The issue has been presented to the United Nations several times. Although President Truman acted in the spirit of the United Nations Charter when he „wished” for Puerto Ricans to decide about their own future in 1946, swift decolonization did not follow. As a result, and as a sustained pressure of Cubans, the United States was repeatedly „pilloried” before the Decolonization Committee of the United Nations for being a colonial power (CARR 339). In 1953, the United Nations accepted the Commonwealth as a self-governing territory (xxi). Thus, Puerto-Rico was removed from the list of „non-self-governing territories,” in other words, the list of colonies. Despite the obvious lapse in the interpretation of the Commonwealth, Puerto Rico was kept off the United Nations’ agenda for seven years. In 1960, however, the new international situation lent itself for the re-tabling of the status question. A number of former colonies in Africa and Asia had achieved independence, joined the UN and had enthusiastic ears for a colony’s grieving. General Assembly Resolution 1514 (XV) set up new criteria for achieving self-government, according to which Puerto Rico was still a colony: it was not a free association, was subject to the U.S. Congress, and its constitution was not determined „without outside interference” (CARR 347). The Decolonization Committee provided a forum for those who wished for independence. During the same period though, the independence movement in Puerto Rico weakened. It was Cuba that forced its „fellow Caribbean’s” status question on the agenda and kept it under review. The alternating views emerging in Puerto Rico as to the future status of the island and the restated presidential interest and proclamations to enhance the status kept the issue before the Decolonization Committee

at bay. Circumstances changed when all Puerto Rican parties joined forces and expressed their dissatisfaction with their homeland's status in a hearing organized by the State Department in 1978 (CARR 359–360). In 1981 the Decolonization Committee recommended that the case of Puerto Rico should be put on the agenda of the General Assembly as a „separate item,“ but the move was successfully opposed by the U.S. delegation (CARR xxii).

On the mainland, there has been little congressional activity with respect to the status question. Although presidential candidates have made pledges for statehood or independence since 1976<sup>1</sup>, they have not been transformed into legislative steps. The *Young Bill*, introduced in Congress in 1998, prescribed statehood for Puerto Rico, and gained considerable support. In the same year an official organ of Congress admitted that Puerto Rico was still a colony. The 1998 referendum was held as a response to a proposal by Congressman Don Young of Alaska. Although his resolution, which called for a vote on Puerto Rico's status, was not ratified, the plebiscite was nevertheless held on the date prescribed by the bill. By this time, in Puerto Rico the Popular Democratic Party wished for an enhanced Commonwealth but campaigned for „none of the above“ because they found the description for Commonwealth inaccurate.

In the meantime, George Bush made a gesture issuing a Memorandum in 1992, in which he asked the Departments to „treat Puerto Rico administratively as if it were a state“ (BUSH Memorandum 1, See Appendix A). However, since Puerto Rico could be treated as a state only insofar as it did not contradict the American Constitution or a Federal Program, it was treated as a state to no greater extent than it had been before. It was President Bill Clinton who called for the setup of a *Presidential Task Force on Puerto Rico's Status* by an Executive Order in 2000. The original deadline for reporting and the guidelines of membership were amended by his successor, but the *Task Force* was, in fact, set up and it finally reported its findings in December 2005.

## 2. 2. What Does ELA Mean?

ELA is an acronym for the Spanish name for the legal status of Puerto Rico proposed and ratified by the 1952 Constitution: Estado Libre

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1 Presidential primaries have been held in Puerto Rico since 1976.

Asociado. Its English translation is „Free Associated State”, but no wonder it has never been implanted into the language referring to Puerto Rico. It is neither free, nor is it a state<sup>2</sup>; at least in the sense Americans would use the word „state”. For them a state would mean any of the fifty states of the union. Foreign countries are called by their names or referred to as countries, kingdoms, republics, or other terms invented over the course of history for various forms of sovereign territories. The Spanish language has no „estado<sup>3</sup>” either with the meaning of sovereign territory; unless they talk about the „Estados Unidos<sup>4</sup>, or the „Estados Unidos Mexicanos<sup>5</sup>.” Even Puerto Ricans otherwise refer to their island as a *país*<sup>6</sup>, that reflects a strong sense of nationhood. Why *Estado* then? One option to be contemplated is that they looked at the name of the Irish Free State as an example. It is more likely though that Muñoz Marín and the framers of the Constitution had future statehood in mind, they intended Puerto Rico to become one of the States of the Union and thought ELA to be an interim status until statehood is conferred.

„Free” could mean either a sovereign country or a territory freely associated with the United States. The Constitution of Puerto Rico stipulates that their country is freely associated with the United States by a compact (Constitution of Puerto Rico, Article I, Section 1)<sup>7</sup>. The Spanish term on the other hand refers to a free state. Neither is true. When the constitution was framed Puerto Rico was still a colony of the U.S., not a free country. Its association with it was not exactly a result of free will either. The inherent ambiguity of the term necessitated an English translation or term that would be more acceptable, hence the Commonwealth. However, the term Commonwealth itself also has a historical connotation; it is almost exclusively used in reference to the British Commonwealth. Then the question arises in what aspects the Commonwealth of Puerto Rico

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2 This inherent paradox evokes the age-old joke about the „Right Honorable” members of the British Parliament who are neither right nor honorable.

3 Means state in the sense of condition, status, frame of mind (The Oxford Spanish Mini-dictionary 113).

4 United States in Spanish.

5 United Mexican States.

6 Country in Spanish.

7 „The Commonwealth of Puerto Rico is hereby constituted. Its political power emanates from the people and shall be exercised in accordance with their will, within the terms of compact agreed upon between the people of Puerto Rico and the United States”

resembles a member state of the British Commonwealth. Raymond Carr was also intrigued by this matter and arrived to the conclusion that the relationship between Puerto Rico and the United States, in Henry Stimson words, is not „analogous to the present relation of England to her overseas self-governing territories” (9). It is not a loose association of sovereign countries. Puerto Ricans are automatically involved in a war declared by the President and the Congress of the United States just like the citizens (subjects) of the former colonies of the British Empire. They would not have the option, as Carr argues, to opt out and remain neutral as the Irish Republic, then a member of the British Commonwealth, did in 1939 (ibid).

Commonwealth, as Carr suggests is an „elusive” term (9). It is to hide the colonial relationship. The Congress of the United States, in which Puerto Rico is not properly represented, legislates for the island and controls its foreign policies. Important issues related to the life of insular Puerto Ricans are also settled by federal laws. For example, minimum wage is stipulated by federal laws irrespective of the distinct conditions of the island’s economy. On the other hand, Puerto Rico does resemble a state insofar as its own elected legislative today has a control over its domestic concerns. They can, for example decide whether Puerto Rico is a bilingual or a Spanish speaking country, as Governors and the Congress of Puerto Rico have done in the past. However, even in respect to self-government, the island is subject to the will of the United States Congress. The Federal Relations Act that followed the establishment of the Commonwealth conferred the rights on the island, but it is only an act of congress, that can be replaced by another act that would withdraw these rights. The Commonwealth of Puerto Rico is a political invention the virtues of which can be best termed from the Puerto Rican perspective as a „Middle Road to Freedom.”<sup>8</sup>

### 2. 3. Territory Clause Jurisdiction and Statutory Citizenship

While Puerto Ricans and those with Puerto Rican ancestry living in the mainland United States are primarily concerned with problems pertaining

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8 The term is borrowed from the title of Carl J. Friedrich’s book, *Puerto Rico: Middle Road to Freedom* (New York: Rinehart and Co, 1959), which is one of the works recommended by Raymond Carr in the „Select Reading List” at the end of his seminal work on Puerto Rico (455).

to their quasi immigrant status, there are still two significant issues that concern Puerto Ricans *en large*, to some but varying degrees, both *islanders* and *mainlanders*. These are their U.S. citizenship and self-government. The two are inextricably intertwined. Although Puerto Ricans have been enjoying U.S. citizenship since 1917, their political status is not the same as other U.S. citizens' living on the mainland. Lacking statehood, voting rights and political representation regulated by the Constitution are not fully awarded. Article I and Article II of the U.S. Constitution regulates representation in congress and voting for the president – both articles implicitly stipulate statehood as prerequisite for full representation and voting rights.

