

Committee: Special Political and Decolonization Committee (GA4)

Topic: Reviewing the Political Status of Puerto Rico

Student Officer: Nikolas Langen

Position: Co-Chair

Personal Introduction

Dear Delegates,

My name is Nikolas Langen, I am 16 years old, and I am currently a 11th Grade Student. This will be my 13th Conference and I will be serving as the co-chair of the GA4 Committee.

Since 2020 I have embarked on my MUN journey, and it has been one of the most unique experiences of my life. MUN has really allowed me to broaden my horizons and really learn the values and essence of diplomacy and international relations. It is important for us as the future leaders of this world to understand the significance of diplomacy and its key role in solving conflicts, disputes and allowing for nations to work close with one another to find long-term and realistic solutions to some of the biggest problems our world is facing. In addition, MUN has given me the opportunity to come in contact with different cultures, civilizations, perspectives and opinions from all around the world and as such better understand policies and opinions that countries, governments and politicians from different continents have and the reason behind them.

On a different note, in every MUN Conference delegates are given the opportunity to discuss and debate upon a variety of topics and come together to select solutions that will bring new hope to the resolution of the topic in hand such the topic that this study guide addresses which is “Reviewing the political status of Puerto Rico”. I hope you find the information provided in this study guide helpful and if you have any



further questions don't hesitate to contact me. I look forward to meet you all in person after so many years and have a productive weekend!

Yours truly,

Nikolas Langen nikolas.r.langen@gmail.com

Topic Introduction

The political status of Puerto Rico is an issue that US and Puerto Rico have been as well as the international community has been concerned with. For the past decades if not centuries it has been difficult for the US to explain its relationship with Puerto Rico. As it currently stands Puerto Rico is a “unincorporated territory of the United States” which translates into the island not being a sovereign nation nor a U.S state. Because of this Puerto Rico has both advantages and disadvantages that the other states lack such as that Puerto Rican's are not subject to federal income taxes but on the other hand, they do not have the right to vote in the federal presidential elections. Furthermore, in Congress they do not have the right to elect their own senators and representatives.

The current status of the island has come as a result of various actions both by the United States and Puerto Rico itself, but the UN has also been involved in the formation of the current status. More specifically, in 1953 the UN removed the small-island nation from the list of non-self-governing territories, nonetheless it remains in the jurisdiction of the Territorial Clause of the U.S Constitution.

Changes in regard to the status of Puerto Rico revolve around three initiatives and actions. The first ones are direct executive orders from the U.S President, the second one is bills from the U.S Congress and the third referenda held in Puerto Rico. Over the years there have been three presidential executive orders and 4 bills that have been considered by the U.S Congress on the status of Puerto Rico and 4 referenda that have given Puerto Ricans to vote on their future.



With the current reform taking place in the legislation a new era is starting where Puerto Rican's are officially granted by the US their freedom to self-determination and choose what the status of Puerto is going to be in the future. This move will determine what the relation between Puerto Rico and the US is going to be. For instance, where Puerto Rico to adopt statehood it would become the 51st state of the US and would receive not only the benefits of being a US state but also the disadvantages such as extra taxation.

Definition of key terms

Insular Area ¹

“A jurisdiction that is neither a part of one of the several States nor a Federal district. This is the current generic term to refer to any commonwealth, freely associated state, possession or territory or Territory and from July 18, 1947, until October 1, 1994, the Trust Territory of the Pacific Islands. Unmodified, it may refer not only to a jurisdiction which is under United States sovereignty but also to one which is not, *i.e.*, a freely associated state or, 1947-94, the Trust Territory of the Pacific Islands or one of the districts of the Trust Territory of the Pacific Islands.”

Unincorporated Territory ²

“A United States insular area in which the United States Congress has determined that only selected parts of the United States Constitution apply. In this context it can be understood that the US Congress has the power and right to apply only certain sections of the US Congress whereas in the 50 states all of them are applied. This

¹ “Definitions of Insular Area Political Organizations.” *U.S. Department of the Interior*, 30 Nov. 2020, <https://www.doi.gov/oia/islands/politicatypes>.

² “Definitions of Insular Area Political Organizations.” *U.S. Department of the Interior*, 30 Nov. 2020, <https://www.doi.gov/oia/islands/politicatypes>.



leaves plenty of room for misinterpretations and misuse of the US Congress in these territories.”

