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**“American” State of Exception: Reimagining the Puerto Rican Colony and the Nationalist Enemy under United States Rule, 1900-1940**

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and the Nationalist Enemy under United States Rule, 1900-1940**

**by**

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## **Dedication**

For Germain

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Mónica Alexandra Jiménez, Ph.D.

The University of Texas at Austin, 2015

Supervisor: Frank Guridy

This dissertation reexamines the first forty years of the United States’ dominion over the island of Puerto Rico through the lens of the state of exception in order to analyze the role of race, nationalism and violence in the formation of the Puerto Rican nation. Focusing on the period before the creation of the Commonwealth of Puerto Rico, the project first engages in a legal historical analysis in order to understand how U.S. Supreme Court decisions concerning race, citizenship and the application of the U.S. Constitution served to create a state of exception on the island. These early pronouncements, known as the *Insular Cases*, were steeped in white supremacist and social Darwinian ideas about race and civic readiness. Through these decisions the Court left the island in an uncertain position in which certain natural, unspecified rights were granted to its inhabitants but the protections of the U.S. Constitution were not. This exclusion from the established legal order opened up a space for the proliferation of violence. The second part of the project turns to an examination of the workings of violence and the rise of nationalism in response to U.S. policies. I argue that the state of

exception led to both the growth of nationalism on the island and to its violent suppression. Though much has been written with respect to the colonial status of the island and its legal uncertainty during the first half of the twentieth century, a reexamination of this history using the state of exception helps further our understandings of the role of race and violence in that dynamic. Finally, this discussion also deepens our understanding of contemporary U.S. states of exception created in pursuit of both global markets and the purported “War on Terror.”

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## Foreword

The initial genesis for this project took place ten years ago while I pursued a J.D. and an M.A. in Latin American Studies. While researching the unique legal relationship between Puerto Rico and the United States, I stumbled upon the *Insular Cases*, a group of U.S. Supreme Court cases that established the legal framework for the island's relationship with Puerto Rico. These cases, which I had not encountered in my Constitutional Law classes, had been decided in the early years of the 20<sup>th</sup> century and were clearly creatures of that particular historical moment. They spoke of the need to maintain racial others, such as island residents, outside of the United States political body. They evinced a clear desire to dominate and control the island and the potential profits therein, while demonstrating an apparent wariness of the mixed-race people who resided there, of their foreign language and customs, of their incapacity for democratic governance. The cases screamed of social Darwinian notions of the civilizing ability of the "better" races, meaning, of course, the white, Anglo-Saxon race.

As a relic of a bygone era the cases were charming in their backwardness. However, as I continued to study them and their impacts it became clear that these cases, with their quaint 20<sup>th</sup> century racism, had never been overturned and as such were still good law. In other words, these throwbacks to Rudyard Kipling's *The White Man's Burden* were still the legal structures framing the island's relationship with its colonial master the United States. Though subsequent workings of Congress had altered the initial local governance structure and a 1917 act of Congress made islander's U.S. citizens, the overarching relationship had changed very little. I became fascinated.

Upon returning to the University of Texas to pursue a PhD in History, I assumed I would continue to study the *Insular Cases* and questions of citizenship and law in Puerto

Rico. To be sure, the current project certainly does engage those subjects and expands on the work I did previously. However, in October 2010, just two months into my graduate program a personal tragedy sent me reeling and my work took on a decidedly different trajectory. In October 2010, my older brother shot himself and two other people. Suddenly, pursuing a PhD seemed frivolous. I questioned my decision to leave a successful legal career to study history. Nothing made sense. I do not write about this here to be shocking, but because that experience marked my graduate experience and my work indelibly.

That close experience of violence sent me into a maelstrom of questions. I became obsessed with the intersection of race, violence and colonialism. I became especially obsessed with my brother as a product of colonialism, as an individual marked by colonialism, shaped by it. This was important to me. While others might have merely seen domestic violence or the actions of an unstable young man, I saw something else. I saw a long trajectory of colonialism and violence leading up to that moment. I saw my family's story of leave-taking, of migration, of becoming others. I saw the ways that leave taking, that othering had marked my brother, had marked me. These questions became obsessions. I needed to understand the intersection of these things in my brother's life, in my own. This might appear determinative, teleological even, but for me these things were inexorably linked. I became obsessed with understanding the relationship between Puerto Rico's continued colonialism and violence in all its myriad forms. I'm not a sociologist or psychologist, I did not have the tools to explore the mind of colonialism, the way it flattens its subjects, foments despair. What I had was questions, many questions, and the time to explore these questions through historical inquiry.

I thought I understood colonialism well. Its dark corners, the way it chews up a people. The way a place that has lived over five hundred years of domination might never be able to undo the psychic and physical damage of that oppression. However, this new obsession with violence and colonialism sent me in search of something else. What that thing was, I wasn't sure. I merely knew there was some link I wanted to make, to connect these threads. It was within this milieu of grief and questioning that the present project was born.

I pray you will forgive me for this personal digression, (though what is our work if not personal?), but I could not properly begin an explication of the present project without acknowledging its genesis. For me the creation of this work was not solely an academic exercise but a deeply personal and cathartic one as well. While I have not found any definitive answers to my questing (do we ever?), the arc of conceiving of and completing this particular iteration of the project seems like fitting book ends to a period of grief, of mourning, of many questions.

## Introduction

On December 14, 1999, the government of Puerto Rico officially apologized for its counterintelligence surveillance program known on the island as *las carpetas* (the dossiers) or *listas de subversivos* (lists of subversives).<sup>1</sup> The program, which began in the 1930's with the participation of the U.S. military and the nascent Federal Bureau of Investigation (F.B.I.), was meant to identify individuals with pro-independence leanings. Over its 50-plus years in existence, the program accumulated over 135,000 secret entries on more than 75,000 individuals.<sup>2</sup> Through *las carpetas*, pro-independence, nationalists, socialist, and communists organizations and student groups were targeted, as were labor unions, feminist groups, cultural, religious, and community organizations.<sup>3</sup> These lists of subversives were used for decades to harass, blacklist, and arrest Puerto Ricans, as well as to prevent them from getting jobs and housing. At times, entire families were targeted as a result of one family member's inclusion on the list.

The latter was the case in my own family. My maternal great-aunt, Monserrate del Valle, affectionately known to me as Titi Monse, was married to nationalist activist Tomás López de Victoria, my Tío Tomás. Tío Tomás was an active member of the Nationalist Party and acolyte of Pedro Albizu Campos, the leader of the *Partido Nacionalista de Puerto Rico* (Nationalist Party) in Ponce, Puerto Rico. He eventually became the Sub-Commander of the Cadets of the Republic, the youth arm of the Party. In

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<sup>1</sup> Ramón Bosque Pérez and José Javier Colón Morera, eds. *Las Carpetas: Persecución política y derechos*

<sup>2</sup> Ibid.

<sup>3</sup> Ibid.

this capacity he helped to organize and participated in the protest demonstration of March 21, 1937 in Ponce. Though the event began as a peaceful demonstration and procession meant to protest the political prosecutions of Nationalist Party members, it devolved into violence when Insular Police officers attempted to break it up.<sup>4</sup> The organizers of the event had initially received permission from the mayor of Ponce to hold the peaceful march and demonstration through the city center.<sup>5</sup> However, hours before the event and at the request of the Chief of the Insular Police and the Governor of Puerto Rico, the mayor pulled the Nationalist Party's permit. Nationalist leaders had arrived from all over the island and the organizers were determined to continue with the day's planned activities despite the lack of a permit. Police and nationalists clashed in the streets with the end result being the deaths of 19 people and injury to over 200 people who were present as bystanders on that day. These events came to be known as the Ponce Massacre.

It remains unclear exactly how the commotion started on that fateful day. The events remain shrouded in mystery even now as it was never determined who fired the first shot. Police claimed that Nationalist Party members fired the first shot.<sup>6</sup> While Party members claimed the shot came from police determined to break up the procession.<sup>7</sup>

Investigators recovered several weapons from nationalists and bystanders and collected

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<sup>4</sup> National Archives and Record Administration (NARA), Record Group (RG) 126 – Department of the Interior, Office of Territories Classified Files, 1907-1951; 9-8-78: Puerto Rico, Law and Order, General; Box 933, Folder: "Law and Order, Nationalist Party, Ponce Riot of March 21, 1937 (Palm Sunday Massacre), General (Part 1: March 22, 1937- May 1937); "Preliminary Report of the District Attorney of Ponce to the Honorable, The Attorney General of Puerto Rico, dated March 22, 1937."

<sup>5</sup> Ibid.

<sup>6</sup> "Special Cable to The New York Times," *The New York Times*, 22 Mar 1937.

<sup>7</sup> Ibid, *supra* note 4 "Preliminary Report of the District Attorney of Ponce to the Honorable, The Attorney General of Puerto Rico," dated March 24, 1937.

bullets of many calibers and types at the scene.<sup>8</sup> Several witnesses claimed they saw the first shot fired by a civilian bystander, not a uniformed Nationalist Party member. These same witnesses described the resulting scene as a “blood bath on the part of the police, that, after the shooting was initiated, attacked and fired regardlessly [sic] with all their weapons.”<sup>9</sup>

Tío Tomás and ten other nationalists were arrested and prosecuted for murder for their participation in the events of March 21, 1937. Public sentiment ran high against the Insular Police following the tumult. Island residents and politicians saw the events as a violent repression of free speech and a curtailment of the Nationalist Party’s right to peacefully demonstrate. The public blamed the government and the police for the multiple deaths and injuries that occurred on that day. The eleven nationalists, including Tío Tomás were eventually acquitted when a jury failed to come to a unanimous decision on the charges of murder.

Tío Tomás was again arrested a year later on July 25, 1938 when a group of nationalists attempted to assassinate the Governor of Puerto Rico, Blanton Winship, during a celebration in Ponce. Though he was not present at the parade and there was no evidence of his involvement in the plot against the governor, nonetheless Tío Tomás was tried and convicted of murder in the first degree and was sentenced to life imprisonment for his participation in the attempt on the governor. He and the four other nationalists

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<sup>8</sup> Ibid.

<sup>9</sup> Ibid.

convicted of the attempt on Winship were pardoned eight years later by Governor Rexford G. Tugwell and were released in January of 1946.

In 1950, Tío Tomás was once again arrested during an island wide Nationalist Party uprising. In his position as Sub-Commander of the Cadets of the Republic, he led the uprising in the city of Arecibo. This event saw nationalist party attacks in the cities of Jayuya, Ponce, Arecibo, Mayagüez, Utuado, and San Juan; as well as, an attack on Blair House, the temporary residence of President Harry Truman in Washington, D.C. Tío Tomás and the other nationalists involved in the uprising were arrested, convicted for their roles in the uprisings and sentenced to between two and ten years in federal prison.<sup>10</sup> Upon his release from prison my great-uncle and his family moved to Brooklyn, New York where he lived out the rest of his days until his death in 1972.

Titi Monse often told stories of the government agents who spied on her and her children. She claimed that she was followed, had her telephone bugged and was harassed. Many in my family assumed these were exaggerations on her part. Time had dimmed the threat of nationalism and the possibility of independence and with it my family's collective memory of the ire and immediacy of the events of those earlier decades. However, in the 1990s with the declassification of the F.B.I. files relating to the Puerto Rico Nationalist Party and with the end of *carpeteo* (dossier making), it became clear that she had not exaggerated. Countless documents in these files bolster Titi Monse's claims

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<sup>10</sup> *El Pueblo de Puerto Rico, demandante y apelado v. Tomás López de Victoria, Ricardo Díaz Díaz, Juan Jaca Hernández, Ricardo Díaz, Jr., Ismael Díaz Matos, Leónides Díaz Díaz y Monserrate Del Vallé, acusados y apelantes*, 77 D.P.R. 953; 1955 PR Sup. LEXIS 158 (1955).

that she and her children were followed and surveilled. Her name appears on document after document detailing the movements of Nationalist Party members, surveillance documents describing Party meetings, logs of visits to her husband in jail and visits to other Party members, as well as, lists of nationalists living on the island and in New York.

Upon my great-uncle's death in the early 1970's my aunt fought the United States and Puerto Rican governments to allow her husband's body back into the island for burial. Both governments feared that Tío Tomás' funeral would become a rally for those with nationalist and pro-independence sentiments and that those present at the funeral would further foment pro-independence responses. With the help of local political leaders and academics both on the island and in New York City, Tío Tomás' body came home to Ponce for burial. Family members remember attending the funeral, which overflowed the funeral parlor's chapel and hallways. They remember the presence of men in dark suits and others who stood apart from the proceedings watching, individuals who were clearly not family or mourners. These men were government agents sent to monitor and surveil the attendees and the event. Given that this was the height of *carpeteo* no doubt many of the mourners had dossiers opened in their names simply for paying their respects to my great-uncle, the dead nationalist.

In many ways, this dissertation began in considering this family history and the role of violence, surveillance, and nationalist resistance to the United States colonial projects on the island. Especially during the 1930's, the island underwent a period of

tumult and violence during which nationalism and calls for independence became loud and boisterous. The Great Depression and the apparent failure of the U.S.' colonial project led islanders to experience the greatest period of economic, social and political unrest the island had ever seen. In this atmosphere of desperation, frustration and ire, violence often became the language of resistance to U.S. policies, as well as the language of the United States' response. The 1930's in particular were mired with violence on the part of students, labor, nationalists and the state.

My exploration of violence, colonialism and resistance led me to the philosophies of political and legal theorists Carl Schmitt and Giorgio Agamben and their conceptions of the state of exception. In simple terms, the theory of the state of exception posits that at times of great exigency the sovereign has the power to suspend law in order to preserve the legal order. Though in its conception the state of exception was meant to be a temporary solution to an extreme situation, scholars have more recently argued that certain situations in fact present us with long-term, protracted states of exception, where the exception becomes the rule.<sup>11</sup> The colonial condition has been posited as one such situation.<sup>12</sup> The work on coloniality and states of exception has been fairly well

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<sup>11</sup> See generally, Giorgio Agamben, *Homo Sacer: Sovereign Power and Bare Life*. (Stanford: Stanford University Press, 1998); Giorgio Agamben, *State of Exception*. (Chicago: University of Chicago, Press, 2005); J.A. Mbembé and Libby Meintjes (trans), "Necropolitics," *Public Culture* 15, no. 1 (2003): 11–40; John Pincince, "De-centering Carl Schmitt: The Colonial State of Exception and the Criminalization of the Political in British India, 1905-1920," *Politica Comun*, Vol. 5, (2014).

<sup>12</sup> See generally, Mbembe; Pincince; Alexander G. Weheliye, *Habeas Viscus: Racializing Assemblages, Biopolitics and Black Feminist Theories of the Human*. (Durham: Duke University Press, 2014).

developed by scholars of Asia, India, Africa and the former colonies of European states.<sup>13</sup> However, there is a dearth of this type of analysis in the Latin American context and virtually no such analysis in the case of Puerto Rico, one of the longest held colonies in the world. I began to question what might be gained in evaluating the history of Puerto Rico, the United States' colony par excellence, through this theoretical lens. Ultimately, I found Schmitt and Agamben's ideas on the state of exception provocative ways to reanalyze this well-trod history. In doing so I seek to place the island within a larger genealogy of states of exception in the U.S. legal context. In other words, though Puerto Rico is unique in its long-term colonialism and its relationship to the United States, nonetheless it is part of a longer history of territorial expansion, racial exclusion, federal plenary power, and what I call the "American" State of Exception.

Given that I did not set out to discover new materials in the history of Puerto Rico or to discover new evidence to resolve a long held question, I instead imagine this project as a reexamination of a well known history. In that respect, I see this project as an essay in the French tradition of *essayeur* – to try, to test, to experiment – with something new. This project seeks to take a fairly well known history and experiment with it. In this essaying, I am not trying to dispel what other scholars have said about Puerto Rico or its relationship to the U.S. On the contrary, I rely on the thoughtful scholarship of others

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<sup>13</sup> Marcelo Svirsky and Simone Bignall, eds. *Agamben and Colonialism*. (Edinburgh: Edinburgh University Press, 2012); Scott Lauria Morgensen, "The Biopolitics of Settler Colonialism: Right Here, Right Now," *Settler Colonial Studies* 1, no. 1 (January 1, 2011): 52–76; J.A. Mbembé and Libby Meintjes (trans), "Necropolitics," *Public Culture* 15, no. 1 (2003): 11–40; Ann Laura Stoler, *Race and the Education of Desire: Foucault's History of Sexuality and the Colonial Order of Things* (Durham: Duke University Press, 1995), John Pincince, "De-centering Carl Schmitt: The Colonial State of Exception and the Criminalization of the Political in British India, 1905-1920," *Politica Comun*, Vol. 5, (2014).

who have attempted to understand the nature of the Puerto Rican colony, of Puerto Rican identity, and the island's unique place within the history of U.S. constitutional law, among other things. I do not wish to portray the relationship between the island and the mainland as something other than what it is – a colonial one. My attempt in this project is to ask, what else? What, if anything, new can we garner from reevaluating this well known history of U.S. colonialism in Puerto Rico through a different theoretical lens?

I argue that the United States Supreme Court's decisions in the *Insular Cases*, a series of decisions that establish the parameters of the island's relationship to its new colonial master, worked to establish a permanent and protracted state of exception on the island. These cases defined the island as existing outside of the United States political body and outside of the protections of U.S. law and the Constitution. As a result, the question of what protections were owed to the residents of the island was left largely to Congress. Thus, island residents were left vulnerable to the whims of the state. This state of exception opened up a space for experimentation and violence to proliferate. It allowed for the violent repression of dissent and protest, as well as the growth of medical, educational, and environmental experimentation and experimentation in social hygiene policies.

I understand this project to offer a political and legal history of the island that attempts to understand the island's position within the larger dynamics of U.S. law, racial exclusion, colonialism and citizenship. I engage U.S. constitutional law and legal history to situate the island within a longer trajectory of U.S. states of exception that sought to

exclude racial others from participation in the nation and from full citizenship. I also engage a myriad of sources from government correspondence, to military intelligence documents and F.B.I. and police surveillance reports, to witness testimony and statements to newspaper reports, and speeches as a way of engaging a political history of the first three decades of United States rule. This political history is interested in understanding how the state of exception manifested on the island.

As a result of this approach, there are several questions animating this study: 1) Where does Puerto Rico fit into the long history of race, empire building and the state of exception in the United States? 2) What did the state of exception look like in Puerto Rico? 3) How did it shape the lives of island residents? This project seeks to trace the history of the state of exception through several Supreme Court cases, namely the *Marshall Trilogy*, *Dred Scott v. Sanford*, the *Guano Island Cases* and *Downes v. Bidwell*, in order to place the island in to the longer continuum of U.S. created states of exception. Such an analysis will allow us to then better understand the workings of violence within that context.