As far as the representation is concerned, the United States Constitution provides that the House of Representatives „shall be composed of Members chosen every second Year by the People of the several States” (Article II). The Resident Commissioner from Puerto Rico could not, therefore, be considered as a member. He is, in fact, a non-voting ‘member’ of the House, although he has voting right in Committees. There is one constituency in the United States that can send members to the Congress despite the fact that it is not a state: Washington D. C. Its special status in terms of representation is regulated by the Twenty Third Amendment to the U.S. Constitution.<sup>9</sup> The territory of Puerto Rico, however, in no word of the Constitution would be considered as a „national” or federal constituency. Its political weakness lies in this very fact, and according to many analysts this is one of the strongest reasons for statehood. Puerto Ricans, who wish to do so, can participate in presidential primaries, but they cannot vote for the candidate they support. The President of the United States can exercise direct control over the fate of the island but is not accountable to its residents. The same applies to the United States Congress. It is still the ultimate sovereign in which Puerto Ricans are not represented. This situation is barely tolerable in a „paragon” of democracy, even if some think that the „no taxation without representation” principle may be inverted into *no representation without taxation*.

Government and control over most local affairs, except for the common defense and currency, is vested on the bicameral Puerto Rican legislative. Yet, Puerto Rico is “from the vantage point of constitutional law,

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<sup>9</sup> Being „the District constituting the seat of Government of the United States”, it has three electors of President (Amendment XXIII).



governed under the Territories Clause” (TREANOR 2). In the Jones Act in 1917, in the Federal Relations Act in 1950, and in later amendments, Congress has simply delegated more authority to Puerto Rico over local matters, but this has not changed the island’s constitutional status as territory. The source of power over Puerto Rico, and consequently over its inhabitants, continues to be the United States Congress (in which they are not properly represented). Conversely, an act of congress could theoretically deprive Puerto Ricans of their rights to self-government, it could „unilaterally retract any delegation of power it had made under” previous acts (3). Although this is not likely to happen, the rights are not protected.

U.S. citizenship held by Puerto Ricans bears similar peculiarities. As John A. Regis points out in his piece on „American Citizenship,” in the United States, citizenship may be „acquired in one of two ways; either as a „natural” citizen or a „naturalized” citizen”. (1) Indeed, the Fourteenth Amendment of the U.S. Constitution stipulates that „[a]ll persons born or naturalized in the United States and subject to the jurisdiction thereof, are citizens of the United States and of the State wherein they reside.” Strictly speaking, Puerto Ricans born outside the mainland fall into neither of the two categories. Their citizenship is limited, and more importantly, it is a *Statutory Citizenship*. They share some rights and obligations of U.S. citizenship. They are eligible to some federal benefits, and are subject to military draft and most federal laws. On the other hand, they cannot vote in national elections (unless they become residents of ‘other states’). Some view this situation as being second-class citizens that further strengthen the island v. mainland dichotomy. However, what most concerns the politically savvy is the statutory nature of their citizenship. Because citizenship was granted by an act of congress, it could also be revoked by another act of congress. Those Puerto Ricans who were born on the island, were not born in any of the states within the Union, hence, their citizenship and inherent rights are not protected by the Constitution the same manner as for other citizens. In 1991, then Attorney General Dick Thornburg actually spelled out the obvious truth that „no provision of law bestows a constitutional status on the U.S. citizenship held by persons born in Puerto Rico” (FERNANDEZ 229). Furthermore, there is no restriction on power of Congress regarding any regulation of citizenship of those born in the future – especially if there is a change in Puerto Rico’s status.

„Second-class” label for Puerto Rican citizenship is used yet in another context. It is a passive citizenship. For reasons already outlined, Puerto Ricans cannot vote in national elections. Puerto Rico is not a constituency. It is only one side of the coin that they have never been an empowered nation that was to care for its own defense, legislate or regulate its own trade with other nations, or make treaties with other nations. These aspects – despite the strong sentiment of nationhood prevalent on the island – had always been regulated for them. However, under American rule, they do not even have the opportunity to effectively voice their wishes or concerns in these matters. Lacking the right to be represented in the body that makes these decisions, or have a say in electing the President that may eventually send them to war, fosters a certain apathy towards „national” (i.e. federal) issues, and reinforces a provincial political outlook and attitude. Modern democracies require active citizenship and responsible citizens. Responsibility, however, should come with at least some level of authority.

### **3. THE U.S. PERSPECTIVE**

#### **3.1. From Indifference to Concern**

The status of Puerto Rico seldom surfaces in conversations – ordinary or political. Although the sovereignty of the island is vested on the United States Congress, there are not too many who express genuine interest in the island’s affairs or have an opinion when asked. It takes a reinforced lobbying and personal friends „on The Hill” for a Resident Commissioner, to have his „constituents” voices to be heard. „Ignorance about Puerto Rico here on the mainland,” then Governor Romero Barceló remarked in 1984, „can only be described as massive” (CARR xii). The attitude had not been different before and has not been much different since, except for brief moments when either a Puerto Rico enthusiast introduced a bill as a result of pressure from the island, or following an event that questioned the United States’ conduct with regard to its colony. Although nearly all Presidents since 1898 had a word or two pertaining to or directly addressed to the Puerto Rican people, it has only been recently that they count with their potential impact. The island as a piece of land, as a territory, is a different matter.

Even Page Homer, whose book on Puerto Rico<sup>10</sup> praises the economic and political developments on the island under American flag, remarks that the „American rulers who stepped ashore in the summer of 1898 know or care little about the island’s problems,” and notes that besides „inexperience at handling colonial affairs,” there was also „the gulf of indifference separating the tiny island from her giant master” (30). Bills submitted to the United States Congress varied in regard to what extent of self-government or autonomy they prescribed for the island. Proposal for independence was made as early as 1943, even though its counterpart, statehood was also considered. This latter option was given particular consideration in 1998 when a Bill for Puerto Rico’s statehood was on the floor. It must be observed though that only these two options were ever seriously considered by U.S. statesmen on their own initiatives. The Commonwealth status was forged as a result of Puerto Rican politicians’ pressure notwithstanding the fact that its way was paved by *Public Law 600* ratified by the U.S. Congress. The reason for this is the United States Constitution, which does not really allow for any „real” Commonwealth. Thus, when looking at the mainland political perspective, one must always consider that the sacred document does bind their hands, at least in theory. Nevertheless, the present system, for which the Puerto Ricans repeatedly cast their vote, has been functioning. However ill-fitting the Commonwealth is, no serious attempt has been made on the American part to resolve the conundrum. Therefore, one must assume that there are reasons why the present situation actually suits the United States.

Obviously the aim is not to keep a nation in some kind of „colonial bondage” (CARR 11). Although many would like to see Puerto Rico go independent for the money it allegedly takes away from American taxpayers<sup>11</sup>, this option seems less and less likely. Statehood, on the other hand is often opposed citing the different culture, national identity, or the Puerto Ricans inability to pay taxes once admitted. With all this in mind, it still has to be noted that most of those sitting in Congress or working

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10 Puerto Rico: The Quiet Revolution. The book was written in 1963, largely reflecting the Kennedy Administration’s attitude (although the book was published under Johnson) towards Latin America and presenting the island as a „showcase for democracy”. Its style and tone is reminiscent of communist propaganda reports on Cuba.

11 Puerto Rico absorbs \$12 billion (Faul 2) annually while the island residents pay no Federal Tax.

in governmental jobs in its broad sense do not give much thought to the question, Puerto Rico is simply „low on their radar screens.” Most statesmen, as they are bound to represent the interests of those who elected for them, would not waste money or energy on non-existing constituents, especially in times when other crises are more pressing. In addition, in absence of a colonial office devoted solely to the affairs of the island and its relationship to the United States there is no effective channel to make concerns vocal.