Territory³

“An unincorporated United States insular area, of which there are currently thirteen, three in the Caribbean (Navassa Island, Puerto Rico and the United States Virgin Islands) and ten in the Pacific (American Samoa, Baker Island, Guam, Howland Island, Jarvis Island, Johnston Atoll, Kingman Reef, Midway Atoll, the Northern Marian Islands and Wake Atoll).”

The Insular Cases⁴

“The insular cases are Supreme Court cases which dealt with the legal status of territories acquired by the United States after the Spanish-American War. The insular cases were cases heard by the Supreme Court from 1901 up to the 1920's for the purpose of defining how the U.S. would handle its relationship with these new territories and their governments. Many of the provisions of these cases are still in effect today.”

Statehood⁵

The condition of being a country or a part of a large country that has its own government. Despite that in the case of PR it would mean that it would be incorporated

³ “Definitions of Insular Area Political Organizations.” *U.S. Department of the Interior*, 30 Nov. 2020, <https://www.doi.gov/oia/islands/politicatypes>.

⁴ “Take Online Courses. Earn College Credit. Research Schools, Degrees & Careers.” *Study.com* | *Take Online Courses. Earn College Credit. Research Schools, Degrees & Careers*, <https://study.com/academy/lesson/what-were-the-insular-cases-in-the-supreme-court.html>.

⁵ “Statehood.” *Cambridge Dictionary*, <https://dictionary.cambridge.org/dictionary/english/statehood>.



into the US as a state, the 51st US State. As such it would have its own government and would be subject to the US Congress and Federal Government.

Self-determination⁶

The process by which a country determines its own statehood and forms its own government. More simplified, in the case of PR this gives the small-island nation the right to choose what type of governance they want to form to serve the best interests of their country

Referendum⁷

“A vote in which all the people in a country or an area are asked to give their opinion about or decided an important political or social question.”⁸

Plebiscite⁹

“The direct vote of all the members of an electorate on an important public question such as a change in the constitution.”

U.S Bill of Rights

The Bill of Rights is the first 10 amendments of the U.S. Constitution, adopted as a single unit in 1791. It spells out the rights of the people of the United States in relation to their government. The Bill of Rights says that the government cannot establish a particular religion and may not prohibit people or newspapers from expressing

⁶ “Definitions of Insular Area Political Organizations.” *U.S. Department of the Interior*, 30 Nov. 2020, <https://www.doi.gov/oia/islands/politicatypes>.

⁷ <https://www.archives.gov/founding-docs/bill-of-rights-transcript>

⁸ “Referendum.” Cambridge Dictionary, <https://dictionary.cambridge.org/dictionary/english/referendum>.

⁹ “Oxford Languages and Google - English.” Oxford Languages, <https://languages.oup.com/google-dictionary-en/>.



themselves. This gives the freedom to Puerto Rican people to express their opinions and beliefs in regards to the US-Puerto Rican relations, the political status of Puerto Rico etc. It also sets strict limits on the lengths that government may go to in enforcing laws. Finally, it protects unenumerated rights of the people.

Commonwealth¹⁰

The definition of Commonwealth according to 2013 U.S. State Department policy, as codified in the department's Foreign Affairs Manual, reads: "The term 'Commonwealth' does not describe or provide for any specific political status or relationship. Currently there are two U.S unincorporated territories that use this term which are the Northern Mariana Islands whose full name is the Commonwealth of the Northern Mariana Islands and Puerto Rico whose full name is Commonwealth of Puerto Rico.

Background Information

Early relations between the USA and Puerto Rico

In 1898, after the end of the Spanish-American War, the Caribbean archipelago was under U.S. sovereignty and at that time the islands (ex Puerto Rico) were acquired by the U.S. Moreover, in the early 20th century through US congressional acts certain rights were granted to Puerto Ricans such as the right to US Citizenship. The most important act though of the early 1900s, known as the Foraker Act paved the way for the establishment of the Puerto Rican government. In 1950 the U.S. Congress enacted legislation which allowed Puerto Rico to hold a constitutional convention, where they could draft a constitution. Finally, in 1952 the people of Puerto Rico approved the draft Constitution through the national assembly. Later, the Constitution was approved by

¹⁰ "Self-Determination." *Cambridge Dictionary*,
<https://dictionary.cambridge.org/dictionary/english/self-determination>.



both the U.S. President, Dwight D. Eisenhower and Congress and it came into effect on July 25th 1952. Throughout the years the Commonwealth of Puerto Rico provided different plebiscites to their voters in regard to the political status of the governing body and more specifically in 1967, 1993 and 1998. In addition, in 1991 the people of the island-nation were asked to amend the relationship with the U.S. by making an amendment to the Puerto Rican Constitution. Despite that, every time the results favored the current political status rather than statehood or independence.

