

## **Status: End game VI**

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Page : 25

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The status issue may be resolved only by the Congress of the United States and the people of Puerto Rico coming to an agreement as to what our final status will be. The series of articles, which ends with this one, has endeavored to present a political, constitutional, and democratic process by which the people of Puerto Rico and Congress may come to such an agreement and bring this matter to a final resolution.

The process consists of 11 steps as follows:

1. The commonwealth, statehood, and independence parties enter into an agreement to undertake the subsequent steps outlined herein.
2. The Legislature approves by a two-thirds majority in each House a call for an Article VII Constitutional Convention.
3. As required by Article VII of the Commonwealth Constitution, the call is submitted to the voters in the next general election, who approve it by a 50% majority.
4. Delegates to the Convention are elected at large and by districts with provision for minority representation.
5. The Convention by unanimous vote petitions Congress to set up an expedited consideration procedure to decide on the proposals that the Convention will thereafter present in order to exercise the right of self-determination of the people of Puerto Rico.
6. Congress sets up by legislation the expedited consideration procedure.
7. The Convention by majority vote presents its first proposal to Congress. The proposal must be for a sovereign alternative; i.e. sovereign in commonwealth, sovereign in statehood, or sovereign in independence.
8. Congress votes on the alternative presented by the Convention.
9. If Congress approves the alternative as presented or with amendments, the alternative is submitted to the people of Puerto Rico. If they ratify it, the Constitutional Convention makes the changes to the constitution to usher in the new status and the process ends here.
10. If Congress rejects the alternative proposed, or if the people reject it, then a new election of delegates takes place.
11. The new majority in the Convention makes a new proposal to Congress and steps 8 to 10 are again taken until a final resolution is reached.

To summarize these steps: Our political parties must come to an agreement to facilitate the people of Puerto Rico's election of a renewable Constitutional Convention to engage Congress to consider sequential proposals until a solution to the status issue is reached.

Having outlined this procedure--which, given the resolve of our political parties (and this is a big given), I think will get us by the hurdles we have not surpassed before--I now turn to the question asked by many: If we have so many important problems, why should we deal with status?

Undoubtedly, attending only to other problems is good politics. I have been looking at polls in Puerto Rico since 1968 and not a single one of them has identified the status issue as one of the top five problems that the people expect a new government to address. So, if we go by the polls, this is not a major priority for the people.

This approach, however, raises the basic question of representative government. What does an elected official owe the people? Political philosopher Edmund Burke answered this question most eloquently when he said in his speech to the Electors of Bristol on Nov. 3, 1774: "Your representative owes you, not his industry only, but his judgment; and he betrays, instead of serving you, if he sacrifices it to your opinion."

So the question is not what are the priorities laid out by the polls, but what are the priorities to effect the common good as perceived by one's judgment.

A statehood or an *independentista* has no problem with this judgment call. Statehood or independence is to them the basic premise for the good government Puerto Rico needs to solve whatever problems we have. A commonwealth supporter does not find this so easy because commonwealth is a reality, and one that has worked well in the past.

As a commonwealther, it has been my judgment all my life that the commonwealth must be perfected as a matter of principle. Principle not merely metaphysical but which shapes and structures a more appropriate and more effective government for our people. Under the present compact, Congress legislates for Puerto Rico without our consent. If taxation without representation was tyranny to the 13 colonies in 1776, legislation without representation, however well intended, compromises our liberty and cannot pass democratic muster today.

But the problem is more complex. Because of this democratic deficit in our relationship, more than a majority of Puerto Ricans look today toward statehood and independence as solutions to what to them is an intolerable colonial relationship. As a result, status is at issue in every quadrennial general election. This may not have been so bad in the early days of commonwealth because statehooders and *independentistas* did not win elections at that time, but since 1968 statehooders have won five elections and commonwealthers four.

This alternation of statehood and commonwealth governments not only sends confusing signals about Puerto Rico's future to the U.S. Congress and to investors; it also results in constantly shifting government policies regarding economic development, taxation, education, and federal legislation and programs.

Section 936 is a case in point. Section 936 was a tax-sparing provision in the U.S. Internal Revenue Code obtained from Congress during my first administration to promote the economic development of Puerto Rico. It exempted the profits of U.S. companies operating in Puerto Rico from federal taxation and also exempted their repatriation to the U.S., except for a Commonwealth tollgate tax, which yielded substantial sums to our treasury.

This mechanism was a prime incentive for investment in Puerto Rico, and to it we owe the presence of our pharmaceutical industry, among other manufacturing operations. It is an incentive that any country in the world would have zealously protected for the good of its economy.

Yet, when it came under attack as corporate welfare under the Clinton administration, our government joined the opponents of Section 936, opening the door to its repeal by the U.S. Congress. The basic reason for this position was that Section 936 could not be maintained if Puerto Rico were to become a state because of the uniformity clause of the U.S. Constitution.

The effects of the repeal of Section 936 have had and will have major implications for our economic development and for our treasury. They are a consequence of the unresolved status problem. Commonwealth governments used and defended Section 936 as the most important tool for our economic development; the later statehood governments did not, and as a result of the shifting policies, our economic development lacks today a defined, rewarding path to the future on which investors can rely.

Pro-statehood policies affect all positions taken by statehood governments with regard to federal matters. While commonwealth governments seek to mold federal legislation to our particular situation, statehood governments shun any treatment of Puerto Rico different from that accorded to the states.

Thus, regarding the repeal of the Jones Act, which imposes on Puerto Rico the highest maritime transportation costs in the world, statehood governments favor its repeal only if it is also repealed for Hawaii and Alaska. Commonwealth governments support it either for Puerto Rico alone or jointly with Hawaii and Alaska.

I do not raise these issues to discuss which policies are best for the common good of all Puerto Ricans. This is not the place for that. I raise them to point out some of the effects of the status issue with regard to governmental actions of great importance to Puerto Rico. Other examples come to mind with regard to education and culture, but we need not go into them here. As to the need to resolve the status issue, the point is that if we don't know the port for which we are headed, how will we steer the ship of the state to get there? Actually, our economic development and many other problems we should be dealing with are stalled without a final resolution to our status.

Muñoz Marin used to say that the status problem is an incubus, an evil spirit, oppressing the people of Puerto Rico in an unending nightmare.

It is time to end that nightmare.