### **THEORETICAL FRAMEWORK: THE STATE OF EXCEPTION**

In considering what the contours of the colonial state of exception in Puerto Rico consisted of, let us first turn to the political philosophers whose teachings illuminate the concept. In 1922, in his treatise *Political Theology*, legal scholar and political philosopher

Carl Schmitt famously wrote, “Sovereign is he who decides on the exception.”<sup>14</sup> George Schwab, Schmitt’s translator and a scholar of his work, clarified that for Schmitt a state of exception “includes any kind of severe economic or political disturbance that requires the application of extraordinary measures... an exception presupposes a constitutional order that provides guidelines on how to confront crises in order to reestablish order and stability...”<sup>15</sup> Schmitt further clarified his concept of sovereignty and the state of exception when he stated that for a legal order to make sense, “a normal situation must exist, and he is sovereign who definitely decides whether this normal situation actually exists.”<sup>16</sup> For Schmitt, the state of exception arises when the legal order, as established by a sovereign, is threatened. In that moment of threat, whether political or economic, the sovereign has the power to move outside of the established legal order. The idea is that necessity knows no law and that at times of great exigency the power lies with the sovereign to make necessary decisions to meet the situation.

As Carl Schmitt’s other work, *On Dictatorship*, further explains, his definition of the state of exception is closely linked to the structures of the totalitarian or authoritarian state, such as Nazi Germany. Nazi Germany, of course, has come to exemplify the clearest example of a state of exception: one that both unambiguously suspended the usual course of law and was based in authoritarian rule. It is fitting then that Schmitt’s conceptions would become tied with the very party he was a member of and the

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<sup>14</sup> Carl Schmitt. *Political Theology* (Chicago: University of Chicago Press, 2005), 5.

<sup>15</sup> *Ibid.*

<sup>16</sup> *Ibid.*, 13.

government he would support. He himself became known as the “crown jurist of the Third Reich.”<sup>17</sup>

While Schmitt’s theories of the state of exception are foundational, more recently Italian legal philosopher Giorgio Agamben has expanded on Schmitt and addressed the question of how the state of exception functions in contemporary, democratic states. Agamben’s theories on the contemporary state of exception are found in his works *Homo Sacer* and *State of Exception*. Agamben begins his theorization with the figure of the “*homo sacer*” or sacred man. He traces *homo sacer*’s origins from ancient Rome through to contemporary Europe. As literary scholar Alexander Weheliye has recently stated, Agamben “infuses [*homo sacer*] with Michel Foucault’s concept of biopolitics, Walter Benjamin’s concern for mere life, Carl Schmitt’s thoughts on sovereignty and the state of exception, and Hannah Arendt’s notion of statelessness.”<sup>18</sup> As a result *homo sacer* is a subject who is barred from the category of the human, he is capable of being killed without the penalty of murder, he is stripped of citizenship and is reduced to bare life.<sup>19</sup> This figure exists as a breathing biological being, but lacks citizenship, rights, or humanity. He is Foucault’s biopolitical subject par excellence—a figure that exists at the mercy of the state and whose very existence is defined by the state.

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<sup>17</sup> Charles E. Frye, “Carl Schmitt’s Concept of the Political,” *The Journal of Politics* 28, no. 4 (November 1, 1966): 818–30.

<sup>18</sup> Alexander G. Weheliye, *Habeas Viscus: Racializing Assemblages, Biopolitics and Black Feminist Theories of the Human*. (Durham: Duke University Press, 2014), 33.

<sup>19</sup> *Ibid.*

Having defined the figure of the *homo sacer* thusly, how does he relate to the state of exception? For Agamben, what is most significant about the figure of the *homo sacer* is the character of his exclusion and the violence to which he finds himself exposed.<sup>20</sup> This violence, “the unsanctionable killing, that in his case, anyone may commit, is classifiable neither as sacrifice nor as homicide...” instead it subtracts itself from “the sanctioned forms of both the law of man and divine law...”<sup>21</sup> Agamben goes on to explain that the figure of *homo sacer* is created within the sphere of the exception. This sphere is “that of the sovereign decision, which suspends law in the state of exception and thus implicates bare life within it.”<sup>22</sup> In other words, the exercise of sovereign power that creates the state of exception at once exposes those within the exception to bare life, to the violence of the state of exception. This exposure reduces the subject to a rights-less figure, a subject excluded from citizenship.

For Agamben there is no greater example of the state of exception than that of the concentration camp. Citing Hannah Arendt, he describes the concentration camp as a “laboratory in the experiment of total domination.”<sup>23</sup> Thus the concentration camp creates a terrain in which the central aim of politics is the creation of bare life, and according to Agamben this is the politics within which we live.<sup>24</sup> Agamben further explains that in the concentration camp, understood as the place of the state of exception, bare life becomes a

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<sup>20</sup> Giorgio Agamben, *Homo Sacer: Sovereign Power and Bare Life*. (Stanford: Stanford University Press, 1998), 82.

<sup>21</sup> Ibid.

<sup>22</sup> Ibid, 83.

<sup>23</sup> Ibid, 120.

<sup>24</sup> Weheliye, *Habeas Viscus*, 34.

“zone of indistinction” wherein “traditional political distinctions lose their clarity and intelligibility.”<sup>25</sup> Stated differently, Agamben “imagines the field of bare life as eradicating divisions among humans along the lines of race, religion, nationality, or gender, because it created a substance that transcends traditional social and political markers.”<sup>26</sup> That is to say that in its absolute debasement and exposure to violence, bare life eradicates difference. The subject is simply a biological being, devoid of identifying markers – I imagine a pulsating, biological mass of pain.

Of course, in the Nazi concentration camp, and as will be discussed below, in the state of exception generally, it is the very fact of racial and ethnic difference that leads internees to be reduced to bare life, a fact that Agamben seems to elide in seeking to equate bare life with a zone of indistinction. This is a point of contention that scholars of ethnic and postcolonial studies have taken with Agamben’s discussion of *homo sacer*. Can the state of exception and its reduction of the subject to bare life really create a zone of indistinction wherein difference is eradicated when it is the fact of that difference that leads to the creation of the state of exception? Again, as Weheliye has noted,

if bare life embodies a potential dimension of contemporary politics as such, we might ask, then why *certain subjects are structurally more susceptible to personifying its actualization* and why the concentration camp functions as the epitome of modern sovereignty for Agamben, especially considering that most instantiations of bare life do not necessarily entail physical mortality per se but other forms of political death. (emphasis added)<sup>27</sup>

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<sup>25</sup> Agamben, *Homo Sacer*, 122.

<sup>26</sup> Weheliye, *Habeas Viscus*, 34.

<sup>27</sup> *Ibid.*, 35.

Here Weheliye points to the obvious blind spot in Agamben's discussion: why are certain individuals, often racial and ethnic others, more often subjected to the excesses of the state of exception? And indeed, why is Agamben, following Arendt, so focused on the camp as the modern exemplar of the state of exception and its reduction to bare life, when we are confronted with examples everyday of a political death akin to bare life. The U.S. immigration structure and prison system are just two examples of such political death that quickly come to mind.

Ultimately, in the U.S. context the question of susceptibility to reduction to bare life has repeatedly come down to the matter of racial difference. As we will examine more fully in the next chapter, U.S. law has endeavored, quite effectively, to create such spaces of exception for racial others. Within these U.S. states of exception, physical death is often not the ultimate aim, but instead the goal is, as Weheliye notes, a political death that leaves the subject without rights or citizenship. As will be demonstrated, in the case of both black Americans and the insular territories this was certainly the case.

Agamben's other important work, *State of Exception*, furthers the discussion begun in *Homo Sacer*. Here he begins with Schmitt's theories of sovereignty and traces the history of the state of exception through Europe and England to arrive at a more contemporary definition of the concept. *State of Exception* continues Agamben's historical discussion and points to the U.S. led war on terror and U.S. detainment camps, such as the one located in Guantanamo, Cuba, as belonging in the historical genealogy of the concentration camp. In other words, for Agamben the U.S.' purported war on terror

and its creation of detainment camps for assumed terrorists are the successors to the Nazi concentration camp. Through an analysis of the contemporary legal instruments of Western Europe and the United States, Agamben concludes that “the modern state of exception is a creation of the democratic-revolutionary tradition and not the absolutist one” and as such he tries to locate it in the legal instruments of modern democracies, namely in constitutions which are the preeminent legal instruments of the modern democratic state.<sup>28</sup>

For Agamben, the matter of where the power to declare a state of exception is located in the U.S. Constitution is a complicated one. Yet, locating this power is also crucial to his understanding of how the modern state of exception works in the U.S. context. Agamben argues that, the “place...of a theory of the state of exception in the American constitution is in the dialectic between the powers of the president and those of the Congress. This dialectic has taken shape historically...as a conflict over supreme authority in an emergency situation; or, in Schmittian terms...as a conflict over sovereign decisions.”<sup>29</sup> Quite simply, who holds the power to decide – Congress or the Executive?

Agamben points to the tensions in the U.S. Constitution’s enumeration of powers given to Congress and those given to the president. Article I’s grant to congress of the power to declare war and raise and support an army creates a tension with Article II’s grant to the president of the role of Commander in Chief of the Army and Navy of the U.S. Furthermore, Article I’s prohibition against the suspension of habeas corpus unless

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<sup>28</sup> Giorgio Agamben, *State of Exception*. (Chicago: University of Chicago, Press, 2005), 5.

<sup>29</sup> Ibid, 19.

in times of rebellion or invasion is also a place of tension between Congress and the President because Article I does not designate to whom this power is given. However, as Agamben points out, the question of who has the supreme power in the U.S. in times of emergency has become moot over time given that historically from the Civil War to the Great Depression, from World War II to the “War on Terror,” the president has demonstrated that he will act as he sees fit and Congress will ratify his actions.<sup>30</sup>

While Agamben ultimately finds precedent for the state of exception in the U.S. context in President Lincoln’s suspension of habeas corpus during the U.S. Civil War, nevertheless he clarifies that one of the elements that makes the state of exception so difficult to define is its close relationship to civil war, insurrection, and resistance.<sup>31</sup> However, he argues that the modern state of exception is visible in dynamics such as the “War on Terror,” which has allowed for spaces where the suspension of law operates to expose subjects to extralegal violence. These spaces are neither outside, nor inside, the established legal order of the state. Agamben points to the detention camp – the modern day concentration camp – as the extreme manifestation of the state of exception: a place where the violence of the state reduces the subject to *homo sacer*, to bare life.

While this suspension of habeas corpus undoubtedly reveals a clear enactment of the state of exception in a United States context, Puerto Rican legal scholar Charles Venator-Santiago takes exception with Agamben’s conclusion that the precedent for the state of exception in a U.S. legal context lies in Lincoln’s suspension of habeas corpus

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<sup>30</sup> Ibid.

<sup>31</sup> Ibid, 2.

during the Civil War.<sup>32</sup> Instead, Venator-Santiago argues that the detention camps that Agamben highlights are an “expression of a long tradition of a nation-state building logic that has been a permanent fixture of U.S. territorial expansion.”<sup>33</sup> As a result, it is possible to identify various precedents in U.S. jurisprudence, and other constitutional expressions of sovereign power, that have provided a foundation for the creation of the state of exception. Key among the precedents Venator-Santiago points to are policies governing Native Americans that sought to limit their territory while also impeding their mobility. These expansionist policies led to the creation of enclaves where Native Americans were often contained in anomalous spaces akin to detention camps where the law was suspended, and the inhabitants were subjected to the caprices of the federal government, which often meant subjugation and violence.<sup>34</sup>

Furthermore, as Weheliye argues, concentration camps share an intimate history with different forms of colonialism and genocide before being transferred to the Nazi death camps.<sup>35</sup> In the U.S. context he points to the camps built in the 19<sup>th</sup> century as part of the Campaign for Indian Removal following the passage in 1830 of the Indian Removal Act. These camps were initially built to detain 22,000 Cherokee and later more were constructed to house 1700 Dakota. Additionally, he points to contraband camps constructed during the U.S. civil war to house escaped slaves in the U.S. south.

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<sup>32</sup> Charles R. Venator-Santiago, “From the Insular Cases to Camp X-Ray: Agamben’s State of Exception and United States Territorial Law,” *Studies in Law, Politics, and Society*, no. 39 (2006) 15-55.

<sup>33</sup> *Ibid.*, 18.

<sup>34</sup> *Ibid.*, 25.

<sup>35</sup> Weheliye, *Habeas Viscus*, 35.

Conditions in these camps were often worse than life on the plantation, with internees often suffering abuse at the hands of soldiers or facing reprisals when Confederate soldiers infiltrated Union lines. For Venator-Santiago and Weheliye, these enclaves and camps had much in common with the death camps of Nazi Germany and the detention camps of the “War on Terror” and thus offer a more direct precedent for the existence of a long history of the state of exception in a U.S. context.

Furthermore, if Agamben’s theories seem to take a Eurocentric view of history and elide the histories of people of color and of colonialism, he is in good company in following his theoretical forebears Schmitt and Arendt. As historian of India, John Pincince, has pointed out, both Schmitt and Agamben take Eurocentric views because their theories are founded on European-centered historical processes.<sup>36</sup> The fact of this Eurocentricism has not been lost on scholars of postcolonial and ethnic studies. Scholars such as Weheliye, Achille Mbembe, and Pincince have taken Agamben to task for his flagrant disregard of the dynamics of colonialism in his pronouncements on the state of exception. These scholars have plainly demonstrated, that though the colonial condition is not what Schmitt and Agamben had in mind in their discussions of the state of exception, nonetheless the colonial condition presents us rich precedents through which to discuss the workings of the state of exception and the limits of sovereignty.<sup>37</sup>

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<sup>36</sup> John Pincince, “De-centering Carl Schmitt: The Colonial State of Exception and the Criminalization of the Political in British India, 1905-1920,” *Politica Comun*, Vol. 5 (2014), available at <http://dx.doi.org/10.3998/pc.12322227.0005.006>.

<sup>37</sup> Marcelo Svirsky and Simone Bignall, eds. *Agamben and Colonialism*. (Edinburgh: Edinburgh University Press, 2012); Scott Lauria Morgensen, “The Biopolitics of Settler Colonialism: Right Here, Right Now,” *Settler Colonial Studies* 1, no. 1 (January 1, 2011): 52–76; J.A. Mbembé and Libby Meintjes

African scholar Achille Mbembe takes on just these questions in his important article, “Necropolitics.” Mbembe begins his discussion by citing Hannah Arendt in *The Origins of Totalitarianism* where she claims, “There are no parallels to the life in the concentration camps. Its horror can never be fully embraced by the imagination for the very reason that it stands outside of life and death.”<sup>38</sup> Mbembe next cites Agamben’s assertions that the concentration camp is “the place in which the most absolute *conditio inhumana* ever to appear on Earth was realized,” because its inhabitants were divested of political status and reduced to bare life.<sup>39</sup> He begins here in order to highlight that both these thinkers are focused on sovereignty as an exercise of power over life and the political and therefore the space of the camp, where subjects are stripped both of legal and political personhood, is the ultimate expression of the state’s sovereignty over the individual. In this conception, sovereignty is the state’s power “to exercise control over mortality and to define life as the deployment and manifestation of power.”<sup>40</sup> In other words sovereignty becomes an exercise of biopower: that domain of life over which power has taken control.<sup>41</sup> Both Agamben and Arendt focus on the concentration camp as the place par excellence of the modern state’s exertion of absolute sovereignty. Mbembe explains that for both Arendt and Agamben the concentration camp is associated with

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(trans), “Necropolitics,” *Public Culture* 15, no. 1 (2003): 11–40; Ann Laura Stoler, *Race and the Education of Desire: Foucault’s History of Sexuality and the Colonial Order of Things* (Durham: Duke University Press, 1995).

<sup>38</sup> Mbembe, “Necropolitics,” 12, citing Hannah Arendt, *The Origins of Totalitarianism* (New York: Harvest, 1966), 444.

<sup>39</sup> *Ibid.*, citing Giorgio Agamben, *Means without Ends: Notes on the Political* (Paris, Payot & Rivages, 1995), 50–51.

<sup>40</sup> *Ibid.*

<sup>41</sup> *Ibid.*

modernity and with the *state's* exercise of ultimate sovereignty, whereas colonialism and slavery are perceived as relics of a pre-modern time – an era of barbarism before the creation of states. As a result, for Agamben and Arendt, it is the concentration camp that is the ultimate expression of *state* sovereignty and the contemporary state of exception.

To be sure, this view elides the ways that colonialism contributed to the creation of the modern state which both Agamben and Arendt are concerned with. As Pincince has argued, the colonial state was a constitutive element in the development of the modern state, but distinct from the Euro-American liberal state.<sup>42</sup> Colonialism provided the experimental testing ground on which the modern state practiced its repressive techniques. As a result the colonial state made the modern state possible and

the authoritarian practices of the modern state seem rather more like the colonial state than that of some idealized modern liberal state – or the modern liberal state is something like an illiberal state veiled by the deployment of liberal ideals of freedom, liberty, equality and justice. The colonial state, then, represents a permanent state of exception, and as such represents a break or separation from the modern state discussed by Schmitt and Agamben.<sup>43</sup>

In other words, the modern state becomes no different from the purported barbarism and savagery it believes to be the domain of the colony. It cloaks itself in the mantle of its so-called values – freedom, liberty, equality, and justice – while reifying the very barbarism it so vociferously critiques. This is but one of the criticisms lobbed against the U.S. government in Puerto Rico over the course of its hundred-plus years of colonial rule of the island.

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<sup>42</sup> Pincince, *Publica Comun.*

<sup>43</sup> *Ibid.*

Pincince logic regarding the permanent nature of the colonial state of exception is in line with Mbembe's analysis on the subject. However, Mbembe takes as his point of departure Michel Foucault's ideas of the biopolitical nature of the state. In the last of his lectures at the College de France of 1976, Foucault famously described the concept of biopower.<sup>44</sup> For Foucault, biopower was a natural evolution of the rights of the sovereign. As Foucault explained, one of the basic classical tenets of sovereignty was the sovereign's right of life and death, or more simply the sovereign's right to kill. As the concept of the nation state and political right evolved, so too did the rights of the sovereign evolve and the right of the sword, or the right to kill, took on another aspect, and became what Foucault termed the "power to make live and let die."<sup>45</sup> If the old right had been the right to take life or let live, this right had now expanded to include the power to make live and to let die – a small distinction, but one of critical import. To make live and let die implicates state power over such arenas as reproduction and euthanasia. The death penalty and the deployment of the atom bomb were key examples Foucault used to illustrate the parameters of this sort of exercise of power.

So where exactly was this power exerted? For Foucault biopower occupies the realm of what he terms the biopolitical. The realm of the biopolitical is concerned with power over "a set of processes such as the ratio of births to deaths, the rate of

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<sup>44</sup> Michel Foucault, *Society Must Be Defended: Lectures at the Collège de France, 1975-1976* (New York: Picador, 2003), 239.