Federal Rights and Citizenship

Ever since 1917 all citizens of Puerto Rico have been granted U.S Citizenship. Despite that, because of the fact that Puerto Rico is not a U.S State, its citizens do not have the right to participate and vote in the U.S. federal presidential elections. Instead of complete representation in U.S Congress through Senators and the House of Representatives, they are represented through a non-voting “Resident Commissioner” in the House of Representatives. This position and title has been in effect since 1901.

The Insular Cases

After the handing over of Puerto Rico to the U.S., a series of decisions by the U.S Supreme Court defined the political status of Puerto Rico which as a whole are known as the Insular Cases (1901-1905). The U.S Supreme Court believed that Constitution extended “ex proprio vigore” (of its own force) to the territories as well. Furthermore, the

U.S Supreme Court ruled that the U.S Constitution only applied fully to incorporated territories such as Alaska and Hawaii and partially in the newly unincorporated territories which include Puerto Rico, Guam and the Philippines. The Insular Cases are comprised of a total of six cases with the leading and most important one being: *Downes v. Bidwell*, 182 U.S. 244 (1901). It concluded that the United States could “acquire territory and exercise unrestricted power in determining what rights to concede to its inhabitants.” In the case of Puerto Rico this means that the US has



solemn power over PR's foreign relations as mentioned throughout this study guide but also grants and restrict certain rights that other states may or may not enjoy such as taxation and voting rights

U.S Control over Puerto Rico's Foreign Affairs

As it will be made clearer in following sections of this study guide, the US has absolute control over every agreement that Puerto Rico makes with another country or international organization. More specifically, PR's foreign and intergovernmental relations are governed by the Commerce and Territorial Clause of the Constitution of the US, thus it is subject to the plenary powers of US Congress. In many cases mentioned below the US does not allow Puerto Rico to become a member of an organization due to the anti- US policy that they may have. This has as a result to limit the international presence of PR and provide few information about the trade between the small-island nation and different countries. In addition, it restricts PR's participation in international organizations with the most notable being the UN and affiliated organizations.

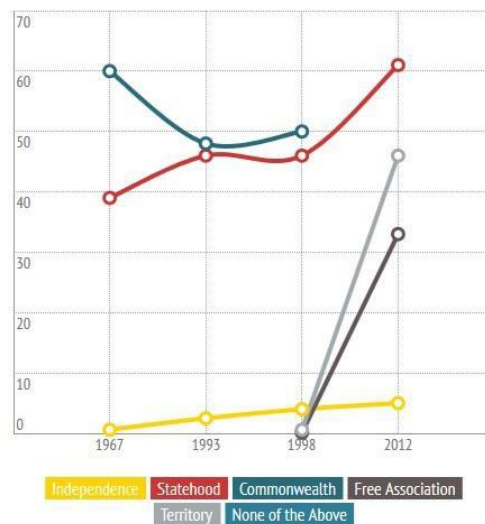
Implications of Puerto Rico's Current Status

The current political status of Puerto Rico has had multiple implications on the governing bodies of the small island-nation and their jurisdiction. For instance, the Puerto Rican government is not autonomous and there is a permanent federal presence such as a branch of the U.S Federal District Council. Moreover-as mentioned prior- all citizens born in Puerto Rico are entitled to U.S citizenship. Nonetheless, due to the fact that citizenship is only protected by an Act of the U.S Congress and not the U.S Constitution itself, the U.S Congress has the right and ability to revoke this act either collectively or for individuals. This means that the people of PR face the uncertainty of whether they are US citizens or not and whether they will have access to federal benefits. Another interesting aspect that must be taken into consideration is the fact that if their citizenship was to be revoked, they would be



stateless and would not have any citizenship. That is because PR citizenship does not exist and instead US citizenship is granted. Besides the right to citizenship, Puerto Rican's are also protected by a group of "fundamental civil rights" but because it is an unincorporated territory they are not subject by the whole Bill of Rights.

Puerto Rico Status Votes



"Changes in the preferred status of Puerto Rico throughout the years"

pr51st. "None of the above: The Strange History of Puerto Rico's Status Votes." *Puerto Rico 51st*, 10 June 2019, <https://www.pr51st.com/none-of-the-above-the-strange-history-of-puerto-ricos-status-votes/>.