### 3.2. Changing Realities - Changing Attitudes

When one talks about the American attitude towards Puerto Ricans he is bound to consider two trends. These, although interrelated, could be markedly different: that of the man on the street and official, or government policies. In terms of government attitude, it is also a significant factor whether election campaign slogans, proclamations are ever translated into policies or other manifestations of a government's attitude. Whereas declared policies frequently divide the people, subtle changes in official attitude often are more effective in influencing the general public's view towards a certain issue.

Samuel Huntington argues that „The Hispanic Challenge” is the single most serious challenge in the United States, and one that has not been properly addressed. As opposed to earlier immigrant groups that spread with time and hence were forced to assimilate, Hispanics are more inclined to cluster together, continue to use Spanish as the language of communication, and maintain their own cultural traditions. Huntington's fear is that Hispanic presence „threatens to divide the United States into two peoples, two cultures, and two languages” (1). Furthermore, the newcomers place the whole idea and ideals of the United States in peril because they reject the „Anglo-Protestant values that built the American Dream” (Ibid). He firmly states that there is no such thing as the „Americano Dream” (10).

Although he does not propose it himself, his concurrent views imply that „White nationalism” would be a plausible reaction, and indeed a desired one to counter the „cultural and linguistic threats” posed by the increasing power of Hispanics in the United States (sidebar, 13). He prophesizes that „the cultural division between Hispanics and Anglos could replace the racial division between blacks and whites as the most serious cleavage in

U.S. society” (6) If this view was adopted by the official policy makers and the government itself, then there was in fact no chance that Puerto Rico would ever be welcomed into the Union. Although such fears have some realistic grounds, it is as much the adopting country’s responsibility how to react to this phenomenon as the Hispanics’ attitude towards their adopted country. It is true that they are less likely to assimilate, but it is also true that many of them become acculturated. Although they maintain their own customs and cultural heritage, they also adopt many of the American values, become politically socialized and participate in democratic institutions and processes.

The United States can also choose to accommodate the Hispanic Heritage. Although this idea, in fact, seemed alien to most Americans even a few years ago, the changing realities warrant a new attitude. The Hispanic population of the United States continues to be on the rise. They have surpassed blacks in 2002 as the largest ethnic minority (HUNTINGTON 2). As a map of Hispanics (see Appendix B) illustrates, the United States today incorporates large territories that are increasingly becoming Hispanic dominant. It has been long obvious to some analysts that the Hispanic community had distinctive interests and would have a major impact on U.S. society. By the end of the 1970s Spanish replaced French as the language most commonly taught in American high schools (BLUM 891). Apart from the fact that Hispanics have constitute large enclaves and in those they can function without speaking much English, the promotion of bilingual education also added to the trend that would „make the Hispanics the first among all immigrant groups in the United States to resist linguistic assimilation (ibid). As the United States neither could nor want to „outsource” those territories<sup>12</sup>, the alternative option is to assume a „multicultural” attitude.

The present Republican government could hardly be called liberal – that would be a paradox. However, there are signs, overt or subtle, that they do not wish this cleavage to deepen. On the contrary, based on the present realities, some manifestations of the official attitude actually demonstrate a tendency towards endorsing the Hispanic Heritage or even taking pride in it. Looking up the web site of the U.S. Embassy in Germany one would

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12 As a large corporation could do with operations or subsidiaries whose activities or corporate cultures are distinct from the core.

hardly expect a full section devoted to the Hispanic Heritage of the U.S. Society, let alone outlined in a tone that reflects both acknowledgement and pride. The authors state without any sarcasm or scorn that „it is not uncommon to walk down the streets of an American city and hear Spanish spoken” (1). The subsequent paragraph entitled „The Newcomers Myth” actually acknowledges the fact that Hispanics settled on the present territories of the United States long before the arrival of the English and that they were also incorporated as the result of American expansionism, including Puerto Ricans (ibid). They also inform the reader that although the term „Hispanic” was coined by the federal government in the 1970s<sup>13</sup>, most of them prefer to „see themselves in terms of their individual ethnic identity, as Mexican American, Puerto Rican, Cuban, etc. instead of members of the larger, more ambiguous term Hispanic or Latino” (ibid). Such a statement from an official organ of the U.S. government (in effect the State Department), suggest not only the acceptance of the realities but also a certain sensitivity towards a large segment of society with intention to integrate, not to neglect, deny, or separate<sup>14</sup>. While Huntington speaks about irreconcilable differences (9), there are attempts at reconciliation and accommodation.

### 3.3. Presidents on Statehood

Until 1949, when the right to elect their own governor was bestowed on Puerto Ricans the Presidents of the United States exerted direct influence on Puerto Rico either in form of appointing governors, or, before 1917, also the members of the Executive Council. At best, as Carr remarks, they were proponents of a „benevolent assimilation” (322). This is how McKinley saw the role of the United States. Wilson, with all his good intentions, also wished to educate Puerto Ricans in the ways of democracy, and although he rejected the racial prejudices expressed in Congress, he believed that

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13 It was in fact created in the 1920s when searching for an appropriate name for a new Journal (Anderle, National Identity in Latin America. PhD Dissertation. JATE, Szeged).

14 Similar attitude is demonstrated by articles published on the State Department’s own website praising and taking pride in Latino contributions to American sports. Eric Green. „Major League Baseball Announces All-Latino All-Star Team.” US Life and Culture. October 27, 2005 and „Latino Contributors to Major League Baseball Exhibited in U.S.” US Life and Culture. February 24, 2006. <<http://usinfo.state.gov.scv/Archive/2006/Feb/24-940305.html>> and <<http://usinfo.state.gov.scv/Archive/2005/Oct/27-906606.html>> (March 10, 2006)

Puerto Ricans „should [presently] be treated as minors, as wards of the United States” (322, 333, 43). He also believed that the islanders „deserved something better than the Foraker Act” (54). At worst, they treated the governorship as prize to be awarded to party faithful (322). Some did not show any interest, like Harding and Coolidge, or like Taft (56), thought that Puerto Ricans already had larger measures of self-government than they reserved, and dismissed any proposal for greater autonomy. Ford, unexpectedly declared his preference for statehood (95). Kennedy and Carter showed „erratic” concern (12). For Kennedy, Puerto Rico’s fate had an elevated importance for he made reinforced efforts to promote democracy in Latin American through his „Alliance for Progress”. He even issued a memorandum to the Executive Departments to treat Puerto Rico as a state to the extent made possible by the Constitution (96). Carter had new reasons to please Puerto Ricans.

It was the 1976 primaries that organically connected Puerto Ricans to national politics and thus made presidential candidates have direct political interests (324). This was made possible by the alteration of the rules of the Democratic Party. Now the local chapter of ADA<sup>15</sup> approached all presidential candidates. Jimmy Carter replied. Statehooders switched allegiance, deserted their Republican friends and voted in the Democratic primaries. Puerto Rico with 22 votes became a relatively large state at the Democratic Convention. Many joined Carter’s Hispanic campaign staff. (97–98). After his victory, President Carter issued a proclamation in July 1978 asserting that all three options of status were legitimate if chosen by the People of Puerto Rico (98). Thus, 1976 marked a radical change in attitude. It was no longer possible for presidential hopefuls to totally ignore Puerto Rican affairs<sup>16</sup>. All candidates ever since Carter at least spoke a few words to Puerto Ricans. Bush, campaigning in 1980 proclaimed „Statehood Now” (99). Reagan also endorsed statehood in an article that was published in the *Wall Street Journal* (ibid). Reagan, while reduced the Food Stamp Program, and already started his Caribbean Basin Initiative<sup>17</sup>, both without consulting the most affected citizens, called for a Task Force

15 Americans for Democratic Action.

16 Such a paradox that those who participate will never be able to then vote for their candidate.

17 To curb Cuban influence by extending the economic and fiscal privileges provided for Puerto Rico (CARR 9).

to examine its implications with regard to Puerto Rico (8). Its main concern was not the status question, nor was it a policy making body, and should have been set up before the decisions were made. The status question, nevertheless, seems to have come into the Presidents' sight and receive some emphasis since the presidency of George Bush. Perhaps remembering the promise he made twelve years earlier, he set up by Executive Order a *Presidential Task Force on Puerto Rico's Status* in 1992, towards the end of his term. Presidents following him issued consequent Executive Orders amending the previous one, and extending the deadline by which the Task Force was to report on its findings (See Appendix A). Although nothing in Congress has happened as to the Puerto Rico Status question since 1998, legal counsels and experts have been working diligently in the executive branch to muster a government document presenting and clarifying the United States' viewpoint on the status issue. Unfortunately, the document is largely confined to analyzing only the legal aspects of each proposal both in terms of its compliance with the United States Constitution and in Case Law<sup>18,19</sup>.