<sup>45</sup> Id.

reproduction, the fertility of a population, and so on.”<sup>46</sup> Thus biopolitics “deals with the population, with the population as political problem, as a problem that is at once scientific and political, as a biological problem and as power’s problem.”<sup>47</sup> As a result, it is closely connected with what anthropologist Ann Laura Stoler explains as the development of a new technology of power, that of regularization.<sup>48</sup> Regularization is interested not in the individual body, but rather is concerned with the life of the species as a whole.<sup>49</sup> This technology presides over the processes of birth, death, production and illness. As Stoler explains, “within the modern biopolitical state, the sovereign right to kill appears in new form; as an excess of biopower, that does away with life in the name of securing it.”<sup>50</sup> In other words, the concern of the modern state is with securing itself, with its own replication; it does this through the exercise of biopolitical power. This power takes on various shapes in our modern world, but is characterized by the states interest in the body as a thing to be surveilled, trained, used, and if need be punished.<sup>51</sup> Throughout the 20<sup>th</sup> century these sorts of exercises of power have taken on many shapes from eugenic practices meant to limit the reproduction of undesirable elements of society, to segregationist policies meant to limit the possibilities of certain unwanted sectors of the population, to the genocidal exterminations of entire populations.

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<sup>46</sup> Id, 245.

<sup>47</sup> Id.

<sup>48</sup> Ann Laura Stoler, *Race and the Education of Desire: Foucault’s History of Sexuality and the Colonial Order of Things* (Durham: Duke University Press, 1995), 82.

<sup>49</sup> Ibid.

<sup>50</sup> Id, 84.

<sup>51</sup> Foucault, *Society Must Be Defended*, 242.

Though Foucault's analysis of the exercise of biopower and the realm of the biopolitical was anchored in the 19<sup>th</sup> and 20<sup>th</sup> century European arena, Mbembe takes these ideas as his jumping off point to examine its relation to the state of exception outside of the context of the concentration camp and of Europe. His overarching concern is the question of the relationship between politics and death in those systems that can function only in a state of emergency. For Mbembe the ultimate expression of sovereignty is not as Foucault supposes, the power to decide who must live and who must die, but rather to dictate who *may* live and who *must* die. This power to decide who must die, is what Mbembe defines as necropolitical force -- the subjugation of life to the power of death.<sup>52</sup>

For Mbembe this exercise of necropolitical force is closely tied with the state of exception and with race. He focuses his discussion on those situations "by which the state of exception and the relation of enmity have become the normative basis of the right to kill." He gives as examples the Nazi state and the terror during the French Revolution as a way of highlighting the relationship between the modern state, the state of exception and the enemy. However, it is his discussion of the ignominious institution of slavery that provides us the most relevant example of these dynamics at play. He notes that slavery should be considered as one of the first instances of biopolitical experimentation.<sup>53</sup> For Mbembe the plantation system and its aftermath "manifests the emblematic and

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<sup>52</sup> Mbembe, "Necropolitics," at 11.

<sup>53</sup> Ibid, 21.

paradoxical figure of the state of exception.”<sup>54</sup> This is true because in the plantation, the slave experiences a triple loss: loss of home, loss of rights over her body, and loss of political status. This triple loss is the equivalent to a complete social death or expulsion from humanity.<sup>55</sup> In other words, the slave exists as the definitive *homo sacer* – an individual whose humanity has been stripped and who is reduced only to a biological existence or as Mbembe puts it a form of “death-in-life.”<sup>56</sup> Of course, the slave’s very debasement and reduction to death-in-life is due to her status as slave, which is indelibly tied to her condition of being Afro-descended. Here is where the enmity of the state finds its locus and the justification for the creation of the plantation as state of exception and the reduction of the slave to bare life.

It is in this discussion of terror, the plantation system and what he calls the “politics of cruelty,” that Mbembe turns to the workings of biopower, the state of exception and race in the colony. Mbembe declares “in modern philosophical thought and European political practice and imaginary, the colony represents the site where sovereignty consists fundamentally in the exercise of a power outside the law (*as legibus solutes*) and where ‘peace’ is more likely to take on the face of a ‘war without end.’”<sup>57</sup> In other words, colonial resistance and the violence used to suppress such resistance are normalized. Violence becomes the language of resistance and the *modus operandi* of the state.

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<sup>54</sup> Ibid,

<sup>55</sup> Ibid.

<sup>56</sup> Ibid.

<sup>57</sup> Mbembe, “Necropolitics,” 23.

Moreover, Mbembe builds upon Carl Schmitt's concept of a European public law that has evolved over time to highlight his argument that the colonies were not envisioned as a part of the larger European public law, but were something outside of it. In *The Nomos of the Earth in the International Law of the Jus Publicum Europeum*, Carl Schmitt argued that the emergence of modern European public law created a new global order in which there was juridical equality among *states*. Areas that were not part of Europe, not states and thus outside of the European public law, were available for colonization.<sup>58</sup> Schmitt explained that as this new global order emerged, so too did a legal order emerge in which *states* were duty-bound to protect the rights of other *states*.<sup>59</sup> However, no such duty existed with respect to "free colonial soil outside of Europe" which was free to be occupied, "as long as it did not belong to a *state*, in the sense of internal European interstate law."<sup>60</sup> Thus European states, and concomitantly European public law, owed duties only to other European states or those states recognized as "Great Powers," such as the United States, Russia, and eventually Japan. As Schmitt noted, "one could not speak logically of a legal succession in an *imperium*," not even when Europeans entered into treaties between the inhabitants of colonized lands.<sup>61</sup> Those treaties were not binding because they were not entered into by legal equals and thus could be violated at will. Schmitt concluded, "the land-appropriating state did not need to

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<sup>58</sup> See Carl Schmitt, *The Nomos of the Earth in the International Law of the Jus Publicum Europaeum*. (New York: Telos Press, 2006), 185-209.

<sup>59</sup> *Ibid.*, 198.

<sup>60</sup> *Ibid.*

<sup>61</sup> *Ibid.*

respect any rights to the soil existing within appropriated land,” because “international law considerations benefitting the property rights of natives... did not exist.”<sup>62</sup>

As Mbembe explains, Schmitt’s logic extended beyond the realm of property rights and to rights generally. Thus in the colonies natives were seen to possess no rights which European law was bound to respect. As Mbembe explains, in this new global order, colonies “were similar to the frontier [in that] they are inhabited by savages. They are not organized in a state form and have not created a human world.”<sup>63</sup> As a result, the colonies are “the place, par excellence, where the controls and guarantees of judicial order can be suspended – the zones where the violence of the state of exception is deemed to operate in the service of ‘civilization.’”<sup>64</sup>

Ultimately, Mbembe reasons that the fact that the colonies might be ruled over in absolute lawlessness stems from the racial denial of any common bond between the conqueror and the native.<sup>65</sup> In the eyes of the colonizer, savage life is equivalent to an animal life, lacking humanity and open to violence. As a result of this dichotomy, the sovereign might kill at any time or in any manner in the colonies.<sup>66</sup> Likewise, colonial wars are conceived of as the expression of an absolute hostility that sets the conqueror

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<sup>62</sup> Ibid, 199.

<sup>63</sup> Mbembe, “Necropolitics,” 24.

<sup>64</sup> Ibid.

<sup>65</sup> Ibid.

<sup>66</sup> Ibid, 25.

against an absolute enemy – the colonized.<sup>67</sup> In such conflicts, the established rules of war do not apply.

## **ARGUMENT**

Mbembe and Pincince’s discussions on the colonial state of exception focused on European colonialism in Africa and India, nonetheless their arguments point to similar dynamics undergirding the U.S.’ relationship to racial others both on the mainland and in the overseas territories. As a result, this dissertation attempts to apply the logics of the colonial state of exception to Puerto Rico in order to more fully flesh out what the U.S. state of exception entailed, how it came to be and what it meant for life on the island. I am particularly interested in the dynamics of resistance and violence. As briefly discussed above, the United States’ treatment of native populations on the U.S. mainland created the precedents that would later be perfected and exported to the insular territories and to the purported war on terror. Likewise, the U.S.’ actions with respect to slaves and afro-descended populations is demonstrative of a situation where, in Mbembe’s words, “the controls and guarantees of judicial order can be suspended.” Though not rooted in one physical location, nonetheless the U.S.’ history with slavery created countless states of exception on the plantations and homesteads where such slaves were held and subjugated. As is well know, these innumerable states of exception exposed afro-descended individuals to extreme and unfettered violence and degradation. Thus, as Weheliye and Venator-Santiago have both pointed out, the plantation and the Indian

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<sup>67</sup> Ibid.

internment camp provide the historical precedents for the state of exception in U.S. history.<sup>68</sup>

Furthermore, the U.S. Supreme Court's decisions in *the Marshall Trilogy*, *Dred Scott v. Sanford*, and in *Downes v. Bidwell*, the first and most important of the *Insular Cases*, discussed in greater detail in the following chapter, anticipated Schmitt's discussion in the *Nomos of the Earth*.<sup>69</sup> In those decisions, the justices of the Court argued that the U.S. Constitution was made for and created by the *people* of the United States. Native Americans, afro-descended individuals and the inhabitants of the insular territories were not *people* of the United States as conceived of by the U.S. Constitution. As a result, they were not owed the rights, duties, and privileges that were owed to the *people* and states of the Union. In the case of blacks, the Court held they possessed no rights that the white man was bound to respect. In the case of the inhabitants of the insular territories, the Court surmised they were owed only "natural rights" owed to all men, but failed to enumerate what those might be beyond the general categories of life, liberty and property.

With these legal arguments, the Court surmised what Carl Schmitt would later enumerate in the *Nomos of the Earth*: the European world order, and here we can extrapolate this logic to include a United States world order, encompassed states and the people within those states. Those lying outside of that world order – Native Americans, blacks and the inhabitants of the insular territories, did not receive the benefits of the

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<sup>68</sup> Wehiliye, *Habeas Viscus*, 37; Venator-Santiago, "From the Insular Cases to Camp X-ray," 34.

<sup>69</sup> *Dred Scott v. Sanford*, 60 U.S. 393 (1856); *Downes v. Bidwell*, 182 U.S. 244 (1901).

European and U.S. legal orders. In relation to the law they were aliens, savages, not people with legal personhood or humanity.

In sum, Native American interment camps and the plantation system provide us with the direct precedents for the creation of U.S. states of exception. These exclusionary logics were then codified into law by the Supreme Court's decisions. In 1901, the *Insular Cases*, and *Downes v. Bidwell*, in particular, became the latest in a genealogy of cases that worked to create states of exception for racial minorities in the United States. To be sure, as Weheliye points out, there are degrees and contours to which the inhabitants of these states of exception were exposed to violence. Moreover, as both Venator-Santiago and Weheliye have discussed, such a status need not always expose the individual to the same degrees of violence, but the crux of the status is that the individual is left unprotected and bare. The individual is reduced to his most vulnerable status.

In the case of Puerto Rico, the Court's decision in *Downes* left the island's residents exposed to extralegal violence and biological and environmental experimentation. For, as Mbembe noted and the Court demonstrated in *Downes*, the colony was similar to the frontier inhabited with alien races, a not quite human world. This space was open to experimentations of varying kind: of law, of politics and of economics. The Court, itself, asserted that large concessions could be made in order to ultimately govern those places. In other words, legal precedents could be broken and new categories created to deal with these unknown racial others. In the case of Puerto Rico, and again as Mbembe noted, the island became the space, par excellence, where the

controls and guarantees of judicial order could be suspended – the zone where the violence of the state of exception was deemed to operate in the service of the United States’ civilizing mission.

In Puerto Rico the first three decades of United States rule offer us a point of departure for examining the workings of the colonial state of exception established by the Supreme Court in the *Insular Cases*. From 1900 to 1940 the island underwent drastic economic, social, and political change with U.S. policies attempting to reshape the island and its residents into proper United States subjects. Early policies in the realms of education, labor and public health primed Puerto Rican society for the sort of violent dissent that would erupt during the 1930s and 1940s. This time period was marked by ever-present political dissent and growing social unrest that came to a climax during the turbulent decade of the 1930’s. That decade saw the growth of protest in nearly every labor sector on the island, as well as severe political unrest that saw the government deploy the police, the Army and the National Guard repeatedly against island residents.

Within this milieu the Nationalist Party of Puerto Rico became an ever more vocal and radical voice of protest against United States colonial administration. The Party and its boisterous leader, Pedro Albizu Campos, became targets of government surveillance, infiltration and violent repression. The early 20<sup>th</sup> century saw the growth of nationalism worldwide and especially in countries living under colonialism. In Puerto Rico, the 1930s offered the greatest possibility of independence for the island with several political groups calling for an end to United States rule. The Nationalist Party was

just one of these groups calling for independence. However, the Party's radical approach and unapologetic rhetoric made it a target of the government, which unleashed an often-violent campaign to suppress the party. Such violent repression of dissent, of labor and of the Nationalist Party could occur because the usual operations of law were suspended, because the island was not offered the same legal status and protections as U.S. states and other territories, because there existed on the island a state of exception.

### **MAPPING THE DISSERTATION**

As discussed above, this dissertation offers a legal and political history of Puerto Rico during the period from 1900 to 1940. It engages in a legal historical analysis in order to situate the island in the larger genealogy of U.S. states of exception. Furthermore, it engages in a political history in order to explore the contours of the state of exception on the island and to discover what its existence meant for island residents. This project thus attempts to offer an alternative view of the early period of United States colonial rule.

This dissertation seeks to bring the island, and the United States' colonial projects more generally, into the scholarly conversation of colonial states of exception. It seeks to reexamine this important historical period through a theoretical lens not often employed by historians of the U.S. or the Caribbean, but which can further our understanding of U.S. colonialism in particular. Puerto Rico is a particularly salient location for such a discussion because it remains a colony of the United States. Most scholarly work on the subject has focused on the former colonies of European powers and

has come from a postcolonial framework, but what of those places still living under colonialism?<sup>70</sup> If, as Agamben posits, the exception has become the rule, then surely an examination of Puerto Rico, which has been living the exception for over a hundred years, can, at the very least, serve as a cautionary tale as to where the normalization of the exception may lead us.

Furthermore, this project also seeks to interject into a conversation about United States law and the state of exception, which has tended to focus on the area of immigration, the law of war, and on terrorism.<sup>71</sup> I believe Puerto Rico's legal history and its position as a place for legal, political, environmental and agricultural experimentation makes it an important forbear to more recent iterations of the U.S. state of exception. In that way such a study has much to offer us in understanding some of the legal dynamics of the war on terror, the peculiarities of the prison at Guantanamo Bay, Cuba, as well as the legal borderlands affecting immigrants.

Finally, the project also seeks to reinvigorate debate on the Puerto Rican Nationalist Party and on political nationalism, which has languished since the 1980's. Scholarship on Puerto Rico in the last twenty-five years has focused less on the question

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<sup>70</sup>See generally, Svirsky and Bignall, eds. *Agamben and Colonialism*; Morgensen, "The Biopolitics of Settler Colonialism: Right Here, Right Now;" Mbembé, "Necropolitics;"; Pincince, "De-centering Carl Schmitt;" Loren B. Landau, "Immigration and the State of Exception: Security and Sovereignty in East and Southern Africa," *Millennium - Journal of International Studies*, 34: 325 (2006).

<sup>71</sup> See generally, Rens Van Munster, "The War on Terrorism: When the Exception Becomes the Rule," *International Journal for the Semiotics of Law*, 17: 141-153 (2004); Nick Vaughan-Williams, "The Generalized Bio-Political Border? Re-Conceptualizing the Limits of Sovereign Power," *Review of International Studies* 35, 729-749 (2009); Tugba Basaran, "Security, Law, Borders: Spaces of Exclusion," *International Political Sociology*, 2, 339-354 (2008); Nehal Bhuta, "A Global State of Exception? The United States and World Order," *Constellations*, 10: 3 (2003).

of political independence and nationalism and more on subjects such as cultural nationalism, Puerto Rican identity, and social and cultural history, generally.<sup>72</sup> Given the economic and political crisis the island is currently facing, a reevaluation of the possibilities of political nationalism and independence, as well as, other forms of political survival for the island are not unimaginable. This is especially true given the fact that the status of Commonwealth has failed to remedy the long-standing problems of under and unemployment, economic instability, dependence on import goods and federal assistance, as well as, its political subordination to the United States while being unrepresented in the federal government.

The first chapter of the dissertation seeks to locate Puerto Rico within a larger genealogy of U.S. states of exception. In this chapter I map out the important legal precedents that led to the Supreme Court's unique decision in the first and most important of the *Insular Cases*, *Downes v. Bidwell*. I argue that the Court's early decisions with respect to the island, worked to create a space of exclusion for the island in which the island's inhabitants were left at the mercy of Congress. These decisions were in line with

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<sup>72</sup> See for example, Eileen Findlay, *Imposing Decency: the Politics of Sexuality and Race in Puerto Rico, 1870-1920*. (Durham: Duke University Press, 1999); Frances Negrón-Muntaner and Ramón Grosfoguel, eds. *Puerto Rican Jam: Rethinking Colonialism and Nationalism*. (Minneapolis: University of Minnesota Press, 1997); Arlene Davila, *Sponsored Identities: Cultural Politics in Puerto Rico*. (Philadelphia: Temple University Press, 1997); Jorge Duany, *Puerto Rican Nation on the Move: Identities on the Island and the United States*. Chapel Hill: University of North Carolina Press, 2002; Isar P. Godreau, *Scripts of Blackness: Race, Cultural Nationalism, and U.S. Colonialism in Puerto Rico*. (Urbana: University of Illinois Press, 2015); Ileana M. Rodríguez-Silva, *Silencing Race: Disentangling Blackness, Colonialism, and National Identities in Puerto Rico*, (New York: Palgrave Macmillan, 2012); María Acosta Cruz, *Dream Nation: Puerto Rican Culture and the Fictions of Independence*. (New Brunswick: Rutgers University Press, 2014).

previous Supreme Court decisions addressing the place of racial others such as Native Americans and blacks. These decisions collectively illustrate the workings of what I call, the American State of Exception. This state of exception created a space where the protections of U.S. law did not extend, or extended in only a limited fashion, and where as a result extralegal violence and experimentation could proliferate.

Chapter two provides a snapshot of life on the island during the first two decades of United States rule. The chapter is concerned with the ways the United States exercised biopolitical power in Puerto Rico as a tool of empire. The discussion focuses on policies around education, public health and labor in order to understand how policies ostensibly meant to improve the lives of the island residents were in fact biopolitical exertions of imperial design. The impulse to shape the lives of the island's inhabitants, to decide who died and who lived is the colonial impulse par excellence. The chapter is thus interested not only in examining biopolitical policies, but also in understanding islanders' reactions to such policies. Biopolitical force is a hallmark of the exceptional space of the colony and of colonialism. These early policies in the realms of education, labor and public health primed Puerto Rican society for the sort of violent dissent that would erupt during the 1930s.

Chapter three engages in a deep discussion of the political nationalism of Nationalist Party leader Pedro Albizu Campos. This chapter is concerned with understanding his political philosophy and that of the Party in order to place it within the larger milieu of political thought during the early decades of the 20<sup>th</sup> century. The chapter

seeks to understand what Puerto Rican nationalism was for Pedro Albizu Campos. This discussion is important because, though nationalism and nationalist resistance on the island took many forms throughout the period of U.S. colonialism, beginning in the 1920's and continuing into the early 1950's nationalism in Puerto Rico became deeply tied with the Nationalist Party and more specifically with Pedro Albizu Campos. As a result, Albizu Campos, his rhetoric, his very body, became a grave threat for U.S. hegemony on the island. He then became a prime target for the sort of biopolitical exertions of the state that Foucault discussed: surveillance, repression, imprisonment, et cetera. Moreover, the threat he and his party presented were instrumental in escalating the violence of the state of exception. Thus understanding what he stood for is key in understanding the perceived threat he, his rhetoric, and his movement posed to the United States government.