Major countries and organizations involved

Russian Federation

The Russian Federation has been trying to meddle with US politics for the past decades and one of the topics that have interested the country is the political status of Puerto Rico. Multiple state-backed news outlets such as Russian Times and Real



News have written various articles showing support towards Puerto Rico. Furthermore, Russia has provided support to Puerto Rico's tiny independence movement over the years not only directly but also in the United Nations and the UN Special Political and Decolonization Committee.

Colombia

Puerto Rico has signed trade agreements with Colombia with it being only one of the two countries with which PR has signed trade agreements throughout the years. As it is in every case where PR has signed trade agreements, these are based on the US trade agreements which for instance in this case is the CFTA, (Colombia-USA Trade Promotion Agreements. Generally speaking what can be understood is that because PR is a US unincorporated territory, US trade agreements apply to the small-island's nation trade.

Panama

Panama is the second country with which Puerto Rico has signed trade agreements with, PTPA (Panama-USA Trade Promotion Agreement) due to the fact that the US has control over every agreement between the small-island nation and any foreign country.

Dominican Republic

As a fellow Caribbean nation both countries enjoy great relations with each other. The main reasons behind it are the commercial trade, tourism and investments that the two island nations share, as well as the fact that a lot of Dominicans emigrated to Puerto Rico where they enjoy better jobs, salaries and living conditions in general. The great relations between the Dominican Republic and Puerto Rico also being proven by the fact that the USA has allowed PR to have free-trade agreements with the fellow Caribbean nation through the CAFTA Agreement (Central America Free



Trade Agreement) which has been signed between the US and Central America Countries.

United States

Since Puerto Rico is an unincorporated territory of the United States, the United States are responsible for every trade agreement and foreign relation of Puerto Rico with another country. The United States Congress and Constitution have jurisdiction over the governance of Puerto Rico. It is understandable that the determination of the political status of PR is of great importance to the US and has always been in the presidential agenda. Although, PR is an unincorporated US territory it has received a lot of federal assistance in critical moments with the greatest being in 2017 when hurricane Maria struck the island. Furthermore, under President Trump's Administration more than \$13 Billion were used to rebuild PR.

International Organizations

The small island holds an observer status in many international organizations mostly revolved around the Caribbean the Caribbean Community (CARICOM), the Caribbean Tourism Organization (CTO) and the Organization of American States (OAS). In addition, it is an associate member of the United Nations Economic Commission for Latin American and the Caribbean (ECLAC) and a full member in the International Olympic Committee (IOC). What must be mentioned at this point is that the United States Government must approve the participation of Puerto Rico in any international organization. In fact, Puerto Rico was denied observer status by the U.S. Department of State within the Community of Latin American and Caribbean States (CELAC) due to the anti-American rhetoric of its founding members.



Timeline of events

<u>1898</u>	Puerto Rico is handed over by the Spanish to the US at the end of the Spanish-American War under the Treaty of Paris.
<u>1917</u>	The Jones Act is enforced which grants US citizenship to Puerto Ricans.
<u>1947</u>	Puerto Rico is granted partial self-governments allowing the election of their own governor.
<u>1950</u>	In October President Truman signs the Puerto Rico Commonwealth Bill- paving the way for the creation of a Puerto Rican Constitution. This act is opposed and met with violence from nationalists resulting in the assassination attempt against President Truman in Washington DC.
<u>1951</u>	A referendum is held, and Puerto Ricans vote with an overwhelming majority in favor of a US commonwealth status.
<u>1993</u>	Both English and Spanish are declared as official languages.
<u>2006 March</u>	In March, the US Supreme Court rejects an appeal that called for Puerto Ricans to have the right to vote in the US presidential elections.
<u>2006 June</u>	In November Puerto Rico adopts its first ever sales tax, which aimed to address major budget deficits.



<u>2012 November</u>	In November voters back a non-binding referendum to become a full US state. Although this measure requires US Congressional approval, President at the time Barack Obama said that he will respect the vote. The US Congress has now two bills to consider in regard to the status of Puerto Rico.
<u>2013 October</u>	In October Puerto Rico is facing a mounting debt crisis that raised the possibility of federal assistance.
<u>2014 July</u>	In July governor Alejandro Padilla pledged to hold another plebiscite in regard to Puerto Rico's status in the next to years (2014-2016).
<u>2017 May</u>	In May, the US territory was forced to declare bankruptcy because it was unable to pay its debts-the largest of its kind ever by a local US government.
<u>2017 June</u>	In a non-binding referendum held in June, Puerto Rico votes strongly in favor of becoming America's 51st state, even though only 23% of voters participate. In September, two hurricanes wreak havoc and spark a political uproar over purportedly slow US recovery effort.