The official position of the United States Congress was made clear in 1979 in a joined resolution. The resolution stated that they would do nothing until Puerto Rico signals in an unambiguous manner (CARR 11). It meant that consideration of any option other than the Commonwealth status would take place only if the Puerto Ricans overwhelmingly voted for that option. This lead has not been given yet.

It seems that from the beginning there has been a difference, if not sharp, between the Democratic and Republican attitudes. *The Associated Press* reported in 2000 that the Democratic platform affirmed that „the Puerto Ricans have the right for a permanent status and full democratic elections“

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18 The length of which is 78 pages. The main body of the report barely exceeds 9 pages and consists of the list of the Task Force member, the guiding principles, a brief historical overview, a summary of the legal analysis, and the Task Force Recommendations, Appendices contain the Executive Orders, the above mentioned legal analysis, and the „Mutual Consent Provisions in the Guam Commonwealth Legislation.“ The most substantial, also most valuable and constructive, if not always practical, element of the report is the eleven-page long legal analysis written by Robert Raben, then Assistant Attorney General, and submitted in 2001.

19 As already mentioned, there were earlier Committees and Task Forces dealing with the status of Puerto Rico. The one that operated between 1964 and 1966, however analyzed not only the political aspects. The Committee chaired by James E. Rowe Jr. also considered in details the economic and cultural consequences of any change in the status (CARR 96).



(FAUL 1). Although the report does not specify, this statement implies statehood for Puerto Rico. It is also interesting to note that the Democratic attitude is unconditional; they assert that Puerto Rico's status should be changed without any pressure from the Puerto Ricans, because their present status is an embarrassment for the United States. The Republican support statehood if the Puerto Ricans wish so, that is if they clearly express their wishes to become a state. However, neither party is at fault. Although the United States was the colonizer, the Puerto Ricans chose the present status through a democratic process – they initiated the *Estado Libre Asociado*, even if they originally had a different idea of its meaning and believed that it was an interim towards statehood. They reaffirmed their choice in consequent referenda. Although most grieve about the uncertainties of the present status, which is not permanent, Puerto Ricans seem to fear the other options and are largely divided on the issue. It is this division that now inhibits the decolonization. If it was inflicted by their master, one could make an accusation of applying the classic *divide et impera* tactic. However it is not the United States government that divides Puerto Ricans (albeit its policies obviously played some role in the evolution of divisions), it is the island politics and the island versus mainland dichotomy.

Although the United States very much wants to keep Puerto Rico it would be bound to let it go if the Puerto Ricans democratically requested for it. Statehood now also must be offered. While statehood would have been quasi out of the question a few years ago, the United States today already incorporates large territories of non-Anglo-Saxon culture and where people converse in Spanish. It must now be accepted, even if Huntington fears that the American Dream will be lost, that the United States is becoming a bilingual country. It cannot behave like a corporation that outsources activities or cultures it does not find „profitable” enough. Florida will not be „outsourced” or banished from the Union. With the same token, Puerto Rico could be incorporated.

### **3.4. In Light of the U.S. Constitution**

The United States Constitution originally allows only for two kinds of status with which the United States government has to deal with; either a state within the union or a sovereign country. Article IV also recognizes „Territory or other Property belonging to the United States.” A territory

can be „unorganized” and as such subject to the United States Congress. This is in effect a colony. Over the history of the United States, „unorganized” territory also meant territories already in the possession of the United States – as a consequence of a land purchase – or territories already settled but not yet admitted into the Union (BRINK 221–222). A territory can also be an „organized” territory, which is today a state. From a different perspective, the status of a territory can be changed in two ways. The Federal Government can grant independence or cede the territory to another nation, thereby relinquishing United States Sovereignty (*Report* 6). Conversely, Congress can admit a territory as a State, „thus making the Territory Clause inapplicable” (*ibid*). There is no third option provided or even implied by the United States Constitution.

As it is outlined and clarified in the Task Force Report, Puerto Rico has three options that are compatible with the United States Constitution. The first of these options, often referred to as the Commonwealth option, is the one that bears disparate meanings for the two parties. From a constitutional point of view Puerto Rico can remain a territory subject to the U.S. Congress. This is in fact what the Commonwealth means and also corresponds to the 1998 referendum’s „Territorial” Commonwealth option<sup>20</sup>. Yet, no enhanced, so-called non-territorial Commonwealth is possible, as the Constitution allows no provision for reciprocal enforceability of a compact<sup>21</sup>.

The second option is statehood. Section 3. of Article IV stipulates that „New States may be admitted by the Congress.” As new state, Puerto Rico would stand on „equal footing with the original states in all aspect” as recognized in *Coyle v. Smith*<sup>22</sup> (RABEN 2). This would – as remarked earlier – entail conformity with the Tax Uniformity Clause. However, Robert Raben, in his detailed memorandum on all constitutional and legal aspects of the Puerto Rico status question<sup>23</sup> refers to Attorney General Richard Thornburgh’s

20 This received only 0.06% of the votes (*Report* 4). It represents the admission of the colonial status.

21 As was recognized in a Memorandum entitled „Mutual Consent Provisions in the Guam Commonwealth Legislation” prepared by Teresa Wynn Roseborough, Deputy Assistant Attorney General in 1994. The ten-page document is attached to the December 2005 Task Force Report as Appendix F. The same issue was also addressed by William Treanor in his October 4, 2000 Statement before the Senate Committee on Resources reaching a similar conclusion.

22 Based on the 1796 declaration upon the admission of Tennessee (RABEN 2).

23 Prepared in 1994 for the benefit of Frank H. Murkowski, Chairman of the Senate Committee on Energy and Natural Resources. The analysis was prepared the U.S. Department

testimony made in 1991 when noting that the Tax Uniformity Clause „permits the use of narrowly tailored transition provisions,” hence, Puerto Rico’s tax status „need not be altered immediately” (2). Upon admission of Puerto Rico, representations of states in Congress will be „impaired.” Membership of the House can be temporarily raised until the next reapportionment, however, this also means that the proportions of representation will change. Other states’ proportional representation in the Senate will permanently be decreased. If Puerto Rico is admitted to be a member state of the United States it also has to give up some provisions of its own Constitution. It is obvious that Article I constituting the Commonwealth<sup>24</sup> will have to go, or be replaced by an appropriate clause. Many of the intricate details will also be overridden by the United States Constitution „pursuant to the Supremacy Clause” (3). Other laws on the island enacted by its own congress will have a similar fate. Some federal statutes currently applied to the states, or some of the states only, may also be extended to the island. It is however also an obvious consequence of statehood that then all Puerto Ricans will be natural citizens<sup>25</sup> of the United States and their citizenship will be protected by the Constitution.