The final chapter, is concerned with the role of violence more generally during the decade of the 1930's. The chapter seeks to examine the workings of violence in the colonial state of exception on Puerto Rico. Violence became the language of resistance for islanders while it also became the language of the state's repression. The state perpetuated violence with impunity in order to pursue U.S. economic interest and government designs for Americanization of the island. This violence was physical as well as psychic, economic, environmental and political. This moment of violence came to a head during the 1930's when Puerto Rican frustrations with the colonial status quo and islanders' desperation during the lean times of the Great Depression boiled over, pushing

islanders to demand a change to their colonial status. As a result, islanders' frustrations with U.S. colonial rule led to a growth in nationalism and in calls for the island's independence.

## Chapter One

### The Exceptional Island: Racial Exclusion and the “American” State of Exception

On November 20, 1900, a shipment of 543 boxes of oranges entered the Port of New York from San Juan, Puerto Rico aboard the steamer *Ponce*.<sup>73</sup> These oranges were the property of Samuel B. Downes a merchant who was quickly taking advantage of the commercial opportunities offered in the United States’ newly acquired overseas island territory. Upon arrival in New York, Downes’ shipment was intercepted and detained by George R. Bidwell, the collector of customs at the Port of New York.<sup>74</sup> Downes’ properties were categorized as foreign goods entering the United States and Bidwell levied import taxes on the oranges in the amount of \$659.35. This simple series of events, the arrival of some boxes of tropical fruit at a port of the U.S. and the levying of taxes on said fruit, led to the most important legal precedent in the history of the island and one that continues to define Puerto Rico’s relationship with the United States one-hundred-fifteen years later.

The United States at the end of the 19th century was poised to enter the global game of empire. After expanding westward across the North American continent, the U.S. began to look abroad. In the several years before 1898 politicians heavily debated how the United States should accrue greater international power and consolidate its

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<sup>73</sup> *The Insular Cases: Comprising the Records, Briefs, and Arguments of Counsel in the Insular Cases of the October Term, 1900, in the Supreme Court of the United States.* (Washington, G.P.O: 1901).

<sup>74</sup> *Ibid.*

position as the dominant power in the Americas. The occasion of the Cuban revolution and Spain's suppression of Cuban dissidents provided the United States' government the justification it was seeking in order to enter the international stage. In 1898, the United States entered the Spanish-Cuban conflict under the pretense of liberating the oppressed island from the tyranny of Spain. With the end of the war and the signing of the Treaty of Paris the United States acquired possession of Guam, the Philippines and Puerto Rico as well as temporary administration of Cuba.<sup>75</sup>

The acquisition of these islands produced widespread debates in the United States. Would the U.S. now become a colonial master in the image of its own former master, Great Britain? Would the inhabitants of the territories become part of the U.S.? Was it legally permissible for the United States to possess overseas territories? Would the United States have to incorporate the islands into the Union and set them on a course for statehood, as it had done for the islands of Hawaii? Had the islands' mixed race populations become citizens of the United States with all the rights and privileges granted by the U.S. Constitution? In short, what exactly was the relationship between the United States and these new island territories?

In the wake of the Cuban-Spanish-American War, the U.S. government would be forced to reformulate its established program of territorial incorporation in order to ensure that the newly acquired territories with their non-white, non-Anglo Saxon

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<sup>75</sup> José Trias Monge, *Puerto Rico: The Trials of the Oldest Colony in the World* (New Haven: Yale University Press, 1997); César J. Ayala, *Puerto Rico in the American Century: A History since 1898* (Chapel Hill: University of North Carolina Press, 2007) Ediberto Román, *The Other American Colonies: an International and Constitutional Law Examination of the United States Nineteenth and Twentieth Century Island Conquests*. (Durham: Carolina Academic Press, 2006).

inhabitants would not be given a place in the United States body politic and the benefits associated with it. After two years of U.S. military administration, Cuba became an independent nation, though the United States retained the ability to intervene in the country's economic and political affairs whenever it thought it necessary, a prerogative the U.S. government oft invoked over the next fifty years.<sup>76</sup> As a result of Cuba's new status, Puerto Rico and the Philippines became the government's major causes for debate.

This period in United States history proved a tense and difficult moment. Many voices echoed in the media, the academy and the government arguing the wisdom and the folly of the U.S.' course of action regarding expansion.<sup>77</sup> The dominant rhetoric of the time in both the imperialist and anti-imperialist camps was undeniably racially grounded. The inhabitants of the Philippines were particularly problematic as they were wholly unlike the people of the United States. As one Congressman eloquently put it in 1900, "The inhabitants [of the Philippines] are wholly different races of people from ours—Asiatics, Malays, Negroes and mixed blood. They have nothing in common with us... They can never be clothed with the rights of American citizenship nor their territory admitted as a State of the American Union..."<sup>78</sup> There was grave concern that acquiring the territories meant incorporating the inhabitants therein and allowing them to participate in the U.S.' political system. This possibility was abhorrent to many. Secretary

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<sup>76</sup> Richard Gott, *Cuba: A New History*, (New Haven: Yale University Press, 2006).

<sup>77</sup> Robert L. Beisner. *Twelve Against Empire: the Anti-Imperialists 1898-1900*. NY: McGraw Hill, 1968; Richard E. Welch. *Imperialists vs. Anti-Imperialists: The Debate over Expansionism in the 1890's*. Primary Sources in American History. Itasca, Ill.: FEPeacock Publishers, 1972.

<sup>78</sup> 33 *Congressional Record* 2000-01 (1900) (remarks of Rep. Spight.)

of the Interior, Charles Schurz summed up these concerns best in a speech at the University of Chicago in 1899:

If they become states on equal footing with the other states... they will *take part in governing the whole republic*, by sending senators and representatives... *to help make our laws*, and by voting for president and vice-president... The prospect of the consequences which would follow the admission of the Spanish creoles and the negroes of the West India [sic] islands and of the Malays and Tagals of the Philippines to participation in the conduct of *our government* is so alarming that you instinctively pause before taking the next step.<sup>79</sup> (emphasis added)

Schurz' comments speak to the belief at the time that the islands' inhabitants were foreign, too foreign, in fact, to be a part of the U.S., to be clothed in the banner of democracy, to have a hand in making the laws of the U.S.

These concerns also applied to the inhabitants of Puerto Rico, though the rhetoric concerning the island's inhabitants was not as harshly xenophobic and racist. Nevertheless, Representative James Slayden of Texas summed up the problem simply in 1907 in remarks before Congress. "We are of different races," he declared, "we are mainly Anglo-Saxon, while they are a composite structure, with liberal contributions to their blood from Europe, Asia and Africa. They are largely mongrels now."<sup>80</sup> Slayden went on to add that in the future historians looking to explain the downfall of the United States would, "unavoidably reach the conclusion that [it] began with the Spanish-American War... when we abandoned homogeneity and harmony for race complexity

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<sup>79</sup> See Carl Schurz, "American Imperialism." The Convocation Address Delivered on Occasion of the 27<sup>th</sup> Convocation of the University of Chicago. January 4, 1899. Available in Theodore Greene, *American Imperialism in 1898* (Boston: Heath, 1955) at 77-84.

<sup>80</sup> Speech of Representative James Slayden (1907), available in *Congressional Record*, House, 61st Congress, 1st Session. June 7, 1909 at 2919.

and discord.”<sup>81</sup> Ultimately, U.S. politicians and government officials conceded that the racial make-up of Puerto Rico was less foreign than that of the Philippines, more in line with that of the U.S. mainland, with its mostly indigenous, black and European mixture.<sup>82</sup> However, U.S. officials expressed concerns about the largely Catholic traditions of the island, the Spanish language of island residents, and the detrimental influence that hundreds of years of debased, Spanish rule had had on the island’s inhabitants.<sup>83</sup>

Initially, the U.S. government set out to establish parallel colonial structures in both the Philippines and Puerto Rico. Twin educational, political and social policies were initially established on the islands. However, as Julian Go has convincingly demonstrated, island inhabitants in both locations had radically different responses to the U.S.’ colonial designs.<sup>84</sup> In the years before the arrival of the U.S. in the Philippines, the archipelago had waged a violent war of independence against Spain.<sup>85</sup> With the arrival of the U.S. to the archipelago, Filipinos believed that the U.S. would honor their long fight and grant the islands their freedom. When this did not take place, angry islanders fought the U.S. as they had fought Spain. Though a detailed discussion of the bloody civil war that erupted in the Philippines and the repressive policies implemented by the United States in the Philippine archipelago is outside of the scope of this work, it is worth noting

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<sup>81</sup> Ibid.

<sup>82</sup> Winfred Lee Thompson, *The Introduction of American Law in the Philippines and Puerto Rico, 1898-1905*, (Fayetteville: University of Arkansas Press, 1989),156-158.

<sup>83</sup> Ibid.

<sup>84</sup> Julian Go, *American Empire and the Politics of Meaning: Elite Political Cultures in the Philippines and Puerto Rico*. Durham: Duke University Press, 2008.

<sup>85</sup> Ibid.

that the violence of the U.S. state of exception was most visible in its treatment of Filipino dissent and the archipelago's quest for independence.<sup>86</sup> The guerilla war that erupted and the U.S.' repressive and violent tactics in suppressing it fit neatly into Mbembe's categorization of colonial wars in which the usual rules of engagement did not apply.

While Filipino resistance to U.S. domination arose quickly after the U.S. occupation, Puerto Rico's trajectory was vastly different. Largely due to the island's small size and to elite Puerto Ricans' desire to throw their lot in with the United States, violent resistance did not erupt immediately after the U.S.' arrival. Instead islanders were cautiously hopeful that the U.S.' arrival would bring greater prosperity for the island. Many of the island's elites hoped that the U.S. occupation would indeed lead to the annexation of Puerto Rico into the United States.<sup>87</sup> However, as time wore on and U.S. policies and designs for the island became clear, islanders' views on the U.S.' colonial project evolved.

It was in this milieu of fierce debate as to the wisdom of allowing the foreign, racial others inhabiting the new territories to join the U.S. that the infamous *Insular Cases* were decided. In a series of twenty-two cases that spanned the first two decades of

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<sup>86</sup> Paul Kramer, *The Blood of Government: Race, Empire, the United States and the Philippines* (Chapel Hill: University of North Carolina Press, 2006); Alfred W. McCoy, "Policing the Imperial Periphery: Philippines Pacification and the Rise of the U.S. National Security State," in Francisco A. Scarano and Alfred W. McCoy, *Colonial Crucible: Empire in the Making of the Modern American State*, (Madison: University of Wisconsin Press, 2009), 106-115.

<sup>87</sup> Julian Go, *American Empire and the Politics of Meaning*; Cesar Ayala, *Puerto Rico in the American Century: A History since 1898*. Chapel Hill: University of North Carolina Press, 2007.

the 20<sup>th</sup> century, the Supreme Court of the United States made several important pronouncements as to the place of Puerto Rico and the Philippines within the U.S. body politic and the limits of the U.S. Constitution. These pronouncements, collectively known as the *Insular Cases*, worked to leave the islands in an uncertain legal status that opened up a space for the proliferation of extralegal violence and biopolitical experimentation.

This chapter focuses on the legal relationship between Puerto Rico and the United States established in the early years of the 20<sup>th</sup> century when questions of what exactly Puerto Rico was to the U.S. were prevalent. Here, I map out the important legal precedents that led to the Supreme Court's unique decision in the first and most important of the twenty-two *Insular Cases*, *Downes v. Bidwell*, decided in 1901.<sup>88</sup> I argue that the Court's early decisions with respect to Puerto Rico, worked to create a space of exclusion in which the island's inhabitants were left at the mercy of Congress. These decisions were in keeping with previous Supreme Court precedents dealing with undesirable racial others such as blacks and Native Americans, which had previously created spaces of exclusion for racial undesirables. These decisions collectively illustrate the workings of what I call, the "American" State of Exception. This state of exception created a space where the protections of U.S. law did not extend, or extended in only a limited manner, and where as a result extralegal violence could proliferate. These decisions help to illustrate how the Court's logic, steeped in white supremacist and racist ideas of the

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<sup>88</sup> *Downes v. Bidwell*, 182 U.S. 244 (1901).

inferiority of afro-descended and mixed race peoples, engaged in much legal gymnastics in order to maintain spaces of exclusion for racial others.

Ultimately, as will be discussed in greater detail below, concerns about the potential incorporation of racial others with barbarous and alien practices were what underpinned the Court's logic in *Downes v. Bidwell*. Because of these fears of alien races and their potential effects on the U.S. body politic, combined with white supremacist notions of Anglo-Saxon superiority, the Court created new categories for the territories to ensure they were excluded from U.S. citizenship and the protections of U.S. law. As a result of these concerns over race and the alien nature of the inhabitants of the insular territories, both the Philippines and Puerto Rico were deemed unprepared to be included into the U.S. political body and were maintained as something else, outside of the legal order. The islands were thus left open to the whims of Congress and U.S. investors. They were open for business, experimentation and exploitation. They were also left exposed to the violence and repression of the state of exception – a realm where the guarantees of the U.S. legal order could not protect their inhabitants.

In order to fully understand the legal precedents that led to the *Insular Cases*, this chapter will endeavor a short legal history of racial exclusion in U.S. Constitutional law. This discussion will begin with a brief examination of the *Marshall Trilogy*, which established the unique status of Native Americans and their territory to the United States. This discussion is important because these cases are the first attempts of the U.S. Supreme Court to delineate a doctrine of territorial incorporation – of how the U.S. will

deal with expansion and territorial acquisition, as well as the establishment of Congress' plenary power over racial others. The chapter then turns to a discussion of another important and direct legal precedent to *Downes*, *Dred Scott v. Sanford*. That controversial case laid out several notions that would reappear later in *Downes*, despite the contentious nature of *Dred Scott* and its overturning after the Civil War. Following this discussion, a brief foray into the U.S. government's position regarding unoccupied Guano Islands and the Supreme Court's decisions with respect to these islands will also provide us with important precedents for understanding *Downes*. Finally, the chapter moves to a close reading and analysis of *Downes* in order to understand how the Court's opinion in that case set Puerto Rico apart territorially and legally.

#### ***THE MARSHALL TRILOGY: PLENARY POWER AND THE UNIQUE STATUS OF NATIVE AMERICANS***

The journey to determining Puerto Rico's unique legal relationship with the United States begins not in 1898 with the Spanish-Cuban-American War, but long before when the young United States began its expansion west and south from the initial original colonies. These forays out into what would become the greater U.S. brought settlers face to face with indigenous groups who had occupied the continent long before the arrival of the ancestors of those newly minted U.S. citizens. Of course, the ignominious history of the U.S. government's treatment of Native Americans is well documented. However, the important legal precedents that allowed for such atrocious abuse and treatment of Native populations is worth revisiting in the context of a discussion of an "American" State of

Exception as Native Americans were among the first non-white others the U.S. legal system had to contend with.

Native American exclusion was and continues to be premised on Congress' plenary power.<sup>89</sup> Because the United States government considers indigenous tribes sovereign nations within the U.S., Congress has the authority to regulate its relationship with the tribes as one sovereign to another.<sup>90</sup> Congress' plenary power over native tribes was first established in a series of Supreme Court cases that began in 1823, known as the *Marshall Trilogy* because they were decided under the stewardship of Chief Justice John Marshall.

The first of the cases to go before the court, *Johnson v. McIntosh*, arose as a dispute over a purchase of native lands in the district of Illinois territory.<sup>91</sup> Two private citizens Joshua Johnson and Thomas Grahame claimed to hold title to the land based on the original purchase by one of their ancestors of the land directly from the Illinois and Piankeshaw Indians before the Revolutionary War.<sup>92</sup> As a result of this purchase the two brought suit to attempt to evict the defendant, William McIntosh, who claimed title to the land under a grant from the U.S. government.<sup>93</sup> The land in question was part of a much larger parcel to which the U.S. received title after the signing of the Treaty of Greenville

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<sup>89</sup> Ediberto Roman, *Citizenship and its Exclusions: A Classical, Constitutional and Critical Race Critique*. (New York: New York University Press, 2010), 87.

<sup>90</sup> Ibid.

<sup>91</sup> *Johnson v. McIntosh*, 21 U.S 543, 572 (1823).

<sup>92</sup> Frank Pommersheim, *Broken Landscape: Indians, Indian Tribes and the Constitution*. (New York: Oxford University Press, 2009), 89.

<sup>93</sup> Ibid.

which followed the U.S.' defeat of the Illinois and Piankeshaw Indians at the Battle of Fallen Timbers in 1794. In 1818, the federal government then conveyed title to 11,560 acres of this larger parcel of land to McIntosh. Because the parties all agreed as to the facts of the case, the only question before the Court was "the power of Indians to give, and of private individuals to receive, a title which can be sustained in the Courts of this country."<sup>94</sup> In other words, could Indians legally convey their lands to private citizens of the United States? The Court found that Native tribes had no such power.

The Court relied on the doctrine of discovery to come to its conclusion that Indian tribes did not have the ability to convey their land to private individuals. Marshall's opinion began by first acknowledging that Indians had a sovereign right to possess their land "and to use it according to their own discretion."<sup>95</sup> However, Indian rights to complete sovereignty over their lands, as independent nations, had been diminished by European discovery.<sup>96</sup> Thus, according to Marshall, the international law doctrine of discovery, that discovery gave exclusive title to those who made such a discovery, "gave the first European power to discover new lands an exclusive right, as against other European nations, to 'acquir[e] the soil from the natives, and establish settlements upon it.'"<sup>97</sup> Thus, discovery rendered the Indians' title imperfect by limiting the Indians' ability

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<sup>94</sup> *Johnson*, 572.

<sup>95</sup> Sarah H. Cleveland, "Powers Inherent in Sovereignty: Indians, Aliens, Territories, and the Nineteenth Century Origins of Plenary Power over Foreign Affairs." *Texas Law Review* 81:1, (2002-2003), 32.

<sup>96</sup> *Ibid.*

<sup>97</sup> *Ibid.*

to alienate their lands to only the discovering power.<sup>98</sup> Because the United States government was the legal successor to the British Crown, in the United States Indians could sell their lands only to the federal government, and the United States had an “exclusive right to extinguish the Indian title of occupancy, either by purchase or by conquest.”<sup>99</sup> Ultimately, *Johnson v. McIntosh* established that “U.S. authority over Indian tribes, or at least the United States' exclusive right to acquire Indian property, originated from two sources: colonial prerogatives deriving from discovery, and the nature of Indians as savages and incomplete sovereigns.”<sup>100</sup> Neither of these sources was based on the text of the Constitution. Instead, Chief Justice Marshall relied on his reading of international law doctrines and common law to reach his decision.

To be sure, though the Court relied on a seemingly well-established principle of international law in the *Johnson* decision, nevertheless the overlying logic was one of racism and the understanding of Natives as others. Indians were not fully human; they lacked civilization and Christianity.<sup>101</sup> In Marshall’s words, Indians were “fierce savages, whose occupation was war, and whose subsistence was drawn chiefly from the forest. To leave them in possession of their country was to leave the country a wilderness...”<sup>102</sup> He further explained that the “excuse, if not justification, for this doctrine lay in ‘the

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<sup>98</sup> Ibid.