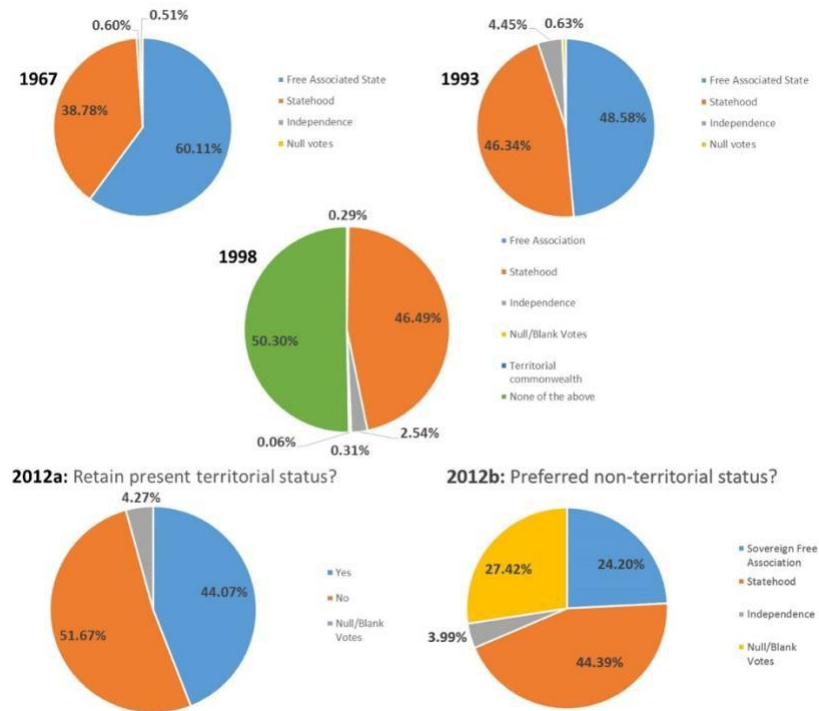
Previous attempts to solve the issue

Referenda held by Puerto Rican's

Throughout the past two centuries the government of PR have held different referenda regarding its current and future political status to better understand the preferences of the people of PR. There have been many different proposals on the future political status of the small island nation. In different referenda such as in 2012, 2017 and 2020 the voters have had to choose between three options, “statehood”, “free association/independence” or “current territorial status”. In the last referenda which was held in 2020 voters were asked to answer the question “Should Puerto Rico be admitted immediately into the Union as State?” with either “yes” or no”. The referendum showed that the “yes” answer received 52,52% of the votes whereas the “no” option received 47,48% with the total turnout of the voters who participated being 54,72% from the total population. This set a new precedent because not only where the answers close but the turnout was considerably low and as such does not make clear what the preferences of the people as whole are. Some of these referenda have been binding, whereas others not, but they have had a great effect in understanding what the citizens of PR want their nation to become. Additionally, it has given the opportunity for the voices of the general population to be heard in the international



community and provide them with a platform where they can exercise their right to self-determination.



“In the above chart the results and percentages of every referendum held are being presented”

Presidential executive orders

Multiple U.S. presidents have signed executive orders to help define, study and produce activity (allow for the process of determining the status of PR to start and not remain stand-still) in regard to the political status of Puerto Rico with the most significant being the ones that were signed in 2005, 2007 and 2011 that helped establish the President’s Task Force on Puerto Rico’s Status. The Task Force’s mandate is to provide options for Puerto Rico’s future political status and relationship with the United States but also to report every two years the progress that has been made in the determination of Puerto Rico’s ultimate status. Throughout the years the



effects of the presidential executive orders haven't had a direct impact on the process of determining the status of Puerto Rico. Nonetheless, they have created the space for work to be done and assist PR in its self-determination process.