Independence, in light of the Constitution, would have reversed effects concerning citizenship. This is most Puerto Ricans’ „deepest” fear and the strongest argument against independence. The Constitution does not protect statutory citizenship. It can be revoked by Congress. It is assumed that it will be withdrawn if Puerto Rico chose independence. It will, at least, cease to be a collective citizenship and will not be conferred to future born Puerto Ricans<sup>26</sup>. Former Assistant Attorney General Robert Raben cites contradicting case laws, however, concludes that „nationality follows sovereignty”<sup>27</sup> This is also in line with the generally accepted principle of international law that „transfer of territory from one state to another results in a corresponding change in nationality for the inhabitants of that territory” as they are also

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of Justice, Office of Legislative Affairs in response to the Chairman’s request (a letter to President Clinton). Robert Raben was, at the time, Assistant Attorney General.

24 Constitution of the Commonwealth of Puerto Rico.

25 Strictly speaking this will be true for those born in the future. Those island residents presently holding statutory American Citizenship will then become residents of one of the states.

26 Even if both their parents hold American citizenship at the time.

27 American Insurance Co v. Canter (1828)

expected to change their allegiance<sup>28</sup>. Raben, however, states that it is yet unsettled whether it is „permissible to terminate non-consensually” United States citizenship of residents of Puerto Rico. This refers to those insular Puerto Ricans who presently hold American citizenship based on the Jones Act<sup>29</sup>. However, the Task Force Report firmly states that „if Puerto Rico were to become an independent sovereign nation, those who chose to become citizens of it or had U.S. citizenship only by statute would cease to be citizens of the United States” (9). The government, thus, finds this question settled confirming that island residents would definitely and collectively lose their cherished American citizenship.

While Raben does not address the question whether the United States would have any right to use the military and naval bases in Puerto Rico after relinquishing its sovereignty over the island, the Task Force Report’s brief analysis of Independence include a section on how it had been settled in the case of the Philippines. The Philippine Independence Act provided that after a certain transition period the United States would „surrender all right of Possession, [...] control, or sovereignty [...] with the exception of certain governmental property and military bases” (8). Holding on to military facilities would, of course, also be possible by treaties<sup>30</sup> or contracts<sup>31</sup> as done elsewhere. On the other hand sovereignty would entail Puerto Rico’s right to conduct her own foreign relations.

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28 In some cases the inhabitants of the transferred territory may choose between retention of their old nationality or acquiring that of the new state. (RABEN 2). Puerto Ricans after the Spanish American war had a similar option regarding their Spanish citizenship, only the American citizenship was not offered. In the present case, it is likely that a large number of people would request and subsequently acquire dual citizenship. While this issue has never been addressed, Raben contends that „we do not think it would run afoul of any constitutional stricture” (4).

29 Raben here makes a remark referring to Treanor’s Testimony (which I have also referred earlier).

30 A truly Free Association is also a possibility under Independence. This is the case of Micronesia and the Marshall Islands that gained their independence in 1986 (Palau became independent in 1994). The United States Congress had subsequently approved „compacts of free association” with these territories. They gained their right to conduct their foreign relations, however, they also entered into a treaty with the U.S. in the framework of which the United States continued to provide for the defense of these islands. It is important to note though, that this type of „free association” is not what Puerto Rico has so far considered under the term. They want full sovereignty and permanent „compact” with the United States. Yet, because compacts and treaties are ratified by Congress, they are by nature not permanent.

31 In the Bahamas or in Trinidad – examples given by Raymond Carr (311).

### 3.5. Strategic Concerns

From the late nineteenth century the U.S. needed Puerto Rico as a naval base to protect the sea-lanes of the Caribbean and secure the Panama Canal. Captain Mahan, argued that Puerto Rico would play a role for the United State that Malta played for the British in the Mediterranean (CARR 310). By today, the protection of the sea-lanes is crucial for yet other reasons. A large proportion of America's imported oil is transported through this venue to reach the mainland from refineries. Henry Kissinger was reported in 1981 in the *San Juan Star* saying that „the United States has to hold on to Puerto Rico for strategic reasons” (310, 444). Cuba is still watched with cautious eyes. Although the military base in Vieques<sup>32</sup>, the best known for its infamous recent history, ceased operation in 2003 (*BBCNews.com*), Roosevelt Roads at the eastern tail of Puerto Rico is still one of the largest naval bases in the world (CARR 310).

One can assume that until very recently independence of the island was not encouraged; it would probably have been halted if such request had been made by the Puerto Ricans, for the fear that the newly independent country would fall under the aegis of the Soviet Communist block, particularly because of the proximity of communist Cuba. Independence has not been and is still not desirable for other security reasons. With a large Puerto Rican community already being an integral part of the United States and with their identity derived from the homeland, with families divided between two nations, losing that homeland would induce discontent and a strengthened identity crisis potentially transformed into negative phenomena. In other words, the island's status, or any change of its status, directly affects the lives and attitudes of a significant ethnic group of the mainland – and by extension, indirectly affects the lives of other millions of United States citizens. If left alone, the island would be prone to political strife, not so much for the political immaturity of its residents as for the deprived economic situation that would hit the island with harsh realities if most American corporations withdrew operations, or Puerto Ricans currently holding jobs on the mainland would be forced to return home.

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32 Puerto Rico used to give home to an important military training base in Vieques, an offshore island. It was used for target practice. As a consequence of long protests of both local politicians and the inhabitants (and a bomb explosion that killed a local civilian), the U.S. Navy withdrew in May 2003 (*BBCNews.com*).

With more Puerto Ricans living in New York than in San Juan and with almost as many Puerto Ricans living in the Union as outside of it, statehood is a more likely option than independence. Of course, Commonwealth could still be maintained, but only in the present territorial form. As forces are pointing towards a will to resolve the present conundrum, the inherent ambiguities, uncertainties, and paradoxes, the statehood option will likely to receive a stronger marketing from the mainland. The Commonwealth is inherently still a temporary solution, still subject to the will of Congress. Puerto Ricans, whether insular or stateside, will only have a real political stake and do their best to realize any „Americano” Dream they have if their status is made permanent.

### 3.6. Economic Ties

The island that once had a hopeless economy was gradually integrated into the mainland economy through New Deal programs administered by Washington, then through „Operation Bootstrap” (FERNANDEZ 168–171). Conscious and forceful industrialization first by government ownership, and later by attracting foreign investment through tax exemptions took place. Major pharmaceutical companies such as AmGen, Abbott Laboratories and Eli Lilly established off-shore-like operations in Puerto Rico, and today are transplanting their R&D departments to the island (DUNNE 1). The high-tech manufacturing flourishing in Puerto Rico, however, is very closely tied to its mainland investors and trading partners. For most of these companies the present status is comfortable. Nonetheless, if they had to express their preference between the two options of future independence or statehood, the latter would most likely suit them better. Particularly if the FTAA<sup>33</sup> was realized, since then geographical proximity to the targeted Latin American markets would enhance Puerto Rico’s advantages. Some of the smaller businesses have set up twin operations in the mainland and the island, very much in the fashion of doing it in different states. Franchise networks also treat the land as an integral part of their mainland operations.

The coin has another side though. Puerto Rico is still the poorest regional economy of the United States judged by income per capita figures<sup>34</sup>. The United States pays around \$12 billion annually in form of

33 Free Trade Area of the Americas

34 The official poverty rate at about 40% is much higher than in any of the fifty states.

relief, and Puerto Ricans living and working in the mainland also send a large amount of money home. Greater independence under some form of Commonwealth would not necessarily alter these economic realities. Such an enhancement of status is not possible though. Out of the viable options, it was independence that would hurt not only the local economy, but would also negatively affect mainland business. On one layer, unplanned and costly reorganizations, losing workforce, facilities and markets would be inevitable. On another, sudden influx of Puerto Ricans who lost their jobs to the mainland would also cause much headache. Further aspect added, if the Puerto Rican economy was even partly severed from its main trading partner, a sudden downturn would induce political instability, an aspect very much linked to strategic concerns.