<sup>99</sup> *Johnson*, 587.

<sup>100</sup> Cleveland, 34.

<sup>101</sup> Pommersheim, 90.

<sup>102</sup> *Johnson*, 590.

character and habits' of the Indians."<sup>103</sup> The Indians were of such a different character to the white, Anglo-Saxon people that they were incapable of being incorporated into the U.S. polity. Although ordinarily conquest did not deprive existing inhabitants of their land rights, this rule did not pertain where the inhabitants were "a people with whom it was impossible to mix, and who could not be governed as a distinct society."<sup>104</sup> As a result, "Indians did not share the property rights enjoyed by 'civilized' whites."<sup>105</sup> This logic of Indian backwardness and savagery was, of course, par for the course at the time; and as a result it is also the ethos unpinning the Court's decision in *Johnson*.

The final two cases in the *Marshall Trilogy*, which make up the Court's seminal cases with respect to Indian sovereignty and Indian rights, are collectively known as the *Cherokee Nation Cases* and consist of *Cherokee Nation v. Georgia* and *Worcester v. Georgia*.<sup>106</sup> The cases arose out of a move by states, mostly in the east and south and especially Georgia, to expel Indians from their borders and acquire Indian land for themselves despite the federal government's attempts to prohibit them from doing so.<sup>107</sup> The *Cherokee Nation Cases* had a long and sad history before arriving before the Court. The state of Georgia had been for some time impinging more and more on Indian lands and limiting the Nation's ability to live their traditional way of life. Often with the help of the federal government, Georgia went about the process of extinguishing title to native

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<sup>103</sup> Cleveland, 32.

<sup>104</sup> *Ibid.*

<sup>105</sup> *Ibid.*

<sup>106</sup> *Cherokee Nation v. Georgia*, 30 U.S. 1 (1831); *Worcester v. Georgia*, 31 U.S. 515 (1832).

<sup>107</sup> Pommersheim, 101.

lands, dismantling the Cherokee government, annulling tribal laws and forbidding the Nation's courts and legislature from meeting.<sup>108</sup> All the while, the state had been pressuring the federal government to enact stricter measures against the Nation. In 1830, acceding to pressure, the federal government passed the Removal Act, which set out that any Indian tribes or nations could voluntarily chose to exchange the lands were they lived and remove to territories west of the Mississippi set apart by the federal government for the purpose of receiving them.<sup>109</sup> To be sure, though the initial act set out that Indians could voluntarily remove to the western territory, a great amount of pressure was applied by states like Georgia to ensure that the tribes had little choice but to remove themselves.

After the passage of the Removal Act, the Cherokee Nation wrote directly to Congress explicitly stating its desire to remain on its own lands within and surrounding the state of Georgia.<sup>110</sup> However, when the federal government failed to uphold the Nation's treaty rights against the state of Georgia, the Nation sued the state. The Nation sought injunctive relief against Georgia to prevent Georgia from executing or enforcing any of its laws within the territory of the Nation, as recognized by treaty between the U.S. and the Nation.<sup>111</sup> Georgia for its part invoked the doctrine of sovereign immunity and refused to appear in Court or participate in any of the proceedings against it. The initial question before the Court was one of jurisdiction: did the Court even have the jurisdiction to hear the case? Were Indians capable of suing in federal court? The Nation argued that

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<sup>108</sup> Ibid, 102.

<sup>109</sup> Ibid.

<sup>110</sup> Ibid.

<sup>111</sup> Ibid.

the Court had original jurisdiction based on its status as a foreign nation. Under Article III of the U.S. Constitution, the Court has original jurisdiction to hear disputes arising between a foreign nation and a state of the U.S. Furthermore, the Nation argued that it was an independent and sovereign nation because its people were viewed as non-citizen aliens by the federal government.<sup>112</sup>

The Court, again in an opinion written by Chief Justice Marshall, dismissed the case due to lack of jurisdiction.<sup>113</sup> Chief Justice Marshall found that while the Cherokee had the character of “a state, as a distinct political society,” the tribe was “not a foreign state” within the meaning of Article III of the Constitution, and thus could not sue in U.S. courts.<sup>114</sup> Instead, because the tribe resided “within the jurisdictional limits of the United States and its territory” it constituted a part of the United States.<sup>115</sup> As a result, the tribe was not a sovereign, independent nation but a “domestic dependent nation” occupying “a territory to which we assert a title independent of their will.”<sup>116</sup> The Court likened the Indians’ relation to the United States as “that of a ward to his guardian,” and stated that the tribes were so “completely under the sovereignty and dominion of the United States, that any attempt to acquire their lands, or to form a political connection with them by a foreign state would be considered... an act of hostility against the United States.”<sup>117</sup> In effect, the Court’s decision precluded Indians tribes’ ability to seek redress in the courts

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<sup>112</sup> Cleveland, 36.

<sup>113</sup> Ibid.

<sup>114</sup> *Cherokee Nation*, 16.

<sup>115</sup> Ibid, 17.

<sup>116</sup> Ibid.

<sup>117</sup> Ibid, 17-18.

of the United States and placed Indians – like free blacks under *Dred Scott*, which is discussed in detail below, in a liminal status of being neither citizens of the United States nor aliens of a sovereign foreign state.<sup>118</sup>

A year later, the Court heard the case of *Worcester v. Georgia*, which arose out of the same series of events that gave rise to *Cherokee Nation v. Georgia*. In the *Worcester* case, the plaintiffs, Samuel Worcester and Elizur Butler, were missionaries sent by the federal government to teach Christianity to the Cherokee Nation with the Nation’s permission. The State of Georgia prosecuted them for violating a state law that prohibited whites from residing in Cherokee territory without a state license. They were sentenced to four years of hard labor. The state of Georgia later offered them a pardon, but the missionaries declined the offer of pardon and instead appealed to the U.S. Supreme Court, arguing that the federal rights of the Cherokee Nation invalidated the Georgia statute because they were granted through treaty with the United States.<sup>119</sup> Ultimately, the case pitted the rights of the federal government over those of a state. The claim rested on the accusation that citizens of the United States had been deprived of liberty by a state of the U.S. This dispute was squarely within the jurisdiction of the Court and as a result the Court could do nothing but decide on the merits of the case.

Again writing for the Court, Marshall’s decision significantly modified the Court’s decisions in *McIntosh* and *Cherokee Nation*, affirmatively finding that indeed Indian tribes had sovereignty. The Indian nations he wrote, “has always been considered

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<sup>118</sup> Cleveland, 39.

<sup>119</sup> *Worcester*, 528-529.

as distinct, independent political communities, retaining their original natural rights, as the undisputed possessors of the soil, from time immemorial...”<sup>120</sup> Marshall found that both Great Britain and the United States had always treated the Indians as sovereigns and had never attempted to interfere with internal Indian affairs.<sup>121</sup> He emphasized that relations with Indians were the exclusive province of the national government, and were conducted in the same manner as all other foreign relations.<sup>122</sup> “The Constitution,” he reasoned, “by declaring treaties... to be the supreme law of the land, has adopted and sanctioned the previous treaties with the Indian nations, and consequently admits their rank among those powers who are capable of making treaties.”<sup>123</sup> As a result of these pronouncements Georgia was barred from interfering with Indian sovereignty, which was solely the prerogative of the federal government.

In these cases a young Supreme Court and a young United States grappled with what exactly the Indian Nations were in relation to the United States. What rights were owed to them? Did the Constitution apply to them? Similar questions would later arise after the United States acquired the Insular Territories. Furthermore, the *Marshall Trilogy*, evinces the difficulty the court had in towing the line between maintaining federal control over Indian affairs while not seeming to trample the rights of states. Ultimately, the Court found justification in its conclusions that the federal government shared a unique relationship with the tribes and that it alone could regulate interaction

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<sup>120</sup> Ibid, 559.

<sup>121</sup> Cleveland, 40.

<sup>122</sup> Ibid.

<sup>123</sup> *Worcester*, 559.

with the tribes in the War, Treaty, and Commerce Clauses, which “comprehend all that is required for the regulation of our intercourse with the Indians.”<sup>124</sup>

The *Marshall Trilogy*, because it is not firmly steeped in legal precedents or Constitutional analysis, but instead relies heavily on international and common law ideas, has often been taken by subsequent Supreme Court justices as being subject to change, as not a hard precedent.<sup>125</sup> In fact, subsequent decisions have limited its scope.<sup>126</sup> However, despite its possible interpretations and apparent contradictions, the *Trilogy* is seen to stand generally for the proposition of Congress’ plenary power over Indian Nations.<sup>127</sup> With the *Johnson* decision, the Court essentially established the rule that the United State’s power supersedes that of the Indian Nations, despite their recognized sovereignty, while at the same time subjecting Indians to the laws of the United States. Thus, as Marshall wrote in *Cherokee Nation*, Indian Nations possessed sovereignty and had natural rights over property but were nevertheless reliant on the U.S. government’s ‘kindness and its power.’<sup>128</sup> More plainly, Indian Nations held sovereignty, but were nonetheless subject to Congress’ plenary power. In this respect, Indian Nations are similarly positioned to the Insular Territories. In *Downes*, discussed fully below, the Court also held that the inhabitants of the territories, though not granted the protections of the Constitution, nonetheless were owed natural rights owed to all men. Additionally,

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<sup>124</sup> *Worcester*, 559.

<sup>125</sup> Pommersheim, 115.

<sup>126</sup> *Ibid.*

<sup>127</sup> Roman, 88.

<sup>128</sup> Pommersheim, 105.

they too were under Congress' plenary power and, though they had limited rights they could claim, nonetheless they too could rely on the benevolence of Congress to protect them.<sup>129</sup>

Furthermore, by finding that Indians were aliens residing within a domestic dependent nation that the U.S. held title to, the *Cherokee Nation* decision left Indians in a legal limbo in which they were neither foreigners nor citizens. This distinction, known as the alien-citizen paradox, meant that members of the Indian Nations were neither full citizens (with all the rights, privileges and immunities associated with that status), nor were they completely foreign because they enjoyed some form of formal relationship with the United States.<sup>130</sup> Again, this paradox would be echoed in the later *Downes* case with respect to the inhabitants of the Insular Territories. There too, the inhabitants were not citizens, but neither were they foreign because they too enjoyed a formal relationship with the United States. In the case of Puerto Rico, the *Downes* Court created the nonsensical label of "foreign in a domestic sense" to grapple with the unique paradox it created.

#### ***DRED SCOTT V. SANFORD* – DEFINING THE "PEOPLE" OF THE UNITED STATES**

Following the *Marshall Trilogy*, the Court continued to grapple with the status of racial others within the U.S. body politic. These pronouncement, generally steeped in the racialized language and ethos of the time, worked to create a legal map of exclusion for

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<sup>129</sup> *Downes*, 280.

<sup>130</sup> Roman, 91-92.

non-whites in the United States. In 1856 in what has come to be known as the most ignominious decision of the United States Supreme Court, the Court stated that blacks, “had for more than a century before been regarded as beings of an inferior order, and altogether unfit to associate with the white race, either in social or political relations; *and so far inferior, that they had no rights which the white man was bound to respect*; and that the negro must justly and awfully be reduced to slavery...”<sup>131</sup> (emphasis added) The Court further explained that when the Constitution of the United States was created it applied to all class of person who were recognized as citizens at the time of its creation, “but none other; it was formed by them, and for them and their posterity, but for *no one else*.”<sup>132</sup> (emphasis added) These pronouncements were, of course, part of the Supreme Court’s infamous decision in 1856 in the case of *Dred Scott v. Sanford*.

The legal ramifications of that case would later be overturned by several important pieces of legislation following the United States Civil War: the 13<sup>th</sup> and 14<sup>th</sup> Amendments to the Constitution and the Civil Rights Act of 1866. However, Taney’s pronouncements in the case remain important today not only as illustrative of the racial animus and hatred that underpinned the workings of U.S. government, but also as illustrative of the formation of the states of exception that Mbembe describes as having existed on the countless plantations of the United States.

How, the reader may ask, are Dred Scott and his plea for freedom from the ignominious bonds of slavery relevant to a discussion of the state of exception in the U.S.

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<sup>131</sup> *Dred Scott v. Sanford*, 60 U.S. 393, 407 (1856).

<sup>132</sup> *Ibid.*

colony of Puerto Rico? As we will see below, the *Dred Scott* case and the U.S.' treatment of slaves and free blacks is integral to understanding how the United States and the Supreme Court established a state of exception on the island of Puerto Rico. A detailed discussion of this important precedent, despite its overturning just a few years later, can help us understand the inherent inequalities and exceptions built into the U.S. Constitutional framework which allowed for what has become a prolonged state of exception in Puerto Rico.

The Court's pronouncements in *Dred Scott* with regard to the concept of territoriality and the limits of the U.S. constitution were instructive to the decision in *Downes*, the case that established the relationship between the U.S. and its island territories in 1901. Furthermore, Taney's ideas with respect to the limits of citizenship and the role of race in deciding that citizenship also play a definitive role in those later cases. In *Dred Scott*, Taney created a category for blacks outside of the legal order; he rationalized that this group could be maintained as something other than citizens without legal protections or rights. This same scenario, which had also played out in the *Marshall Trilogy*, would be echoed 44 years later for the insular territories, and there too the logic would be steeped in racist ideas as to the superiority of the white race and the inferiority of mixed races.

Finally, and perhaps most importantly, the Court itself affirmed that a state of exception existed with respect to afro-descended inhabitants of the United States. Taney's declarations that blacks had no rights which the white man was bound to respect in effect

left them in the place of *homo sacer* – rights-less individuals whose bodies were available to the violence of the state. Blacks in the U.S. were the emblematic Mussulmen described by Giorgio Agamben in his famous treatise *Homo Sacer*. They were not “people” under the Constitution and thus were reduced to what Agamben describes as bare life: a biological existence in which they could claim no rights, but were open to be violated repeatedly without recourse.

Scholars interested in the Civil War, the U.S. South and the legal history of slavery, for example, have studied the case of *Dred Scott* in depth. However, my concern with the case here is in highlighting both how the case worked to create spaces of exclusion for blacks, as well as for its conception of territorial expansion and the workings of the U.S. Constitution in the territories. As a result, I rely on the excellent work of legal scholars and historians to examine *Dred Scott* for its relation to the topics enumerated above. This is integral to a full understanding of the Court’s discussions later in the *Downes* case.

Dred Scott was born into slavery in Virginia sometime around 1800.<sup>133</sup> In 1830, Scott’s master, Peter Blow, relocated to St. Louis, Missouri taking his slave with him. In 1833, following the death of Blow, Scott was sold to Dr. John Emerson, a surgeon in the U.S. Army. From 1833 to 1836, Scott resided at Fort Armstrong, in Illinois, with his new master Emerson. Though during the time he spent in Illinois, a free state, Scott could

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<sup>133</sup> The following biographical and historical narrative is compiled from Mark Graber, *Dred Scott and the Problem of Constitutional Evil* (New York: Cambridge, 2006); Paul Finkelman, *Dred Scott v. Sanford: A Brief History with Documents*, (New York: Bedford Books, 1997); Earl Maltz, *Dred Scott and the Politics of Slavery*, (Lawrence: University of Kansas, 2007).

have sued for his freedom, he did not do so, likely because as a slave he was illiterate and ignorant of the fact that he had a legal right to do so. In 1836, upon the Army evacuating Fort Armstrong, Emerson relocated with Scott to Fort Snelling in what is today Minnesota and was at the time part of the territory included in the Missouri Compromise, where slavery was forever prohibited. Furthermore, that area was also part of the Wisconsin Territory which had been created just weeks before Scott and Emerson's arrival. Despite the fact that slavery was also banned in the new territory, Emerson was able to keep Scott as his slave because officials in the newly established territory did little to enforce the prohibition on slavery. Again, it is likely that Scott did not know that he had a legal claim to freedom while in the Wisconsin Territory.

While at Fort Snelling, Scott married Harriet Robinson, a slave belonging to Major Lawrence Taliaferro who was stationed near the fort. Major Taliaferro, who was also a justice of the peace, performed the civil ceremony for the slaves in his official capacity. The fact of the Scotts civil marriage before an officer of the peace was unheard of given that slaves were not legally allowed to marry. Slave status did not allow for legal marriages for several important reasons.<sup>134</sup> Firstly, civil marriages were legal contracts and as property, slaves were incapable of entering into contractual obligations. Furthermore, legal recognition of a slave marriage may have interfered with a master's property rights to his slave if the slaves belonged to different masters. Finally, if slaves

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<sup>134</sup> Finkelman, *Dred Scott v. Sanford*, 16.

were granted the legal right to marry they may claim other rights as well.<sup>135</sup> Of course, the Scott's legal marriage performed by a justice of the peace in a territory of the U.S. where slavery was prohibited all pointed to the possibility that these slaves were free. Scott's lawyers later made this very argument during his suit for freedom. However, it was also true that after the marriage, Taliaferro gave Harriet to Emerson who continued to treat the two as his slaves thereby clouding the possibility of the Scotts claim to freedom on account of their legal marriage.

In 1837, Emerson was once again reassigned and made his way to Fort Jessup in Louisiana where he quickly met and married Irene Sanford. When the Scotts arrived in Louisiana, again they might have sued for their freedom as Louisiana had for some time upheld the freedom of slaves who had lived in free jurisdictions.<sup>136</sup> Yet, once again, the Scotts were ignorant that they had a right to claim their freedom. Over the next nine years Scott travelled with his masters back to Fort Snelling to St. Louis to Texas and back to St. Louis crisscrossing between slave states and free territories. Upon Emerson's death, Dred Scott attempted to buy his freedom from Emerson's widow, Irene. When she refused to sell him his freedom, Scott filed suit for his freedom and that of his wife and daughters in 1846.

The case of *Dred Scott v. Sanford* need not have been as historically significant and infamous as it became. At the outset, the suit Scott brought against John Sanford, Irene Emerson's brother who took over her business affairs and Scott's case after she

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<sup>135</sup> Ibid.

<sup>136</sup> Ibid, 18.

remarried and moved to Massachusetts, turned on the notion that Scott had become free via his many forays into free states and territories throughout his time as the Emersons' slave. After many delays and legal technicalities, a trail court found for Scott and declared that he was free as a result of the time he had spent in free territories. This decision was fully in line with established Missouri precedents, which had repeatedly declared that slaves who resided in free territories or states were legally free.<sup>137</sup> However, upon its arrival before the Missouri Supreme Court, the case took a decidedly political turn when the court broke with 30 years of established precedent and overturned the lower court verdict. The Missouri justices held that under Missouri law, slave status reattached whenever a slave voluntarily reentered a slave state from a free state or territory.<sup>138</sup>

This might have been the final verdict in Dred Scott's odyssey if not for the fact that in 1854 Scott acquired a new attorney who decided to begin a new case against Sanford in the federal courts.<sup>139</sup> A basic tenant of U.S. law holds that when a suit is between two parties who reside in different states, the federal courts can hold jurisdiction to decide such a matter. Because Scott was a resident of Missouri and Sanford resided in New York, Scott's new lawyer decided to once again bring a case against Sanford, but this time before a federal court. As a result, Scott brought a claim against Sanford in the U.S. Circuit Court for battery and wrongful imprisonment and requested restitution in the

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<sup>137</sup> Ibid, 22.

