

Is Puerto Rico governable?

By : RAFAEL HERNANDEZ COLON

Volume: 34 | No: 49

Page : 27

Issued : 12/14/2006

As we approach the Christmas holidays we get around more than usual, going out to social gatherings and meeting people. In my outings this year I have been impressed by the general malaise that exists in Puerto Rico. Things are looking bad, you hear over and over again. People are losing heart, or hope. Many are contemplating migration. Others have migrated already.

Reflecting on this collective depression as to where we are headed, I find our basic problem—the mother of all our current problems—is one of governability. This problem has many facets: one the absence of a well-informed public opinion, another, the vision, competence and commitment to the public interest of those who govern us, and still another the instruments of governance.

The lack of proper instruments of government was a problem I felt setting in during my last years in office. The strategy I devised to face up to it was decentralization: the devolution of governmental powers from central government to the municipalities. The Law for Municipal Autonomy of 1991 spearheaded this effort. Land use, planning and building permits transferable under this law to the municipalities were some of these powers. But the Law for Autonomous Municipalities envisaged a much broader scope of municipal government. The transfer of power from the central government to Ponce was the model designed so other municipalities would follow.

This model, however, was not accepted by the Rosselló or Calderón administrations. But it is still relevant today. It operates through compacts for formal delegations of powers authorized by the Law for Municipal Autonomy. The compacts either empower the municipalities or provide functional mechanisms for cooperation between central and local government. These compacts may be entered into with individual municipalities or with groups of them associated as consortia.

Today, I would use the Ponce model as the starting point for devolution of powers to all our municipalities, either individually in the case of the larger ones, or to regional consortia. Broad powers were delegated to Ponce in 1992. Today, we should go even further.

In order to cope with the permitting problem, Ponce was authorized to issue all development permits for projects within the municipal territory. A permits office was set up and mechanisms were provided to speed up the endorsements from the various agencies of central government.

The Department of Public Works delegated to Ponce the power to evaluate and endorse all development projects and building permits plus the powers relating to the regulation and control of transit, and also the maintenance and beautification of state roads and rights of way.

The Department of Natural Resources ceded to the municipality its powers as to the endorsement of developmental projects; as to the Law of Forests regarding the protection of trees; also its powers as to permits for the extraction of gravel, stone and other such components of the terrestrial cortex and as to permits and franchises and licenses for use of the maritime zone plus maintenance of the coastal shores.

The Electric Power and Aqueduct & Sewer authorities, the Agriculture and Commerce departments and Treasury designated an official, representing the agency to process requests for endorsements of building permits, who would work in the office of permits of the municipality. The regional directors of these agencies were invested with power to approve the endorsements that were processed by the officials of the agency working out from the permits office of the municipality. The Health and Fire departments designated an inspector with power to endorse building permits, who would work in the permits office of the municipality.

The Department of Housing delegated to the municipality all activities regarding the development, financing and administration of urban renewal programs and the rehabilitation of deteriorated housing, including rehabilitation in place.

The Environmental Quality Board (EQB) ceded to the municipality its powers over permits to generate solid waste activities, over endorsements for permits regarding activities that may generate erosion or sedimentation and over noise pollution.

The Recreation & Sports Department delegated the administration and maintenance of all of its facilities in Ponce. The Consumer Affairs Department (DACO, by its Spanish acronym) delegated its powers over student boarding facilities and the licensing of parking lots. And the Police Department delegated to the municipality all of its powers over transit violations.

The compacts provided for the transfer of funds, equipment and personnel from the agencies of central government to the municipalities to enable the latter to discharge its responsibilities under the delegation. The duration of the compacts was for 25 years. The delegations, however, could be revoked through an arbitration procedure if improperly exercised.

The compacts underwent judicial scrutiny when the Rosselló administration refused to abide by them. They were upheld by our Supreme Court and the central government had to comply with its obligations as to the delegations and the transfer of funds, personnel or equipment.

As they struggle to liberate Puerto Rico from the malaise in which we find ourselves, the powers that be would do well to review the Ponce model as a starting point for decentralizing central government. If they choose to walk down this road, they should remember municipal governments are much more efficient today because they do not bear the burden of labor unionization. Let us seek the tools for good government first in order to provide Puerto Rico with the governance it needs.