### **3.7. Political Force**

Puerto Ricans living on the continent represent an increasing political force in the United States. This is partly due to their belonging to the Latino community and partly to their relative position in certain key areas. Although most insular residents care less about national or federal politics, the two major mainland parties have been actively courting their votes as well. This is done despite the inherent paradox of lacking representation in Congress and not being eligible for electing the President. Nevertheless, primaries are held on Puerto Rico, and island residents may exert their influence on the mainland through family ties, temporary or dual residences. This is also true the other way around. Notwithstanding, Puerto Rico is not yet a constituency. There is a certain political weakness deriving from this fact – one that is increasingly coupled with political discontent.

Looking at the mainlanders, many authors note that Puerto Ricans are underrepresented at the ballots. Although their political activity as well as their particular political leaning may differ depending where (in which state or metropolitan area) they reside their apathy is often rooted in the sense of insecurity regarding their future, as well as in not being collectively empowered. This phenomenon is closely related to the migration patterns and the status question of Puerto Rico. As American citizens, Puerto Ricans

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However, as Nancy Dunne remarks, this figure does not necessarily indicate a high number of hungry or homeless due to the old fashioned caring families.

may come and go. They often try their luck, sometimes succeed, but few of them start their tenure in the States casting their votes for proposals or local issues that may not affect them a year later. In the same vein, with their status being temporary many of them do not feel they have a real political stake in the land. Conversely, many would adopt a more responsible civic attitude if they knew that their vote counts even if they eventually moved their businesses to Puerto Rico or take offices on the island<sup>35</sup>.

New migration patterns and changing socioeconomic indices also indicate a changing attitude to national politics and an increasing weight. Floricans are relatively higher in the social strata. They are also more active politically. Since they are doing better economically; they have more to lose thus the stakes are higher. It is also related to their high weight in that state during presidential elections disproportional to their numbers. They represent the swing vote in a swing state. Besides, while they may vote for a Republican Governor when local issues are concerned, such as education or healthcare, they may as well vote Democratic at the national elections. They have very different perspectives imported from Puerto Rican politics. Yet, they are all concerned with the island's status. Floricans are the ones that most often keep up double residences or are striving for their *Americano Dream*. They want to have a say that is not transient, that is, on the other hand, transferable. This is to say that their vote, or voting rights at least, can be moved to Puerto Rico if they wish to resettle there. If statehood is given, Puerto Rico becomes a constituency, while the status of the residents on both sides of the water becomes permanent. They can then start thinking about their permanent future. In case of independence, however, insecurity will rise to levels that may induce political instability among the stateside residents as well. The previous option seems more appealing.

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35 The Associated Press in 2000 reported the discontent of many Puerto Ricans in this regard. Rafael Zeruto when resident of Florida had campaigned and voted for Republican candidates for years. When he returned to the island to establish a pharmaceutical firm, he could not vote any longer for the party whose economic policies he supported (FAUL 1). Neither can vote Xavier Romeru who left a New York Law Firm to become Puerto Rico's Commercial Secretary. Romeru, who is evidently legally trained and is conversant in constitutional matters asked how it is possible that someone in whose election he cannot have a say orders him to go to war (2).



### 3.8. Task Force Recommendations

Although the members of the Presidential Task Force may have pondered all this, their analysis is confined to the legal aspects. The conclusions and subsequent recommendations only treat the viable legal options and the process of changing the status. It recognizes two options. One is statehood, „under [which] option Puerto Rico would become the 51<sup>st</sup> State with standing equal to the other 50 States” (Report 10). The other is independence, under [which] option Puerto Rico would become a separate, independent sovereign nation” (ibid). The Task force recommends that Congress provide for „a Federally sanctioned plebiscite,” in which the Puerto Ricans can decide whether they wish to remain a territory (the present Commonwealth status) or „pursue a Constitutionally viable path toward a permanent non-territorial status” (ibid). This path would then lead to either statehood or independence. Thus, first, they should cast their vote as to their should be any change in the status at all. If they vote for a change, then there would be a call for a new plebiscite, in which they could choose between two options only. In case, in the first round the strongest showing would be for „no change,” then the process is to be repeated periodically (ibid). Then, however, the present ambiguities would stay.

## 4. THE PUERTO RICAN PERSPECTIVE(S)

### 4.1. Overview

For a long period it was the question of self-government and citizenship that were driving forces behind Puerto Ricans petitioning for an elevated status. It seems that they had statehood in mind from the very beginning and fostered the Commonwealth in the belief that it could lead to a permanent status that ensures a full-fledged citizenship and self-government. However, with time, the Commonwealth actually seemed a comfortable solution in which the separate identity and national character could be maintained. Although there is an inherent political weakness that lies in the present status, the majority of the population has not been disturbed by the passive nature of their citizenship as much as by its statutory nature, an imbued insecurity.

If they resisted Americanization from above, they endorsed it from below. Consumerism and American corporations determined what is being „cool” and how one should behave if wanting to advance on the corporate

ladder. The influence of the Diasporicans could not be blocked either. Many ended up disillusioned, but many returned to the island as a visitor or to settle anew with changed norms, some American values adopted. The more successful of these have also been politically socialized and have become used to the full democratic processes on the mainland. The politically more active now also voice their grievance as to the passive nature of their citizenship. Besides, half of Puerto Ricans now permanently settled in one of the fifty states and along with a growing tendency of emphasizing their Puerto Rican identity, they also wish to assert their influence on both sides of the water.

Half of Puerto Ricans are only concerned with local matters; although all local issues are inevitably linked to their status and relationship with the United States, their considerations are primarily economic even with regard to their American Citizenship. Their division is inflicted upon them by local party politics not by the major parties of the mainland. The other division is a line that separates those who settled on the mainland, even temporarily, and those who remained on the island. The latter increasingly define themselves in contrast to Diasporicans. Islanders harbor not only their different language, but also their distinct culture. Many of them see the American way of life and mores alien. As they are struggling against institutional Americanization, they are afraid of a forced assimilation should they opt for statehood. While nationalist sentiments resurface every once in a while independence does not seem an attractive enough option. On the one hand, it is probably made clear for them that with independence they would lose not only the federal money paid in form of relief but also most of their jobs would be in peril. Not all American corporations would retain their operations on the island if it ceased to be part of the United States. Falling out of the tariff wall, the Puerto Rican economy would experience a severe downturn sending millions into despair. Despite the extensive lessons taken in democracy, the level of civil security enjoyed under the present system may not be ensured. However, perhaps not too many of the lesser-educated think that far. The immediate concern, the potential loss of American Citizenship is a factor that probably all of them have in mind. As could be seen in the official statement of the Justice Department, and what is most likely made clear in a more simplistic form for Puerto Ricans, U.S.

citizenship would be revoked upon declaration of independence<sup>36</sup>.

Many on the island think that their isle „with Spanish cadence and Latin rhythm of life developed under the U.S. flag from a poor and untidy place of subsistence farmers into a potent industrial region” (FAUL 2)<sup>37</sup>. These voices think that the „San Juan Star” should now be added to the others. The islanders remain divided. Although statehood proportionally received more votes in the local referenda, the votes of those who think the present status „gives them the best of both worlds” still exceeds any other options (FAUL 1).

Out of these options today the statehood seems to be the most viable idea. Things have changed since the last referenda. Forces in the U.S. now make this idea less alien, albeit the „identity question” on the island work against it. Still, this has more chances than independence. Enhanced Commonwealth seems, at the moment, an outright legal nonsense, that is an unlikely course of development.

#### **4.2. Party Politics – Status and the Economy**

As Raymond Carr proffers in the Introduction to his book, *Puerto Rico: A Colonial Experiment*, the status issue divides the island politics into „three discrete spheres of discourse, each supported by its particular myths, its peculiar vision of the past, and its specific recommendations for the future” (3). For Puerto Rican politicians, the status question involves „conception of their own identity” and „a vision of their history,” and most importantly, is never treated separately from economic prospects. Few politicians on the island – as opposed to their mainland colleagues – treat it as a legal or constitutional issue. Each party’s platform revolves around the status question. They are not Republicans or Democrats. They strive for independence, statehood, or maintaining the status quo.