<sup>138</sup> Graber, 18.

<sup>139</sup> Finkelman, 22.

amount of \$9000. Scott's lawyers hoped not to win the full sum, but a token sum with which he could prove Scott's freedom.<sup>140</sup>

At the outset of any case, a court must determine if it has jurisdiction to hear the particular controversy before it. In the matter of *Dred Scott*, the federal district judge had first to determine whether he had jurisdiction to hear the case brought before him. The question turned on whether the matter was a dispute between *citizens* of different states, which would grant the federal court diversity jurisdiction. Sanford's response to Scott's suit was a plea in abatement in which he asked the court to throw out the case for lack of jurisdiction. He posited that the court did not have proper jurisdiction because, though Sanford did reside in New York and Scott in Missouri, Scott was not a *citizen* of Missouri and thus did not have the right to sue in federal court. Sanford argued that Scott was not a citizen of Missouri because his ancestors were of pure African blood and were brought to the U.S. country and sold as slaves.<sup>141</sup> In sum, Sanford argued that no black could be a citizen of Missouri and as a result, even if Scott was free, the court did not have jurisdiction to hear the matter.<sup>142</sup>

The Circuit Judge rejected Sanford's plea in abatement and found that the court held proper jurisdiction.<sup>143</sup> He surmised that free blacks were entitled to minimal legal rights, including the right to sue in federal court.<sup>144</sup> The case then went before a jury with

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<sup>140</sup> Ibid.

<sup>141</sup> *Dred Scott v. Sanford*, 60 U.S. 393-394.

<sup>142</sup> Ibid.

<sup>143</sup> Graber, 19.

<sup>144</sup> Finkelman, 25.

the instruction that Missouri law governed the dispute. Since the Missouri Supreme Court had already decided that Scott was not free and that court's decisions were the supreme law of the State of Missouri, the jury upheld the upper court's decision and as a result Scott and his family remained slaves.

By the time the federal court decided on the matter, the case had attracted much attention and had raised the interests of abolitionists and the proslavery camp alike. As a result Scott's appeal to the Supreme Court of the United States, an undoubtedly prohibitively costly prospect otherwise, was bankrolled by several wealthy lawyers and abolitionists. Likewise, Sanford too received aid from the wealthy proslavery camp, which had an interest in the Court's decision. After ten years of legal wrangling and delays, the case of *Dred Scott v. Sanford* finally reached the U.S. Supreme Court in February of 1856 and the stakes were higher than ever.

The primary issues briefed and argued before the Supreme Court were the questions of whether blacks could be U.S. citizens, whether the U.S. Congress had the power to prohibit slavery in the territories, and finally the constitutionality of the Missouri Compromise.<sup>145</sup> The exact holding of the Supreme Court is difficult to pinpoint given that each of the nine justices wrote his own opinion.<sup>146</sup> The majority opinion, written by Chief Justice Taney, was but one of seven opinions written by the majority rejecting Scott's appeal.<sup>147</sup> Though the majority agreed with the outcome, they disagreed

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<sup>145</sup> Finkelman, *Dred Scott v. Sandford*, 27.

<sup>146</sup> Graber, 19.

<sup>147</sup> Ibid.

as to the rationale. In the end the Court did not need to decide as to the charged issues of citizenship, Congress' power to regulate the territories or the constitutionality of the Missouri Compromise. The Court could have relied on its own precedent set in the case of *Strader v. Graham* a mere six years before Scott's case found its way before the justices.<sup>148</sup> That case held that "with the exception of runaway slaves, each state had complete authority to decide for themselves if a slave who had lived in the North had become free."<sup>149</sup> Relying on the *Strader* precedent would have dispensed with the Scott case in a fairly uncomplicated way. However, the justices had no intention of doing that.

By the time Scott's case made its way to the Court it had become considerably politically charged. The justices could not avoid deciding on the politically contentious issues in large part because the proslavery faction among the justices, and especially the Chief Justice himself, wanted a decision that would deal with those prickly issues head on.<sup>150</sup> The southern justices wanted the issues in dispute to be resolved for the southern states. By making a clear pronouncement, the court, and especially Taney, hoped to quiet the protests of abolitionists and to decide on the legality of slavery once and for all.<sup>151</sup>

From the outset, the Court had a tricky balancing act to maintain in deciding the case. Just as the federal court below it did, the Supreme Court first had to find that it held proper jurisdiction over the controversy. This posed a problem because if the court found that blacks were citizens of the United States, then Scott had a right to sue Sanford in

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<sup>148</sup> *Strader v. Graham*, 10 U.S. 82 (1850).

<sup>149</sup> Finkelman, 31.

<sup>150</sup> *Ibid.*, 32.

<sup>151</sup> *Ibid.*

federal court. However, if the Court found that blacks were not citizens of the U.S., then Scott had no right to sue and the case was not properly before the Court. The southern majority of the Court wanted very much to find that blacks were not citizens and could never be such and thus could never sue in federal court.<sup>152</sup> However, such a holding would have immediately ended the case before the Court and the justices would not have been able to rule as to the constitutionality of the Missouri Compromise, which was the political issue the southern justices most wanted to put to rest.<sup>153</sup>

Furthermore, because the Circuit Judge had ruled that Scott had a right to sue in federal court and thus Scott had not appealed that part of the decision, as a result, some of the justices felt that the question of Scott's citizenship was not properly before the Court. That question had been answered by the lower court and had not been appealed and thus was not in dispute. Additionally, because Sanford had won in the lower court he also did not appeal the Circuit Judge's findings as to his plea in abatement. As a result the Supreme Court did not need to answer the question of Scott's citizenship or his right to sue. However, Chief Justice Taney disagreed and instead argued that the question was before the Court because every court has the right to decide anew and for itself whether it has the jurisdiction to hear a dispute.<sup>154</sup>

Thus Taney surmised that he and his fellow justices had every right to decide on the question of whether Scott was a citizen. Taney argued that free blacks may be citizens

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<sup>152</sup> Ibid, 34.

<sup>153</sup> Ibid.

<sup>154</sup> Ibid.

of individual states, but they could never be citizens of the United States and have standing to sue in federal court.<sup>155</sup> Here Taney's reasoning set up a framework for dual citizenship: one could be a citizen of a state of the union, but not a citizen of the United States itself. Despite the existence of "a long popular and judicial tradition of considering the two [state and national citizenship] as inseparable dimensions of the same status," Taney found that nevertheless the two were separable.<sup>156</sup>

Taney's reasoning for this duality of citizenship was based entirely on race. Taney ignored the fact that free blacks had played a role in the political processes of many states since the ratification of the U.S. Constitution. Furthermore, at the time of the *Dred Scott* decision, free blacks exercised political rights in several states. Ignoring these facts, Taney instead argued that at the founding of the nation, blacks were either slaves, or if free, were without any legal or political rights.<sup>157</sup> For Taney the question boiled down simply to whether "a negro, whose ancestors were imported into this country, and sold as slaves, become members of the political community formed and brought into existence by the Constitution of the United States, and as such become entitled to all the rights, and privileges, and immunities, guaranteed by that instrument to the citizen?"<sup>158</sup> Taney reasoned that the terms "people of the United States" and "citizens" were synonymous and thus the question was whether people of African ancestry formed part of "the

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<sup>155</sup> *Dred Scott*, 405.

<sup>156</sup> James H. Kettner, *The Development of American Citizenship*. (Chapel Hill: University of North Carolina, 2005).

<sup>157</sup> *Dred Scott*, 403.

<sup>158</sup> *Ibid.*

people.” He found that they did not in fact form part of the people, were not intended to be included under the word citizenship, and thus could not claim any of the rights or privileges granted by that document.<sup>159</sup>

Additionally, Taney pointed to the fact that at the time of the creation of the Constitution blacks were considered as a “class of inferior and subordinate beings, who had been subjugated to the dominant race, and, whether emancipated or not, yet remained subject to their authority...”<sup>160</sup> He went on to claim that it was not the province of the Court to decide on the justice or injustice of such a policy or of the laws, though of course the very purpose of his decision was to do precisely that: to answer definitively the question of slavery and black citizenship. Taney’s opinion thus demonstrates the Supreme Court’s insidious political activism in the most obvious and fraught way.

Having thus found that Dred Scott was not a citizen of the United States and thus could not sue in federal court, the Court’s decision should have ended there. Given that Taney had just clearly stated that Scott had no right to properly be before the Court, the Court then did not have the jurisdiction to decide on the question of the constitutionality of the Missouri Compromise. However, Taney was determined to find the Compromise unconstitutional and give a victory to the southern states that felt that the Compromise’s prohibition on slavery in the territories was a Congressional overreach. Yet, because Scott had no right to be before the Court, Republicans and scholars at the time argued

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<sup>159</sup> Ibid, 404.

<sup>160</sup> Ibid, 405.

that Taney's pronouncements on the Missouri Compromise amounted to nothing more than *dicta* – musings of the Court that held no authority or binding effect.<sup>161</sup>

In order to find the Missouri Compromise unconstitutional, Taney relied on two very flawed legal arguments. The first claimed that the territories clause of the Constitution from which Congress had traditionally claimed the right to acquire and administer territory, only gave Congress rights over territory held by the U.S. at the time of the ratification of the Constitution in 1787.<sup>162</sup> Taney cited no law or judicial opinions or provided any other evidence for his finding. In fact, his decision ignored the fact that at the time of the founding of the Constitution, the founders had their sights set on the acquisition of New Orleans from Spain.<sup>163</sup> Regardless of these facts, Taney was determined to find the Missouri Compromise unconstitutional and that Congress could not regulate slavery in the territories.

Furthermore, Taney held that the United States' power to expand its land holdings was granted not by the territories clause, but by the Constitution's provision that "New States may be admitted by the Congress to the Union."<sup>164</sup> Thus Taney declared

the power to expand the territory of the United States by the admission of new States is plainly given... it has been held to authorize the acquisition of territory, not fit for admission at the time, but to be admitted as soon as its population and situation would entitle it to admission. It is acquired to become a State, and not to

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<sup>161</sup> Finkelman, 36.

<sup>162</sup> Article IV, section 3, paragraph 2 of the *Constitution of the United States* states: "Congress shall have Power to dispose of and make all needful Rules and Regulations respecting the Territory or other Property belonging to the United States."

<sup>163</sup> Finkelman, *Dred Scott v. Sanford*, 38.

<sup>164</sup> *Constitution of the United States*, Article IV, section 3, paragraph 2.

be held as a colony and governed by Congress with absolute authority, and as that propriety of admitting new states is committed to the sound discretion of Congress, the power to acquire territory for that purpose, to be held by the United States until it is in a suitable condition to become a state on equal footing with the other States, must rest upon the same discretion...<sup>165</sup>

With this declaration, Taney enumerated the United States' established doctrine of territorial expansion, which had been the custom in the U.S. to that date. The concept held that territory acquired by the U.S. had to be placed on route to becoming a state. In other words, the United States could not hold territories as colonies indefinitely. This portion of the decision, though oft considered *dicta*, nonetheless, was an important and long held practice in U.S. territorial expansion. However, as the reader knows, the acquisition of Puerto Rico would stretch and ultimately break this doctrine of law.

Perhaps because he understood the weakness of his argument with respect to the territories clause, Taney next pointed to the Bill of Rights and the Fifth Amendment to buttress his holding that the Missouri Compromise was unconstitutional. He first argued that Congress could not violate the Bill of Rights in the territories. He explicitly stated that, "no one, we presume, will contend that Congress can make any law in a Territory... abridging the freedom of speech or of the press, or the right of the people of the Territory to peaceably assemble..."<sup>166</sup> Having established this proposition, which at the time seemed obvious to the Justices and to legal scholars alike, he then turned to the Fifth Amendment's prohibition on unjust takings without compensation and due process.

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<sup>165</sup> *Dred Scott*, 449.

<sup>166</sup> *Dred Scott*, 449.

The Fifth Amendment to the U.S. Constitution holds that under federal law, no person “shall be deprived of life, liberty, or property, without due process of law; nor shall private property be taken for public use without just compensation.” Taney argued that prohibiting slavery in the territories was tantamount to a government taking of private property without due process or just compensation. He claimed that “an act of Congress which deprives citizens of the United States of his liberty of property, merely because he came himself or brought his property into a particular territory of the United States, and who had committed no offence against the laws, could hardly be dignified with the name of due process of law.”<sup>167</sup> For many at the time, Taney’s arguments with respect to the Fifth Amendment went too far. It had been long established that individual states could ban pernicious and dangerous practices within their jurisdiction, such as the sale of alcohol and gambling, so why did Congress not have the same power over federal jurisdictions? However, Taney held that slaves were a special sort of property that merited special protections of law because the right to hold slaves was explicitly granted in the U.S. Constitution.<sup>168</sup>

As discussed briefly above, Taney’s goals in *Dred Scott* were clearly political. Had he wanted to he could have easily dispensed with Scott’s claims to freedom by relying on *Strader v. Graham*. While Taney hoped to quell political debate and dissention around the issue of slavery and the constitutionality of the Missouri Compromise, his decision had the opposite effect. Justices John McLean and Benjamin Robbins Curtis

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<sup>167</sup> Ibid, 450.

<sup>168</sup> *Dred Scott*, 572-573.

wrote lengthy and extensive dissenting opinions in which they contested Taney's historical arguments, showing that free blacks had voted in a number of elections since the founding.<sup>169</sup> Curtis in particular argued that blacks were constituent members of the nation and could not now be denied the right to claim citizenship.<sup>170</sup> These dissents became fodder for Republicans and abolitionists who argued that Taney's opinion was "wicked," "atrocious," "abominable," and "a collation of false statements and shallow sophistries."<sup>171</sup> As a result, rather than quelling dissent and political argument, Taney's opinion instead fueled further disagreement and ultimately helped precipitate the events surrounding the Civil War.

#### ***DOWNES V. BIDWELL* – THE BIRTH OF THE UNINCORPORATED TERRITORY**

Forty-two years after Taney's pronouncements in *Dred Scott* worked to create a space of legal and political exclusion for blacks in the United States, to maintain blacks as legal others who could claim no rights and who were not citizens, the United States acquired the island of Puerto Rico with the signing of the Treaty of Paris that ended the Spanish-Cuban-American War. This moment in U.S. history saw a convergence of many desires and fears play out in United States political, legal and academic circles. Would the U.S. now become a colonial power like its former master? Would the inhabitants of Puerto Rico and the other island territories acquired by the U.S. after the war become U.S. citizens? What were these new islands to the United States? Economically, it was

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<sup>169</sup> Ibid.

<sup>170</sup> Finkelman, *Dred Scott*, 45.

<sup>171</sup> Ibid, 46.

clear the new island possessions could be a lucrative and profitable location for U.S. corporate expansion; however, legally and politically the islands were a bit of a quagmire for the U.S. How exactly could the U.S. maintain these islands without making them a part of the U.S.? Did Congress have such power? These are just some of the pressing questions that arose immediately after the acquisition of Puerto Rico and the other insular territories.

Amidst so much uncertainty many different opinions were raised with respect to the possible future of the island. There were many who argued against the United States' retention of Puerto Rico and who saw it as inherently contrary to the U.S.' own political and legal ideology. Others argued for retention of the island but wanted to see it maintained as separate from the U.S.<sup>172</sup> As former President and Chief Justice of the Supreme Court, William Howard Taft, wrote in reference to the debates surrounding the island,

Few questions have been the subject of such discussion and dispute in our country as the status of our territory acquired from Spain in 1899. The division between the political parties in respect to it, the diversity of views of the members of this court in regard to its constitutional aspects, and to the constant recurrence of the subject in the

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<sup>172</sup> For a fuller discussion on the political debates at the time see: Efrén Rivera Ramos, *The Legal Construction of Identity*; Robert L. Beisner, *Twelve Against Empire: the Anti-Imperialists, 1898-1900.*; Ediberto Román, *The Other American Colonies*; Rubin Francis Weston, *Racism in U.S. Imperialism*; Ronald Fernandez, *The Disenchanted Island*; Philip W. Kennedy, "The Racial Overtones of Imperialism as a Campaign Issue, 1900" available in Michael Krenn, ed. *Race and U.S. Foreign Policy in the Ages of Territorial and Market Expansion, 1840-1900.*

House of Congress, fixed the attention of all on the future relation of this acquired territory to the United States.<sup>173</sup>

Ultimately, the U.S. government determined that Puerto Rico would need a period of tutelage in the Anglo-Saxon ways of democracy before it could consider bringing the island and its inhabitants into the U.S. polity.<sup>174</sup> In a series of legal cases known as the *Insular Cases*, which spanned the period between 1900 and 1922, the U.S. Supreme Court attempted to define and create a legal framework that would allow the U.S. government to create such a tutelary relationship and in the interim maintain the island as a colony of the United States outside of the U.S. body politic.<sup>175</sup> In doing so the Court made many important pronouncements about the limits of the U.S. Constitution and its applicability to the island that often echo and sometimes break with the Court's holdings in the *Dred Scott* case. These pronouncements are instrumental to understanding the workings of a state of exception in Puerto Rico.

In May of 1901 the U.S. Supreme Court decided the first of seven cases of the group that would be known as the *Insular Cases* and which defined the territorial relationship.<sup>176</sup> These cases arose almost immediately after the U.S. took power over the

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<sup>173</sup> *Balzac v. Porto Rico*, 258 U.S. 298, 306 (1922).

<sup>174</sup> For a discussion on the United States' tutelary form of colonialism in Puerto Rico and the Philippines, see Julian Go, *American Empire and the Politics of Meaning: Elite Political Cultures in the Philippines and Puerto Rico During U.S. Colonialism*. (Durham: Duke University Press, 2011).

<sup>175</sup> For fuller discussion of the *Insular Cases* see: Christina Duffy Burnett and Burke Marshall, eds., *Foreign in a Domestic Sense: Puerto Rico, American Expansion, and the Constitution*, (Durham: Duke University Press, 2001); Bartholomew H. Sparrow, *The Insular Cases and the Emergence of American Empire*, (Lawrence: University Press of Kansas, 2006); James Edward Kerr, *The Insular Cases: The Role of the Judiciary in American Expansionism*, (Port Washington, N.Y: Kennikat Press, 1982).

<sup>176</sup> *Ibid.*

insular territories and dealt mostly with economic issues such as taxation and import restrictions. The second, and most important, of these cases was *Downes v. Bidwell*, the facts of which were discussed briefly above. To reiterate, that controversy arose when merchant Samuel Downes brought oranges from Puerto Rico through the port of New York and import taxes were levied upon his cargo. Downes then sued George Bidwell, the customs inspector at the port of New York under the theory that because Puerto Rico had become a part of the United States with the signing of the Treaty of Paris, Article I, Section 8 of the U.S. Constitution applied to the island. That provision holds that “all duties, imposts, and excises shall be uniform throughout the United States.” Downes reasoned that since no duty on oranges existed for other parts of the United States, it was unconstitutional to impose such a duty on goods coming from the island territory. In other words, the Constitution applied to the island and it could not be discriminated against for taxation purposes.