2022 US Congress draft of the Puerto Rico Status Act

Members of Congress are sponsoring multiple bills that address the issue on resolving Puerto Rico's territorial status and relations with the US. Together they have decided to form a new piece of legislation called the Puerto Rico Status Act where compromises from the two opposing sides were made under the aforementioned act. The proposed legislation incorporates elements of pro-statehood legislation introduced by Rep. Darren Soto, D-Fla., and Rep. Jenniffer Gonzalez, Puerto Rico's non-voting member of Congress and a Republican, as well as the Puerto Rico Self-Determination Act introduced by Reps. Alexandria Ocasio-Cortez and Nydia Velázquez, both New York Democrats. The bill's main objective is to outline the process by which Puerto Ricans will decide on the island's status and how the transition to which ever status is chosen will take place. In general, this bill is of great importance since Congress would officially recognize PR's right to self-determination and will give official credibility to PR's new status.

Relevant UN Resolutions, Events, Treaties and Legislation

Resolution 748 (VIII)

During the 8th annual session of the UN General Assembly Puerto Rico's self-government was recognized with the abovementioned resolution (Resolution 748) on the 27th November 1953. It must be mentioned though that although this resolution recognized Puerto Rico's self-government, the UN has still not decided whether the small island is a colony or not.



1972-UN Reopening the issue of Puerto Rico's political status

In 1972 the UN after approving Puerto Rico's association with the United States in 1953 as sufficient evidence to remove it from the list of Colonized Countries, it reopened the matter which up until this day remains under review. According to the United Nations the reason why they reopened the matter is "Failure (of the United States) to include independence as an option and harassment of (Puerto Rican) pro-independence organizations were reasons for the United Nations' recent reconsideration of the status of Puerto Rico".

Possible solutions

“Enhanced Commonwealth”

Currently Puerto Rico's official name is that of a Commonwealth. With this change to an enhanced Commonwealth, it would mean that the relationship with the U.S. would remain the same, but the Puerto Rican Citizens would have the right to vote and participate in the U.S. Federal Presidential Elections and elect representatives for Congress. Furthermore, this proposal also includes a Bill of Rights in the Puerto Rican Constitution that would allow for it to be a member in international organizations and global trade. Nonetheless, for this proposal to come into effect it would need the approval of the U.S. Congress which up until this day holds power over Puerto Rico although it lacks Puerto Rican representation. This solution would benefit both parties because Puerto Ricans would enjoy the same rights as the other US citizens and the US would resolve this long-standing problem in regards to its relation to PR.

Statehood

Statehood is one of the three options that Puerto Rican's had had to choose from in the referenda that have been held over the years. This change would grant



Puerto Rico the same rights as the other 50 U.S. States and remove the congressional authority over the island. In that case 2 senators would be added to represent Puerto Rico in the House of Senate and 7 congressional representatives in the House of Representatives to represent Puerto Rico as the 51st state. On the other hand, Puerto Ricans would be subject to the federal income law. With that being said, there is a possibility that many businesses based in Puerto Rico would have to file for bankruptcy because they would lose necessary tax breaks.

Independence

A lot of the politicians and political parties that have been opposing statehood as a solution prefer independence. That would mean that Puerto Rico would be a sovereign and independent island nation with its own political system, official language, constitution and membership to the UN and other international organizations. On the other hand, it would lose any federal financial support from the U.S. and the U.S. armed forces would lose their military bases in Puerto Rico. Many experts believe that the newly formed country would become very poor and dependent to foreign financial aid since it has already filed for bankruptcy once in recent history and does not have the economic activity that is needed for it to become self-sufficient.

Free-Associated State (FAS)

Where Puerto Rico to adopt the above status, it would make it an independent nation holding a signed agreement with the U.S. known as the Compact of Free Association (COFA). The COFA would control all relation between the island nation and the U.S. such as economic, military, and diplomatic. In addition, Puerto Ricans would no longer be entitled to U.S. citizenship and would be able to form their own foreign policy. On a military side, COFA would oblige the U.S. to protect and defend Puerto Rico and provide the U.S with the necessary power to overrule the Free-Associated State (FAS) government if it did not act in accordance with the terms of the



agreement. Finally, the international agreement would be temporary and allow both nations to terminate any involvement or association at any moment.

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About the author Gibrán Cruz Martínez Dr. Gibrán Cruz Martínez is a Postdoctoral Research Fellow at the University of Agder, et al. “The End of Colonialism in Puerto Rico? Evaluating the Options in the 2017 Political Status Referendum: LSE Latin America and Caribbean.” *LSE Latin America and Caribbean Blog*, 8 Jan.

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