

## The territorial hang-up: A symptom of underdevelopment



BY RAFAEL HERNÁNDEZ COLÓN

Swedish Nobel Laureate economist, sociologist and politician Gunnar Myrdal—who, in the tradition of Adam Smith, was a proponent of material progress in the development of nations—tells us that development is not a permanent accomplishment, that nations which emerge from underdevelopment can and do relapse at times back to the condition from which they came.

Such is the case with Puerto Rico as to status issues. The political discourse is hung up in words and phrases that reduce what should be a meaningful debate on the substance of our status options and their relevance to the general welfare, to the proclamation of cabalistic mantras by breast-beating politicians or pedantic, self-proclaimed analysts on the radio waves.

The current mantra that has submerged our discourse back to underdevelopment in our centennial struggle over status is that the status of Puerto Rico must be “noncolonial and nonterritorial.” The relapse into underdevelopment comes from the denial of formal adjudications on these issues. The debate on the question of whether commonwealth is a colonial status rages without any regard for Resolution 748 of the General Assembly of the United Nations (U.N.) which adjudicated that commonwealth is a noncolonial relationship. In spite of repeated efforts by the pro-independence sectors through the Decolonization Committee in the U.N. to repeal Resolution 748, the resolution stands unamended, whole and in full force, just as when it was approved in 1953.

The U.N. is the international organism charged by international law with the question of decolonization and promoting self-government in colonial relationships. Its principal body, the General Assembly, has ruled that commonwealth is not a colonial relationship. This is the finding of the highest authority on the subject. Continuing our status debate on the question of whether we are or aren’t a colony is a reductive focus of a debate that should be directed to substantive matters on Puerto Rico’s welfare, not political hang-ups. It is also petty, primeval politics to slander the nature of the relationship with self-serving partisan definitions of what is colonial in order to disqualify the relationship as a legitimate alternative.

The same thing happens with the territorial concept, which comes from U.S. constitutional law. It is an equivocal concept with different meanings. The debate centers on the most derogatory of these meanings, which is that commonwealth is a political entity under the plenary powers of

Congress. Now, this has been adjudicated to the contrary by the U.S. Supreme Court, which is the final arbiter on this issue. The Supreme Court has held that commonwealth is an autonomous political entity sovereign over matters not ruled by the U.S. Constitution, that Congress relinquished its powers over local matters in Puerto Rico, that federal law doesn’t apply to intrastate transactions on the island—in a word, that we aren’t a political entity subject to the plenary powers of Congress.

If it is clear that the commonwealth isn’t a territory in the sense that, like a state, it is a sovereign entity under U.S. constitutional law, then what is the problem? The problem, according to the current discourse, is that federal power over Puerto Rico stems from the territorial clause in the U.S. Constitution and this, according to the discourse, makes commonwealth illegitimate.

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This is a semantic trap. The fact that federal power rests—among other sources—in the territorial clause doesn’t define the extent of that power given the structure of the commonwealth relationship. It doesn’t mean that Congress has plenary powers over Puerto Rico, because Congress relinquished its power over internal matters through the compact that it entered into with the people of Puerto Rico. This is U.S. Supreme Court language in the Flores Otero case; to relinquish means to renounce or surrender. Such an action was necessary regarding the plenary power of Congress in order for our people to exercise their inherent natural right to ordain their own Constitution, and govern themselves in internal matters.

That this should be an issue in the second decade of the 21st century, 60 years since commonwealth was established and 30 years after the U.S. Supreme Court opinions in Calero Pierson, Flores Otero and Rodríguez, is eloquent testimony of a relapse into political underdevelopment

on the island. Yet this issue is precisely what is blocking agreement on definitions regarding the upcoming plebiscite. It is the bulwark of statehood and independence advocates.

Looking back, I remember when we had transcended this conceptualistic, partisan, self-serving level of political discourse. In 1967, opposition leader Luis Ferré signed the Status Commission Report along with then-Sen. Luis Muñoz Marín and the key members of the U.S. Senate and the House of Representatives. It read as follows:

“All three status alternatives—the Commonwealth, Statehood, and Independence—are within the power of the people of Puerto Rico and the Congress to establish under the Constitution.

“As a form of political status, each alternative confers equal dignity and equality of status.”

A decade later, President Carter found no problem in 1978 issuing a Presidential Proclamation that read:

“Since 1898, and as American citizens since 1917, you have made a rich contribution to the life of the United States, while preserving your own unique culture and traditions within the broader community... My administration will respect the wishes of the people of Puerto Rico and your right to self-determination. Whatever decision the people of Puerto Rico may wish to take—statehood, independence, commonwealth status or mutually agreed modifications in that status—it will be yours reached in accordance to your own traditions, democratically and peacefully.... The people of the United States are proud of our cultural and political associations with Puerto Rico over the last 80 years. We know that we can best honor our friendship, and our own democratic principles, by respecting your free choice about your own future.”

Then-Gov. Carlos Romero Barceló presented this proclamation to the United Nations as the “United States Government’s acceptance of and commitment to the defense of the inherent right of the Puerto Rican people to retain and enhance our individual qualities as a people.”

If statehood and independence advocates don’t rise above their present level of political discourse and lay aside their own partisan, self-serving, derogatory definitions of commonwealth in the upcoming plebiscite legislation, the plebiscite so enacted will be an exercise in futility. It is time grow up to a higher level of political maturity so that we can all go forward together. ■

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*Rafael Hernández Colón is a three-term (12-year) former governor of Puerto Rico (1973-76 and 1985-92). He served as Justice secretary (1965-67) and Senate president (1969-72). He was president of the Popular Democratic Party for 19 years. Comments on this article are welcome at [caribbeanbusiness.pr](http://caribbeanbusiness.pr). Go to [Sign in link](#) on the homepage. Emails also may be sent to [column@caribbeanbusinesspr.com](mailto:column@caribbeanbusinesspr.com).*