The first question before the Court was whether Puerto Rico had become a part of the United States with its acquisition. Previous to the acquisitions of Puerto Rico and the other insular territories, and as Taney laid out in the *Dred Scott* case, the U.S.’ doctrine of territorial expansion set out that territory acquired by the U.S. would be set on a course to statehood as soon as was legally feasible. Territories were incorporated into the U.S. and became a part of the U.S. until such time as they became states. As a result, the U.S. Constitution and Bill of Rights “followed the flag” into such territories as the government acquired and the protections of both documents applied therein. However, in the case of

Puerto Rico, fear of incorporating the island and its mixed race population led the *Downes* court to break with long-held legal doctrine and instead establish the so-called Territorial Incorporation Doctrine.

Prior to *Downes v. Bidwell*, the United States recognized four possible entities in relation to the United States (apart from the District of Columbia): 1) a state of the union on equal footing with others; 2) territories where the Constitution applied in full, and which were on the path to eventual statehood, such as Hawaii in 1898; 3) sovereign foreign nations and; 4) Native American nations, which were so-called domestic dependent sovereigns.<sup>177</sup> However, an activist Supreme Court in *Downes*, broke with established precedent and created a new legal category: the unincorporated territory. This new category, unincorporated territory, was a legal fiction perpetrated by the Court in order to ensure that Puerto Rico would not join the union as a state until Congress deemed it ready, if ever that day arrived. Prior to *Downes*, all territory acquired by the U.S. was “incorporated.” The chief difference between an incorporated and an unincorporated territory is that one is on track toward statehood while the other, the unincorporated territory, is not.<sup>178</sup> For example, the islands of Hawaii, annexed on June 15, 1898, just days before the U.S. invasion of Puerto Rico, were incorporated territory. This difference in treatment is due in large part to the fact that by the time the U.S. annexed the territory, Hawaii had been receiving white, European and North American

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<sup>177</sup> Carlos R. Soltero, *Latinos and American Law: Landmark Supreme Court Cases*. (Austin: University of Texas, 2006), 21.

<sup>178</sup> *Ibid*, 22.

settlers for over a century.<sup>179</sup> Furthermore, with the overthrow of the Kingdom of Hawaii and the establishment of the short-lived Republic of Hawaii in 1894, the governing bodies of the Republic consisted of white, European and U.S. citizens who actively sought annexation by the United States.<sup>180</sup> Hawaii was given a system of self-government in 1901 and eventually became a state in 1959.<sup>181</sup> Thus it was the label of unincorporated territory, which Puerto Rico still bares to this day, which meant that Puerto Rico was, unlike Hawaii, not on a path to statehood and would not be placed on such a path for the foreseeable future.

In one of the most famous assertions from the *Downes* case, Justice Brown determined that Puerto Rico as an overseas and unincorporated territory was “appurtenant to and belonging to the US, but not a part of the US within the ... Constitution.”<sup>182</sup> In other words the island was neither “foreign” to the U.S., nor was it a “part of the United States.”<sup>183</sup> Thus the Court established the idea of an unincorporated territory that belonged to the United States but was not a part of it. This idea that an overseas territory could be “appurtenant to but not belonging to the U.S.” was first established forty years before the *Downes* decision in 1856 with the passage of the U.S. Guano Islands Act.

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<sup>179</sup> Ediberto Roman, *The Other American Colonies: An International and Constitutional Law Examination of the United States' Nineteenth and Twentieth Century Island Conquests*. (Durham: Carolina Academic Press, 2006).

<sup>180</sup> Carol A. MacLennan, *Sovereign Sugar: Industry and Environment in Hawai'i*. (Honolulu : University of Hawai'i Press, 2014.)

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<sup>182</sup> *Downes*, 268.

<sup>183</sup> Christina Duffy Burnett and Burke Marshall, “Between the Foreign and the Domestic: The Doctrine of Territorial Incorporation, Invented and Reinvented,” in *Foreign in a Domestic Sense*, 3.

## **GUANO ISLANDS AND THE CRITICAL DEFINITION OF “APPURTENANCE”**

In the 1840’s farmers and agriculturists discovered that guano (dried bird and bat droppings) was extremely useful as a fertilizer. This spurred a worldwide race to discover and maintain control over guano deposits on uninhabited islands, keys and other outcroppings. In 1856 at the behest of North American adventurers who hoped to profit from discovering new guano deposits the world over, the U.S. Congress passed the Guano Islands Act. The Act empowered U.S. citizens to take possession of uninhabited, unclaimed islets containing deposits of guano for the purpose of extraction of said commodity. The Act stated,

whenever any citizen of the United States discovers a deposit of guano on any island, rock, or key, not within the lawful jurisdiction of any other government, and not occupied by the citizens of any other government, and takes peaceable possession thereof, and occupies the same, such island, rock, or key may, at the discretion of the President, be considered as appertaining to the United States.<sup>184</sup>

In order to perfect proof of discovery, a citizen of the United States who discovered such an island, rock or key had to provide a sworn affidavit to the State Department that the citizen was taking possession and that no others could lay claim to the territory.<sup>185</sup>

Finally the Act, conferred upon the U.S. executive discretion to treat the islands in question as “appertaining to the United States,” until such time as the guano had been exhausted whereupon the island should “revert and relapse out of the jurisdiction of the

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<sup>184</sup> *United States Guano Islands Act*, 48 U.S. Code § 1411-1419.

<sup>185</sup> *Ibid.*, § 1412.

United States.”<sup>186</sup> The Act specifically stated “nothing in this chapter contained shall be construed as obliging the United States to retain possession of the islands, rocks, or keys, *after the guano shall have been removed* from the same.”<sup>187</sup> This clause was particularly unique because it limited U.S. sovereignty over such islands until such time as there were no longer guano deposits therein and then allowed for sovereignty to automatically revert out of U.S. jurisdiction, without any express legal maneuvering. There was no precedent for such a situation in the U.S. legal framework at the time.

The question of whether “appertaining to the United States” meant that the islands were a part of the United States came before the Supreme Court in 1889, thirty years after the establishment of the Guano Islands Act, with the case of *Jones v. United States*.<sup>188</sup> The dispute arose after a labor riot broke out on the Caribbean island of Navassa. Working conditions on all guano islands were notoriously harsh with men laboring long hours in the tropical sun while constantly breathing the ammoniac stench of the droppings they often mined by hand.<sup>189</sup> However, the Navassa Phosphate Company exacerbated the difficulty of such labor with its shady and abusive labor practices such as forcing laborers to work for long hours under needlessly dangerous conditions, docking workers’ pay on days they were injured, gouging them with highly inflated prices at the

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<sup>186</sup> Christina Duffy Burnett, “The Edges of Empire and the Limits of Sovereignty: American Guano Islands,” *American Quarterly*, 57: 3 (2005), 780.

<sup>187</sup> 48 U.S. Code § 1419.

<sup>188</sup> *Jones v. United States*, 37 U.S. 202, (1890).

<sup>189</sup> Duffy Burnett, “The Edges of Empire,” 788.

“company store,” and punishing insubordination by placing men in “the stocks.”<sup>190</sup> Men who complained about the abusive practices would forfeit all accrued pay.<sup>191</sup>

Under such barbarous and inequitable conditions a labor riot broke out on Navassa on September 14, 1889. The riot began when a laborer, John Ross, emerged from a phosphate hole in which he had been working in order to explain to his supervisor, Charles Roby, that the phosphate was too hard to extract by hand and would need to be blasted out with dynamite. Roby responded by kicking Ross back into the hole, which prompted another worker to hit Roby over the head with a wooden tool, knocking Roby unconscious. As a group of workers brought Roby’s unconscious body back to the main camp, other workers took their presence as a cue to lay down their tools or conversely take up tools as weapons against other company officers. The rioting workers surrounded the supervisor’s house, where their bosses had barricaded themselves, and demanded an end to their inhumane treatment. The fighting lasted throughout the day with a series of skirmishes that left four white supervisors dead and a fifth would later die of his injuries.<sup>192</sup>

Notice was sent to the U.S. mainland via a nearby British ship that a riot had broken out and the island needed to be evacuated. Eventually the men made their way to Baltimore, Maryland aboard several ships belonging to the Navassa Phosphate Company

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<sup>190</sup> Ibid, 789.

<sup>191</sup> Ibid.

<sup>192</sup> Ibid.

and the U.S. Navy.<sup>193</sup> Upon their arrival in Baltimore, U.S. Attorney Thomas Hayes investigated the case of the Navassa riot and identified eighteen men who he believed were the instigators of the fracas. On November 6, a grand jury handed down five indictments against the men, charging five men with the murders of the five supervisors and the rest as accessories to murder. In five separate trials, juries convicted three men of murder, fourteen men of manslaughter and twenty-three men of rioting.<sup>194</sup> The three men convicted of murder were sentenced to death; they subsequently appealed those convictions to the U.S. Supreme Court.<sup>195</sup>

The brief submitted to the Court on behalf of the three defendants in *Jones v. United States* did not contest the facts of the case, but instead focused on legal arguments. The defendants asserted that the impermanent nature of the U.S.' hold over the island of Navassa meant that the island was not considered a part of the U.S. and thus the U.S. could not exert jurisdiction over disputes arising on the island.<sup>196</sup> Defendants distinguished Navassa, which would revert out of the U.S. jurisdiction once its guano supply had been depleted, with territories in the Northwest, which had been permanently made a part of the U.S. The brief inquired of the Court, "what is the significance of the desultory phrase, 'appertain to'?" Ultimately, the defendants argued that in the context of the Guano Islands Act "appurtenant to the United States" was devoid of meaning.<sup>197</sup>

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<sup>193</sup> Ibid.

<sup>194</sup> Ibid, 790.

<sup>195</sup> Ibid.

<sup>196</sup> Ibid, 791.

<sup>197</sup> Ibid.

The government's arguments did not directly address the defendants contentions regarding the meaning of appurtenance and instead focused on the U.S.' rights to acquire territory of any kind, permanent or temporary. Ultimately, the Court found for the government and held that Navassa must be considered "appurtenant to the United States" and thus within the jurisdiction of the federal government despite its impermanence. The Court reasoned that "the law of nations supported the Guano Islands Act, which used the word "appertaining;" that the government had taken the steps required by the act to establish "appurtenance;" and that Navassa therefore " 'appertained' to the United States," and was under the exclusive jurisdiction of the United States; however, the Court did little to clarify the precise legal status of Navassa and the other guano islands or the actual legal meaning of appurtenance.<sup>198</sup>

#### **PUERTO RICO: FOREIGN IN A DOMESTIC SENSE**

What the Court's decision in *Jones* did do was set the stage for it's legal reasoning in *Downes v. Bidwell*. In *Downes*, Justice White, in a concurring opinion that would eventually be adopted by a unanimous Supreme Court, cited the Guano Islands Act and *Jones* in order to hold that "whilst in an international sense Porto Rico was not a foreign country, since it was subject to the sovereignty of and was owned by the United States, it was foreign to the United States in a domestic sense, because the island had not been incorporated into the United States, but was merely appurtenant thereto as a

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<sup>198</sup> *Jones*, 212.

possession.”<sup>199</sup> As legal historian Christina Duffy Burnett has argued, White’s reasoning meant that “appurtenant” could now be understood to mean “neither foreign nor part of the United States (though, in this context at least, emphatically subject to U.S. sovereignty).”<sup>200</sup>

Given that Puerto Rico was not a part of the United States, the Court next grappled with the question of whether the U.S. Constitution extended to the island at all. Did the U.S. Constitution follow the U.S. flag? In other words, must the protections of that document extend everywhere that U.S. sovereignty did? Here the Court broke with its previous decision in *Dred Scott* wherein Justice Taney pointed out what all assumed to be an obvious proposition: that the Constitution and the Bill of Rights applied in the territories. Instead, in *Downes* Justice Brown wrote for the majority, that in the unincorporated territories the Constitution was ‘operative’ but this did not mean that every provision was ‘applicable.’<sup>201</sup> Thus it was the category of incorporation that determined the island’s fate. Because it belonged to this new class of unincorporated territories, the Constitution did not apply to it.

Interestingly, Brown’s decision relied on the very same logic that the *Dred Scott* Court relied upon to exclude blacks from the protections of the Constitution – that the document was not created for them and did not conceive of them and thus did not apply to them. Echoing Taney, Brown wrote

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<sup>199</sup> *Downes v. Bidwell*, 182 U.S. 244 (1901)

<sup>200</sup> Duffy Burnett, “The Edges of Empire,” 795.

<sup>201</sup> *Downes*, 277.

It is sufficient to observe in relation to these fundamental instruments that it can nowhere be inferred that the territories were considered a part of the United States. The Constitution was created by the *people of the United States*, as a union of States, to be governed solely by representatives of the States... *In short, the Constitution deals with States, their people, and their representatives.*<sup>202</sup> (emphasis added)

Here again, we see the Court making a distinction regarding whom the Constitution was meant to protect based on race.

Though ostensibly this distinction could be perceived as race-neutral and based solely on geography, the impetus for the creation of the Territorial Incorporation Doctrine and the distinction between incorporated and unincorporated territory was entirely steeped in a fear of the mixed-race inhabitants of the insular territories. To be sure, those new territories were not incorporated precisely because they were occupied by mixed race peoples that the U.S. government had no interest in bringing into the U.S. body politic. This was borne out not only in the debates of the day, which highlighted the eugenic and social Darwinian ideologies of the nation, but also within the *Downes* decision itself. Brown wrote

A false step at this time might be fatal to the development of what Chief Justice Marshall called the “American Empire.” Choice in some cases, the natural gravitation of small bodies towards large ones in others, the result of a successful war in still others, may bring about conditions, which would render the annexation of distant possessions desirable. *If those possessions are inhabited by alien races, differing from us in religion, customs, laws, methods of taxation and modes of thought, the administration of government and justice, according to Anglo-Saxon principles, may for a time be impossible;* and the question at once

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<sup>202</sup> *Downes*, 251.

arises whether large concessions ought not to be made for a time, that, ultimately, our own theories may be carried out, and the blessings of a free government under the Constitution extended to them. We decline to hold that there is anything in the Constitution to forbid such action.<sup>203</sup> (emphasis added)

In these words we get to the root of the Court's reasoning. These were alien races and alien cultures that the U.S. had to contend with and special dispensations had to be granted so that the U.S. could deal with these new territories and their mixed race people differently than it had previously done. Because the insular territories were peopled by foreign races unprepared and uneducated in the U.S. form of government they could not be incorporated, thus they were not on a path to becoming states of the union and as a result their inhabitants were not "people of the United States," and that document did not apply to them. Given that the inhabitants of Puerto Rico were not considered "people of the United States," in the same way that blacks were not "people of the United States," at the time of the creation of the Constitution that document did not apply to them. Because they were not considered "people of the United States" when the Constitution was drafted, they could claim no protections or rights under that documents. As a result, the people of Puerto Rico, likewise, were left exposed to the whims of the United States.

With this pronouncement, Justice Brown dispensed with the possibility that in Puerto Rico the protections of the U.S. Constitution applied whole cloth. Brown made it clear that because the inhabitants of Puerto Rico had not been contemplated as part of the U.S. when the Constitution was written, they could not assert legal rights under that

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<sup>203</sup> *Downes*, 287.

document.<sup>204</sup> In his view there were some rights that might apply to Puerto Rico and its inhabitants, natural rights owed to all men. Though he did not enumerate what those natural rights might be, he was nonetheless certain that the Constitution itself did not follow the flag of the United States and thus its protections did not extend everywhere that the United States government settled.<sup>205</sup>

Perhaps due to the hindsight of history, Justice Brown once again echoed Taney and *Dred Scott*, but this time to proclaim that even if the island's inhabitants were regarded as alien races not a part of the U.S. there were some rights that applied to them. Mainly those laid out in the Bill of Rights: the right to life, liberty and property. Explicitly he stated, "We... disclaim any intention to hold that the inhabitants of these territories are subject to an unrestrained power on the part of Congress to deal with them upon the theory that they have no rights which it is bound to respect."<sup>206</sup> This language, of course, directly echoes the language of Taney in *Dred Scott* wherein he infamously wrote: "blacks had no rights which the white man was bound to respect." In *Downes*, Brown was explicitly creating a limit on Congress' power lest he appear to take as extreme a position as Taney had in *Dred Scott*. Of course, beyond these three perceived fundamental rights – life, liberty, property, a whole host of others were not granted to the island and were left at Congress' discretion.

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<sup>204</sup> *Downes*, 268.

<sup>205</sup> *Ibid.*

<sup>206</sup> *Downes*, 283.

Just as it had done in *Cherokee Nation*, the Court in *Downes* reasoned that Congress' benevolence would protect the island's residents from any potential tyranny at the hands of the government. Justice Brown attempted to assuage those who feared that leaving the island in Congress' plenary power, without the protections of the Constitution, could lead to Congress acting as a despot towards its inhabitants. In direct response to those concerns he wrote for the Court:

Grave apprehensions of danger are felt by many eminent men – a fear lest an unrestrained possession of power on the part of Congress may lead to unjust and oppressive legislation in which the natural rights of territories, or their inhabitants, may be engulfed in a centralized despotism. These fears, however, find no justification... There are certain *principles of natural justice inherent in the Anglo-Saxon character*, which need no expression in constitutions or statutes to give them effect or to secure dependencies against legislation manifestly hostile to their real interests.<sup>207</sup> (emphasis added)

Thus, for the justices of the Court, the island's residents had nothing to fear. They could rely on the “natural justice inherent in the Anglo-Saxon character,” to protect them from inequitable policies and laws at the hands of Congress. This inherent justice would protect them from the sort of inequality and oppression that the U.S. government had perpetrated on blacks and Native Americans for centuries. And while, undoubtedly, the island's residents were spared from the sort of unrestrained and gleeful violence that those other groups were exposed to, nonetheless inequality, discrimination, hunger and oppression were the fruits brought to bear on the island by this legal policy. As the history of the island, and of non-whites in the U.S. has demonstrated, despite Justice

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<sup>207</sup> *Downes*, 280.

Brown's assurances to the contrary, the island and its residents indeed had grave cause for worry.

The *Downes* decision left Puerto Rico in a state of limbo as to what legal protections its inhabitants were due and what rights they were afforded by the U.S. government. The question remained, what was Puerto Rico to the United States and more importantly what were Puerto Ricans to the U.S.? Most notably the question of citizenship was a contentious one. Many in the U.S. mainland balked at the idea of granting U.S. citizenship to the inhabitants of the island.<sup>208</sup> The island's mixed race inhabitants were descended from a mixture of Spaniards, African slaves and the few natives that had survived the Spanish conquest. The thought of bringing these mixed-raced mongrels into the U.S. body politic was one that offended U.S. sensibilities.<sup>209</sup> But if Puerto Ricans weren't citizens of the U.S. then what were they?