#### **4.3. Popular Democratic Party (PPD)**

It was the PPD, the Popular Democratic Party (the *Populares*), that managed to bring about the Commonwealth in 1952. Defense of this

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36 Although there is no guarantee of retaining it under the present system, there is no sign of Congress revoking it.

37 „Bajo la conducción de los EE.UU. la isla con cadencia española y ritmos latinos ha evolucionado desde un pobre y desaseado puesto de granjeros dedicados a cultivos de supervivencia hasta convertirse en una potencia industrial regional” (FAUL).

constitutional settlement remains their „raison d'être" (CARR 4). In their view, Puerto Rico freely chose to be associated with the United States but not to form part of it. While it is more likely that for Muñoz Marín, the Commonwealth was a compromise more in the direction to future statehood than a permanent option, many of his successors in the party see it otherwise. Over the past years, two trends have developed within the PPD. Neither is striving for a „distinct status". They would like to enhance the island's status without „severing the bonds of citizenship" (CARR 4), and without losing the economic and fiscal advantages that this ambiguous status offers. Puerto Rico is within the U.S. tariff zone, has access to the mainland market, exempted from most federal taxes and can attract investors and outsourced production facilities with skilled labor and reduced corporate taxes.

Sila María Calderón, previous governor of the PPD made it clear that she was happy with the status quo and did not take sides in any debate suggesting statehood or independence. When asked, she emphasised her pride, and the Puerto Ricans' pride of being American citizens („Calderon speaks"). Her speeches and remarks implied that she would not force any change in the status. Back home, she sought consensus before forwarding pressing the issue in Washington, thus, made sure no steps would be taken (MARINO 1).

Anibal Acevedo Vilá, on the other hand is vigorously campaigning for a change in the status. His idea for the status of Puerto Rico is an enhanced „New" Commonwealth based on full sovereignty for the island and a compact with the United States that would ensure permanent association with thereof. With this proposal he could please enough *Independistas* to back his candidacy for governorship, and also represents a strong will to challenge the status quo (MARINO 1). It is unfortunate for his supporters that the proposed status is incompatible with the United States Constitution and would not be offered as an option.

#### **4.4. New Progressive Party (PPD)**

The New Progressive Party, once the PPD's main adversary in local politics, rejects the Commonwealth (CARR 4). Its main argument is that of the inherent paradox of the present status, that in its relationship with the United States Puerto Rico is still a colony. It is subject to federal laws

passed by the Congress in which they are not represented, and executive orders of a President Puerto Ricans do not elect<sup>38</sup>. PNP advocates statehood, as they think that only that status can bring to Puerto Ricans the „liberties and dignity, together with the political leverage on Capitol Hill” that all other American citizens enjoy (CARR 5). PNP politicians often remind the public that the United States repeatedly made a moral commitment to give them statehood<sup>39</sup>. The fact that most islanders do not speak English is often cited as counter argument against statehood, however the Progressives do not find it as an „insuperable barrier” (ibid). In their views – and perhaps developments on the mainland also point into this direction – a Spanish-speaking state can be accommodated into the Union. Interestingly, the PNP program in the early 1980s included those considerations that have reemerged and even reinforced by changing realities of the United States society and the Task Force Report recommendations. In terms of economic considerations, the PNP proposed that the definitely heavy burden of federal taxation should not necessarily hit the island population at once; it could be „lightened” by a transitional period<sup>40</sup>. Furthermore, the permanent status, statehood in particular, would offer such political security and stability that would outweigh the special preferences now enjoyed by investors.

#### 4.5. Puerto Rican Independence Party (PIP)

Independence is advocated by the Puerto Rican Independence Party (PIP) and the Puerto Rican Socialist Party. It is the unique culture and the strong sense of nationhood that constitute the main argument behind independence. They also subscribe to the notion that the Commonwealth status is a disguise for colonialism. They would consider statehood as annexation irrespective of the current realities in which it is the Puerto Rican „nation” that should petition for statehood. In terms of economics, they contend that the present status with all its aids and programs established

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38 Although Raymond Carr makes the same statements within the description of the PNP program, the quasi colonial status has already been discussed in the paper based on the statutes that govern Puerto Rico and the stipulations of the United States Constitution.

39 Carr cites Carlos Romero Barceló, the statehood governor in the mid 1980s. Barceló contended that conferring citizenship was a promise towards statehood. Others draw attention to General Miles’s promise.

40 The main tenets of the PNP program outlined here are based on Carr’s analysis written in 1986.

from the beginning made the Puerto Rican economy too dependent on the United States coupled with the importation of the such ails of society as drug addiction.

In terms of characteristics of the Puerto Rican economy, its advantages and disadvantages, all the points made by the parties are valid. Only the perspectives are different. As the future status of Puerto Rico is always discussed in terms of what it would bring to the prosperity of the island, either the present advantages or statehood offer viable options. *Independistas* are quite right in their analysis, but independence would not solve anything. Their concerns for identity are more valid. Yet, even those attributes could be maintained within the Union. This, however, depends on cultural and societal forces on both sides of the water. General elections reflect the population's sentiments towards the status question. As the parties represent – if not always firmly and clearly – the three possible options for the status conundrum, Puerto Ricans' vote for one or the other signal their status preferences.

#### 4.6. The Referenda

The results of the three non-binding referenda has already been provided. In fact, with the referenda in 1952 to ratify the constitution, the Puerto Ricans have so far expressed their preferences four times. Sentiments have changed an alternated in the past fifty years. Governor Sánchez Viella organized the plebiscite in 1967 in response to the growing pressure for statehood, because many thought that the Commonwealth held a promise of statehood. In 1993, the preferences seemed to be slightly more polarized with increase in votes for more statehood and independence. It was however the 1998 referendum, and its results, which deserves special attention with regard to the present aspirations. There were five options on the ballot sheet with the following results:

„Territorial” Commonwealth:	0.06%
Free Association:	0.29%
Statehood:	46.49%
Independence:	2.54%
None of the Above:	50.30%

(Report 4)

The strongest showing was „None of the Above,” as a result of the campaign of the PDP. In theory, they supported the continued commonwealth status, but rejected the „territorial” definition (*Report 4*). What the PDP had in mind was a certain „Enhanced Commonwealth,” in effect a greater autonomy that would satisfy both *independistas* and those who argue that the present status is the most advantageous with regard to the economy. Acevedo Vilá’s enhanced status would include common citizenship and an „Association based on respect and dignity between both nations.” However, the promises of the „enhanced” status, such as treaty powers, and limits on Congressional authority (quasi sovereignty) would never be granted by the United States under the commonwealth. Conversely, the request, or promise, of Puerto Rico becoming „an autonomous political body, that is neither colonial nor territorial, in a permanent union with the United States under a covenant that cannot be invalidated or altered unilaterally” could not be enforced (RABEN 5)<sup>41</sup>. The ballot options neither reflected the wishes of the political forces, nor were they viable options. Hence the majority vote for „None of the Above.”

Contemporary analyses and even the editorial piece of *The Puerto Rico Herald* draws the population attention to the fact that the status quo is not an option, because it is not a permanent status „and never can be one” („Your Choice” 1). The same editorial explains to its readership that the „enhanced commonwealth” can neither be an option. It is a delusory promise of the PDP, that the *Herald* calls a „Pipe Dream” (1).

