

Status: End game II

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A resolution of the status problem requires change in the constitutional order, change to a perfected commonwealth, change to federated statehood, change to free association, or change to independence. This change to the constitutional order must be effected by both the Congress of the United States and the people of Puerto Rico, who must take the initiative to engage the Congress in a process which will bring about whatever change the people of Puerto Rico desire and the Congress is willing to accept.

The will of the people of Puerto Rico, however, is fragmented between commonwealth, statehood, and independence. The hard core of each political party is aligned by these vectors. Each party has a vested interest in status for the short-term objective of winning the next general election. Beyond that, each party has a vision of Puerto Rico's future that hinges on the incarnation of values dependent upon the ultimate realization of its status preference. This presents a deep-rooted normative conflict, a conflict of values.

Thus far, we have been unable to work out our differences in order to arrive at the resolution of this conflict. The key to resolving these differences lies in defining a shared objective to be achieved by a fair and equitable democratic process. We need to articulate democratically and dynamically the will of the people of Puerto Rico to engage Congress in a process that will lead to the desired change in our political status.

The objective we all share is to exercise our right of self-determination in such a way that will lead to congressional acceptance of our decision.

This requires a sequential process whereby if one status alternative is rejected by Congress, another one will be proposed by the people until an agreement is reached. Such a process has not been structured before. It requires an understanding between our political parties.

In order to arrive at that understanding, our political parties have to accept the possibility that a dynamic democratic process may produce a result that they may not like. They have to take risks. In politics, as in life, if there is no risk, there is no gain. This is a tall order, but if it is true that each major party has the power to block in Congress the unilateral initiatives of the other, as history bears out, if this enduring deadlock is the alternative, risk taking—through a fair, equitable, and democratic process—becomes necessary if we are serious about bringing the matter to resolution.

The risks involved are that what we hold as self-evident truths regarding the status preferences of others may turn out to be false assumptions and that, as a consequence, another status preference may prevail. What are the truths that each party espouses?

Statehooders hold as a self-evident truth that the perfection of commonwealth through a permanent, bilaterally obligatory compact between the people of Puerto Rico and Congress is unconstitutional and not viable politically because it represents having your cake and eating it too. Therefore, they maintain, the Commonwealth will forever be a colony, lacking the dignity that the people of Puerto Rico deserve.

The Puerto Rican Independence Party (and also many *Populares*) holds as a self-evident truth that the Congress, out of ethnic considerations, will never admit Puerto Rico as a state of the union and that if it does, it would impose such draconian conditions on language that would make it impossible for the Puerto Rican people to accept such statehood.

The *Populares* hold as a self-evident truth that statehood is impossible because the constitutional requirement for uniformity of federal taxation upon statehood will require the immediate imposition of all federal taxes, which will ruin the Puerto Rican economy, and Congress will not compensate such a heavy burden.

Most of our political leaders believe that under no conditions will the people of Puerto Rico ever vote for independence.

These supposedly self-evident truths will be tested by structuring a dynamic, sequential process that will allow us to exercise fully our right of self-determination in conjunction with congressional responses. But what about the legitimacy of the perfected commonwealth that would be an alternative in such a process?

The answer to this objection which some would make lies in the application of the principle of sovereignty to the perfected commonwealth relationship. That is, whatever proposal is put forth by commonwealth supporters in this process must eliminate the democratic deficit in the present relationship. This implies broadening Puerto Rico's autonomy and creatively structuring a constitutional mechanism for participating in those powers which the federal government would continue to exercise. If federal laws continue to apply to Puerto Rico without a means for the people of Puerto Rico to participate in the application of such laws, then the people of Puerto Rico will not be sovereign and the commonwealth relationship would not be perfected.

As we shall see in a subsequent article, the mechanism and the process to articulate sequentially the will of the people cannot be structured without the joint participation of our political parties. In order to arrive at the necessary premises to structure the process, our political parties must initiate a dialogue to identify among them the noble truths which history teaches about the failure of the numerous Puerto Rican initiatives to deal with status after 1952, when Commonwealth was established.

One of these noble truths, for example, is that plebiscite results are valid in Congress only as long as the party in power is the party which won the plebiscite. This may be bad political theory on the part of Congress, which should be able to discriminate between the results of a plebiscite and those of an election, but it is nonetheless the noble truth which history teaches us. For example, the New Compact in

fulfillment of the 1967 plebiscite, with 60% of the vote for Commonwealth, was buried in Congress not by a new plebiscite for statehood but by the election of Carlos Romero Barcelo as governor in 1976; the results of the 1993 plebiscite, again in favor of Commonwealth, but by a smaller margin, were rendered ineffectual in Congress by the NPP local Legislature and the Rossello administration then in power.

The recognition of this noble truth should lead the parties to understand the need to structure a mechanism that transcends the electoral cycle to express the will of the people of Puerto Rico on whatever status change they desire, the need for a mechanism that will be recognized by Congress as representative of the will of the people of Puerto Rico until a final determination on status is reached.

A serious examination through joint dialogue by the parties of the history of our failures and the reasons why we have failed is an essential exercise in order to design the strategy that will bring closure to this unending debate. This exercise will lead to the discovery of other noble truths that will determine the success or failure of future efforts. The fruits of this exercise should be an understanding for cooperation or joint action between our political parties to establish a mechanism and a process that will function independently of our quadrennial elections to assert the will of the people of Puerto Rico for the consideration of our proposals by Congress until a resolution is reached.

If the parties are serious in their assertion that commonwealth has run its course and that as a result we are falling behind the mainland states and even neighboring Caribbean countries such as the Dominican Republic in our rate of growth and development, then in 2004 they cannot propose to the electorate more of the same platform plans regarding status. A proposal that we shall have a plebiscite to pursue statehood or perfected commonwealth, or that we shall have such a plebiscite with the previous commitment from Congress, is belied by history. We have explored the first alternative twice and it has not worked; we have explored the second one twice and it has been impossible to obtain such a commitment from Congress. To paraphrase philosopher George Santayana, those who forget the lessons of history are condemned to repeat their mistakes.

The call for a dialogue between the parties, however, is insufficient if one does not put on the table for discussion a concrete proposal for what a fair and equitable mechanism and process could be.

A mechanism and process that provides equal opportunity to each alternative.

A mechanism and process that takes into account the noble truths which history teaches us.

One such mechanism will be the subject of my next article. The process will be more fully developed in a subsequent article.