#### 4.7. Current Views

In contrast to the seemingly large-scale ignorance on the mainland, the December release of the Task Force Report has whipped up sentiments on the island. As official view of Puerto Rico is always bound up with party politics and the view of the actual governor, the reaction to the Task Force Report does not necessarily represent the „national” sentiment in Puerto Rico, or the views of the population *en large*. Governor Anibal Acevedo Vilá<sup>42</sup> and the governing Popular Democratic Party (PDP) voiced their discontent in January 2006 with regard to the Task Force Reports. Preceding

41 See explanation of this premise in the previous chapter on The American Perspective.

42 A lawyer by education who also earned a Master’s Degree in Constitutional Law from Harvard University (CIDOB).

the last referendum on status held in 1998 Acevedo Vilá, and his party had campaigned for „non of the above,” because they thought the choice for Commonwealth was not properly defined describing the current political status instead of an enhanced Commonwealth. He also participated in a campaign in 1998 against the *Young Bill* which tried to resolve the status question by defining each option. Acevedo Vilá served as resident commissioner between 2000 and 2004, when he ran for Governorship and, by a few thousand votes<sup>43</sup>, defeated the admittedly statehood proponent Pedro Roselló.

Following the Task Force Report there should be called for a referendum in which each option is clearly defined. With the split ticket in the Puerto Rican Government, the legislative being controlled by the PNP, it cannot be seen whether any consensus on the island is reached and the opinion of the people asked in the near future. Acevedo Vilá continues to campaign for an enhanced Commonwealth Status that includes Puerto Rico’s sovereignty, an association with the United States, in effect a compact, „based on respect and dignity”, and common citizenship – unfortunately a constitutional nonsense. Along with the PDP, he issued a memorandum in January 2006 to boycott the White House Report because it left out „autonomismo” from the options (RODRÍGUEZ 1). He also established a new governmental entity<sup>44</sup> that would be responsible for educating the public on the virtues of the Commonwealth (2).

Contrary to this, Fortuño, the Resident Commissioner forecasts that Puerto Rico will become a federal state or an independent nation before the 2012 general elections (DELGADO 1). He is a Republican, not directly tied to any of the island parties, and is a firm believer in statehood. He would press Americans to take a proactive stance in resolving the island’s status problem. In his view Congress is to be blamed for not having implemented any political procedure to enable Puerto Rican to „determine their form of self-government under a permanent, non-territorial alternative” („Letter to the Editor” *The Hill*)<sup>45</sup>. He firmly believes that as opposed to previous debates in Congress, this time the Report prepared by the Task

43 And required recount and involved the judiciary in deciding the winner – as is customary in Puerto Rico.

44 Secretaría Auxiliar de Educación Política.

45 Written in July 2005 in response to Dr. David Hill’s column published two weeks earlier.



Force will provide a tremendous aid. At the end of February 2006 he said to a journalist of *El Nuevo Día* that he believed the recommendations would be transformed into a Bill very soon (DELGADO 1). In any case, the bill would spend some time in Committee before a debate on the floor which would then signal how the Congressmen, or their constituents feel about the prospect of admitting Puerto Rico – as that could be one of the outcome, and the one that has higher chances.

Regarding the public view, nothing is certain yet. No public surveys or opinion polls have been recently conducted that would indicate a stance. David Hill in his column published in *The Hill* last June suggested that the Puerto Rico's economy having evolved into a high-tech model would give impetus to a statehood referendum. The author also conceptualized Puerto Ricans – both mainlanders and islanders – as bilingual and thus ripe to become a state. However, Carlos Vazquez, a Puerto Rican living in Connecticut responded in strong words in a „Letter to the Editor“. He stated that „Puerto Ricans have shown“ that „they are happy with the status quo“ (1). They are proud to be citizens and they also proved to be „worthy of the label“ but the fact that they are using American brands and eating American fast food „should not be taken as indicators that Puerto Rico is ready to join the other 50“ (2). He expressed his strong support for Vilá's proposal. The tone of the letter indicates a strong sense of identity and pride in „otherness“ that is an attribute of most Puerto Ricans. Perhaps, the problem is not proposing statehood as such, but that it was proposed by an American which was taken by the author as, again, forcing the American view on Puerto Ricans without consulting them. Offering statehood and stating that the Puerto Rico is mature to become a state is in itself generous. However, it must be done with tact.

## 5. EXPECTATIONS

As *The Hill* reported on February 1, Both Vilá and Fortuño had been lobbying Congress to get across their views. Vilá was certain that Congress would not turn the *Report's* recommendations into law this year (*The Hill* 1). As it turns out, Fortuño, in fact, proposed a bill in early March (Puerto Rico Democracy Act 2006, H.R. 4867), which, according to the Eduardo Bhatia, Director of the Puerto Rico Federal Affairs Administration, was a „thinly-veiled attempt of forcing Statehood“ (BHATIA 1). Fortuño's bill

essentially repeated the Task Force's recommendations. It proposed two-stage referenda. In the first round they are to decide whether Puerto Ricans would like to remain in the present territorial framework, or they would like to change the island's status. Whereas during the second stage, given that they will have opted for a change, there would be only two options: statehood or independence (see Appendix C). The bill with 97 cosponsors was introduced on March 2, and was referred to the House Committee on Resources<sup>46</sup>. Five days later Executive comment was requested from the Department of Interior (THOMAS)<sup>47</sup>. However, a new Bill was introduced on March 15<sup>48</sup> to the House. *Puerto Rico Self Determination Act 2006* (H.R. 4963) recognizes „the right of the Commonwealth of Puerto Rico to call a constitutional convention through which the people of Puerto Rico would exercise their right to self-determination, and to establish a mechanism for congressional consideration of such decision.” (See Appendix C) Along with a companion bill, introduced in the Senate<sup>49</sup> in late February, this bill does not prescribe options and a specific process. The drafters have not taken over the Task Force Report's recommendation word by word – perhaps the spirit. It recognizes the necessity to give the people of Puerto Rico a voice, however, does not intend to force on them either a particular mechanism by which a change will be achieved, or a preferred status. The new bill includes the option of renegotiating a new pact, in essence, the option of a „New” Commonwealth. The „golden rule” here is may not be the best strategy. There is an inherent danger in offering an option that is a convenient „middle road to freedom,” but would not foster Puerto Rico' getting out of the colonial closet. Although there is no information yet on how the Puerto Ricans have welcomed the proposal, nor there have been any definite actions taken on the bill, based on reactions to Fortuno's efforts,

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46 A permanent Committee of Congress with „jurisdiction” over Puerto Rico.

47 THOMAS is an information service of the Library of Congress that provides the full text of and information on all actions taken on any Bill introduced to Congress.

48 I am bound to note here that when I started writing this paper I enjoyed the safety of a certain historical perspective as the last major Bill concerning Puerto Rico was introduced in 1998. The release of the Task Force Report in December gave a new angle to the research. However, news on the most recent progress in the issue was, so to say, „received after deadline.” It is a curious twist that changes the end of the story, yet also, at the present moment, leaves it unfinished.

49 Submitted by Senators Edward Kennedy (D-MA), Robert Menéndez (D-NJ), Trent Lott (R-MS), and Richard Burr (R-NC).

it seems that the new bill will receive strong support.

The whole history of the island should be taken into account when anything is initiated from Washington – or from above in general. The best intentions can be taken as an offense. In this case, if referendum for vote on status is prescribed by the United States Congress – and only that could insure that the outcome is binding for legislation – such a move could whip up nationalist sentiments that would result in staying with the status quo. On the other hand, if the mechanism is not prescribed but decision on it is left with the divided Legislature of the island, it is possible that no progress will take place in the near future. Thus, Puerto Rico would remain in the present, non-permanent, insecure, ambiguous legal state, which in turn, would retain, if not deepen, the present paradoxes that accompany all facets of Puerto Ricans life – both on the island and on the mainland.

### **SUMMARY**

The aim of the essay is to reflect on the state of Puerto Rico (political, social, ethnic and judicial views are taken into consideration) as to explain the paradoxical situation of the island within the United States of America. After explaining the nature of this paradox itself, including the state of the island as well as its citizens, the essay focuses on both the United States' attitudes (including a historical overview on the Presidents' attitudes or how the Constitution's Amendments made changes in the Puerto Rican question) and Puerto Rican citizens' fears and wishes (including the history and perspectives of the changes in Puerto Rican citizens' US citizenship). The essay ends with the description of the present situation including Puerto Rican party politics and the island's links to the mainland with a view on the expected future.

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