A subsequent *Insular Case*, *Gonzalez v. Williams*, decided in 1904 held that Puerto Ricans were not citizens of the United States because the Foraker Act of 1900 had explicitly established that Puerto Ricans were citizens of Puerto Rico.<sup>210</sup> Nevertheless, Puerto Ricans were not aliens under the U.S. immigration laws and could travel back and

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<sup>208</sup> Rogers M. Smith, "The Bitter Roots of Puerto Rican Citizenship," in Burnett and Marshall, *Foreign in a Domestic Sense*.

<sup>209</sup> Eileen Findlay, *Imposing Decency: The Politics of Sexuality and Race in Puerto Rico, 1870-1920*, American Encounters/global Interactions (Durham, NC: Duke University Press, 1999); Laura Briggs, *Reproducing Empire: Race, Sex, Science, and U.S. Imperialism in Puerto Rico*, American Crossroads 11 (Berkeley: University of California Press, 2002).

<sup>210</sup> *González v. Williams*, 192 U.S. 1 (1904).

forth between the island and the mainland unhindered.<sup>211</sup> This decision was later overturned by the 1917 passage of the Jones Act which gave Puerto Ricans U.S. citizenship as the threat of World War I loomed and the need for men to serve became evident. However, it is important to point out that citizenship granted through statute, rather than constitutionally, is inherently discretionary. Thus the citizenship granted to Puerto Ricans in 1917 differs from that granted by the U.S. Constitution in the 14<sup>th</sup> Amendment in that it can be rescinded at the will of Congress without need for a constitutional convention, vote or a subsequent amendment. It has oft been described as a sort of “second class citizenship,” in that it is discretionary and does not bring with it the rights to representation in the U.S. government that full citizenship brings.<sup>212</sup>

Furthermore, though the Jones Act appeared to some to have changed the legal status of islanders, in reality the grant of citizenship and the Act’s other provisions for greater home-rule did nothing to restrain Congress’ plenary power or to change the position of islanders vis a vis the U.S. government. The Jones Act’s grant of citizenship also did little to change the lived experience of Puerto Ricans. Island residents openly discussed what their new status as citizens actually meant.<sup>213</sup> Because of the 1904

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<sup>211</sup> Ibid.

<sup>212</sup> José A. Cabranes, *Citizenship and the American Empire: Notes on the Legislative History of the United States Citizenship of Puerto Ricans*. New Haven: Yale University Press, 1979; Thomas Alexander Aleinikoff, *Semblances of Sovereignty: The Constitution, the State, and American Citizenship*. Cambridge, Mass: Harvard University Press, 2002.

<sup>213</sup> Aleinikoff, Thomas Alexander. *Semblances of Sovereignty: The Constitution, the State, and American Citizenship*. (Cambridge, Mass: Harvard University Press, 2002); Jorge Benítez Nazario, Astrid Santiago Orria, and Idsa Alegría Ortega, eds. *Ciudadanía y Exclusion en Puerto Rico*. (San Juan: Tal Cual, 2010); Ramón Bosque Pérez and José Javier Colón Morera, eds *Puerto Rico under Colonial Rule: Political Persecution and the Quest for Human Rights*. (Albany: State University of New York Press, 2006);

*Gonzalez* case, islanders were free to travel to and from the United States so the new citizenship did nothing to change that fact. Furthermore, after 1917, islanders, though now citizens, nonetheless had no representation or participation in the federal government. Many believed that the citizenship provisions simply allowed the U.S. government to draft them into military service.<sup>214</sup> Furthermore, as discussed in the following chapters, islanders who travelled to the mainland United States as laborers or students, continued to face the sort of inequitable treatment that other foreigners and non-whites did, so in that respect the new status of U.S. citizens did not in effective grant any new protections to the islander. Puerto Ricans fell into a similar category of second-class citizenship that Native Americans and blacks did in the United States. Nominally, this status gave them some rights; however, in practice little changed for the island and its residents.

The final case of the group known as the *Insular Cases* came before a Supreme Court helmed by former President of the United States and former Governor of the Philippines, William Howard Taft in 1922. The case, *Balzac v. Porto Rico*, the most controversial of the cases concerning the island since the *Downes* decision, concerned the applicability in the territories of the Sixth Amendments' due process guarantees. The

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Virginia Sánchez Korrol, *From Colonia to Community: The History of Puerto Ricans in New York City*. (Berkeley: University of California Press, 1994).

<sup>214</sup> *Ibid.*

question before the Court was whether the Sixth Amendment's guarantee to trial by jury in criminal proceedings applied to prosecutions in Puerto Rico.<sup>215</sup>

Jesús Balzac was the editor of *El Baluarte*, a daily newspaper published in Arecibo, Puerto Rico in which he wrote a scathing article virulently criticizing the U.S. appointed governor, Arthur Yager.<sup>216</sup> As a result of the publication, Balzac was charged with two counts of libel, a misdemeanor offense. Balzac requested a trial by jury pursuant to the Sixth Amendment of the U.S. Constitution, which he believed applied to the island after the passage of the Jones Act.<sup>217</sup> However, at the time Puerto Rico had local provisions allowing for trial by jury in felony cases but not in misdemeanor trials and as a result Balzac's request for a jury trial was denied.<sup>218</sup> Balzac was convicted on both counts and sentenced to four and five months, respectively, as well as ordered to pay fines.<sup>219</sup> On appeal, the Supreme Court was faced with two questions: 1) was the Sixth Amendment applicable to Puerto Rico and 2) did language found in the Jones Act effectively act to incorporate Puerto Rico into the Union. In order to answer these questions the Court also had to address the issue of what effect the Jones Act and its grant of U.S. citizenship had on the U.S.-Puerto Rico relationship.

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<sup>215</sup> *Balzac v. People of Porto Rico*, 258 U.S. 298 (1922).

<sup>216</sup> Soltero, *Latinos in American Law*, 25.

<sup>217</sup> *Constitution of the United States*, Amendment VI: "In all criminal prosecutions, the accused shall enjoy the right to a speedy and public trial, by an impartial jury of the state and district wherein the crime shall have been committed..."

<sup>218</sup> Soltero, 25.

<sup>219</sup> *El Pueblo de Puerto Rico v. Balzac*, 28 D.P.R. 150 (1920).

The Court dealt first with the applicability of the Sixth Amendment to Puerto Rico. Taft reiterated that pursuant to the Court's decisions in *Downes*, the Sixth Amendment applied to all territories of the United States, except those that had not been incorporated into the Union. The Court cited their earlier decision in *Dorr v. United States* where they held that, "the power to govern territory... does not require that [Congress] enact for ceded territory, not made part of the United State by Congressional action, a system of laws which shall include the right to trial by jury..."<sup>220</sup>

The Court then turned to the more novel issue before it: "[Had] Congress, since the Foraker Act of April 12, 1900, enacted legislation incorporating Porto Rico into the Union?"<sup>221</sup> Balzac's attorney pointed to the Jones Act as proof that Congress intended for the provisions of the Constitution to apply to Puerto Rico.<sup>222</sup> Taft's response to these examples was to note that the Jones Act did not explicitly incorporate Puerto Rico into the Union. Taft specifically pointed to the fact that the Bill of Rights contained in the Jones Act itself did not contain provisions guaranteeing the right to trial by jury in civil and criminal cases. He reasoned that if that provision of the Jones Act had intended to incorporate Puerto Rico into the Union of its own force, then it would have included the

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<sup>220</sup> *Dorr v. United States*, 195 U.S. 138 (1904).

<sup>221</sup> *Balzac*, 305.

<sup>222</sup> *E.g.* 1) The existence of the Puerto Rico District Court, which had the same power as the district and circuit courts of the U.S.; 2) appeals from the Supreme Court of Puerto Rico went to the U.S. Supreme Court; 3) U.S. copyright statutes had been enforced in Puerto Rican courts; 4) the laws of the U.S. not locally inapplicable had been applied in Puerto Rico; 5) the immigration laws of the U.S. applied to Puerto Rico.

guarantee to trial by jury. He concluded that incorporation “is not to be assumed without express declaration, or an implication so strong as to exclude any other view.”<sup>223</sup>

Furthermore, Taft argued that the grant of U.S. citizenship contained in the Jones Act was “entirely consistent with non-incorporation” because when Puerto Ricans passed from under the government of Spain to that of the U.S. they had the right to expect a status entitling them to the protection of their new sovereign.<sup>224</sup> This new status of U.S. citizenship allowed Puerto Ricans to move back and forth between the U.S. and the island and to become residents of any State and there “enjoy every right of any other citizen of the United States, civil, social and political.”<sup>225</sup> Given that Puerto Ricans enjoyed that right before the Jones Act under the Court’s *Gonzalez v. Williams* decision, it is unclear exactly what the Act’s grant of citizenship provided. Ultimately, Taft concluded “it is locality that is determinative of the application of the Constitution, in such matters as judicial procedure, and not status of the people who live in it.”<sup>226</sup>

As a final matter Taft entered a discussion as to the appropriateness of forcing a system of trial by jury on the Puerto Rican people. He mused that the jury system required citizens who were properly trained to exercise the responsibilities of jurors. He added that, “Congress has thought that a people like the Filipinos, or the Porto Ricans, trained to a complete judicial system which knows no juries, living in compact and ancient communities... should be permitted themselves to determine how far they wish to

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<sup>223</sup> *Balzac*, 258 U.S. at 306.

<sup>224</sup> *Ibid*, 308.

<sup>225</sup> *Ibid*.

<sup>226</sup> *Id.* at 309.

adopt this institution of Anglo-Saxon origin, and when.”<sup>227</sup> Furthermore, Taft reasoned that the U.S. had been liberal in granting the unincorporated territories most of the provisions of the Constitution, but had been sedulous to avoid forcing a jury system on a Spanish and Civil law country until it desired it. Taft’s closing statements on this topic are especially noteworthy and thought provoking,

We can not find any intention to depart from this policy in making Porto Ricans American citizens, explained as this is by the *desire to put them as individuals on an exact equality with citizens from the American homeland*, to secure them more certain protection against the world, and to give them an opportunity, should they desire, to move into the United States proper and there without naturalization enjoy all political and other rights.<sup>228</sup> (emphasis added)

Twenty-one years after the *Downes* Court broke with established precedent and established the Territorial Incorporation Doctrine, fear of the island’s mixed-race inhabitants remained the logic the *Balzac* Court relied upon to keep Puerto Rico out of the U.S. body politic. Taft’s language echoes Brown’s in *Downes*. He points to the fact that island residents lived in “compact and ancient” communities that were not yet ready for the U.S. legal system as a means of denying Puerto Rico the application of the Sixth Amendment. Twenty-one years after *Downes* produced such a split among the justices of the Court, *Balzac* failed to produce a single dissent or even separate concurrence. By 1922, the logic of the Territorial Incorporation Doctrine and its inequitable results was cemented into U.S. legal precedents. Between 1901 and 1922 the Court used the Territorial Incorporation Doctrine to deny residents of the territories several legal

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<sup>227</sup> *Id.* at 310

<sup>228</sup> *Id.* at 311.

guarantees that are believed to be fundamental to the United States system of laws. These guarantees included the right to a jury trial; the protection of indictment by grand jury in cases of felony; the prohibition against self-incrimination; the right of the accused “to be informed of the nature and cause of the accusation” against him; the right of the accused “to be confronted with witnesses against him”; and the right to “enjoy a speedy and public trial.”<sup>229</sup>

I point to these U.S. Supreme Court precedents in order to highlight the confusion that dominated this period and the U.S.’ uncertainty as to the legal status of Puerto Rico. If the moment of the acquisition of Puerto Rico was an extra-judicial action that the U.S. had to contend with, retaining Puerto Rico presented far more problems. In its decisions regarding Puerto Rico, the U.S. government and Supreme Court broke with its own previous legal precedents in order to maintain the island, and its population of racial others, outside of the U.S. body politic. Before the acquisition of Puerto Rico and the other insular territories in 1898, territories had been placed on the path to statehood. This was the case with territories acquired through westward expansion and with Hawaii, which was annexed by the United States on July 15, 1898, mere days before the U.S. invasion of Puerto Rico. These previous territories were organized, incorporated territories, which were put on a path to statehood. The logic held that these territories, many sparsely occupied or occupied mostly by Native Americans, would wait until they

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<sup>229</sup> Bartholomew Sparrow, *The Insular Cases and The Emergence of American Empire*. (Lawrence: University of Kansas Press, 2006), 205.

had undergone a period of training in “American” ideas of democracy and law or until enough white settlers had established themselves in the territory or both.<sup>230</sup>

However, Puerto Rico could not be treated as previous territories had been. The island was too densely populated with people who were of a mixed race character and whose racial mixture included the abhorrent blood of the Spanish and African.<sup>231</sup> Fear and mistrust of the island’s inhabitants led the Congress and the Supreme Court to create new and unique categories for the island that would ultimately work to create a space outside of the established legal order of the United States and outside of previously established procedures for incorporation and the treatment of territories. For Puerto Rico it was the island’s indistinct status as an unincorporated territory where the U.S. Constitution did not apply and whose inhabitants were excluded from both citizenship and the established legal order that worked to leave the island’s inhabitants in a state of exposure akin to that of *homo sacer*.

## CONCLUSION

The important legal precedents discussed in this chapter form part of the genealogy the “American” State of Exception. By considering these precedents through this lens, we can begin to better understand the reasoning behind these inequitable legal decisions and what sort of work they were really undertaking. To be sure, the

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<sup>230</sup> Julian Go, *American Empire and the Politics of Meaning: Elite Political Cultures in the Philippines and Puerto Rico during U.S. Colonialism*, Politics, History, and Culture (Durham: Duke University Press, 2008); Alfred W. McCoy and Francisco A. Scarano, eds., *Colonial Crucible: Empire in the Making of the Modern American State* (Madison: University of Wisconsin Press, 2009).

<sup>231</sup> Speech of Representative James Slayden (1907). Available in *Congressional Record*, House, 61st Congress, 1st Session. June 7, 1909 at 2919.

government's intent was always to exclude and remove certain racial undesirables from the rights, privileges and immunities enjoyed by the greater population again and again. The U.S. Supreme Court merely ratified this intent with these decisions.

These states of exception left racial undesirables outside of the established legal order and exposed to the vagaries of the state. For Native Americans this exclusion meant expulsion from their native lands and an undermining of their traditional ways of life. It also meant violent warfare and brutal repression of any resistance to U.S. subjugation. In the case of blacks this exclusion from citizenship and the protections of the Constitution meant that their bodies continued to be open to the unmitigated violence of slavery without legal recourse to stop such violence. With the overturning of the citizenship provisions of *Dred Scott* and the creation of the 13<sup>th</sup> and 14<sup>th</sup> Amendments to the U.S. Constitution, it seemed that Congress was working to incorporate African-Americans into the U.S. body politic. However, as history has borne out, the brief window of full citizenship and true incorporation into the U.S. political body that post-Civil War Reconstruction opened up was quickly closed. The era of Jim Crow segregation that followed, and lasted for over seventy years, represented another carving out of a space of exclusion for blacks in which, despite their apparent inclusion in U.S. citizenship, nevertheless their rights continued to be curtailed and their bodies continued to be open to violence with impunity.

While in the case of Puerto Rico, the violence of the state of exception was not as overt or oppressive; nonetheless, the island's exclusion from citizenship and the

protections of the Constitution meant the island was exposed to the whims of Congress. As will be discussed in subsequent chapters in detail, this exposure to Congress' plenary power quickly took on the shape of a plantation economy fueled not by slavery but by peonage. The benefits of such an economic model flowed mostly into the hands of absentee U.S.-based corporations and a small Puerto Rican elite. The vast majority of islanders found themselves impoverished and trapped by these policies. As will also be discussed in greater detail in subsequent chapters, islanders' attempts to resist or reshape these policies were often met with indifference and eventually with violence. The desires of the U.S. government and of U.S. investors overruled the political needs and desires of the island's inhabitants.

Furthermore, beyond the economic effects of the *Downes* decision, and as will also be discussed in subsequent chapters, the island became an experimental testing ground for U.S. imperial policies. These experiments touched every facet of island life, from English language policies, to the creation of so-called tropical medicine, to experiments in public health, agriculture and policing. Resistance to these experimental policies was met with indifference, paternalism and increasingly with violence.

## Chapter Two

### Experimental Station: Biopolitics and the Formation of an “American” Colony

On August 8, 1899, mere days after the one-year anniversary of the arrival of the U.S. military on the island, Puerto Rico withstood a crippling storm. Hurricane San Ciriaco swept through the Caribbean flooding coastal areas, devastating the island’s central mountain region and with it the island’s coffee plantations. Dr. Bailey K. Ashford, in charge of the field hospital in Ponce, described the stream of “wax-like specters” – men, women and children – who spilled from the mountains the storm had swept bare and brown.<sup>232</sup> Ashford was stunned by the conditions of the poor, bedraggled creatures that streamed into the hospital and which he was charged to care for. So stunned in fact that he wrote extensively about his experience in his autobiography, *A Soldier in Science*. There Ashford recounts how the sight of so many sick and pathetic peasants, visibly suffering from anemia, led him to hypothesize that there must be a parasitic or pathogenic reason, beyond the purported rampant malnutrition, that such a wide swath of the island’s inhabitants were anemic and sick. Here, in this recounting of the aftermath of San Ciriaco, we are privy to the birth of tropical medicine in Puerto Rico and with it the beginning of medical experimentation. Ashford’s hypothesis and experiments eventually led him to discover the problem of hookworm on the island. He would go on to found the island’s Institute for Tropical Medicine, which eventually, through a partnership with

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<sup>232</sup> Bailey K. Ashford, *A Soldier in Science; the Autobiography of Bailey K. Ashford* (New York: W. Morrow and company, 1934), 40.

Columbia University, became the School for Tropical Medicine.<sup>233</sup> These experiments and treatments, which were perfected in Puerto Rico, with the help of the Rockefeller Foundation, would then be exported all over the world: from Brazil to India and other parts of the Caribbean and the U.S.<sup>234</sup> Here we see the United States first forays into biopolitical control over the island. The first forays into government agents' attempts to organize and formulate life in Puerto Rico in service of U.S. imperial designs.

Following in the steps of ethnic studies and post-colonial scholars as described previously, this chapter is concerned with United States' exercise of biopolitical power in furtherance of U.S. empire and as a symptom of the state of exception. The impulse to shape the lives of the island's inhabitants in order to create proper colonial subjects, to decide who died and who lived, and how is the colonial impulse par excellence. The chapter will focus on policies around education, public health and labor in order to understand how policies ostensibly meant to improve the lives of the island residents were in fact biopolitical exertions of imperial design attributable in varying degrees to the existence of the state of exception.

In the realm of education, the U.S. government sought to reshape the islands population, beginning with children. This reshaping took the form of indoctrination in U.S. politics, government, history, culture and most importantly language. Many

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<sup>233</sup> Raúl Mayo Santana, Annette B. Ramírez de Arellano, and José Gabriel Rigau Pérez, eds., *A Sojourn in Tropical Medicine: Francis W. O'Connor's Diary of a Porto Rican Trip, 1927* (San Juan, Puerto Rico: La Editorial, Universidad de Puerto Rico, 2008).

<sup>234</sup> Nicole E. Trujillo-Pagán, *Modern Colonization by Medical Intervention: U.S. Medicine in Puerto Rico*, Studies in Critical Social Sciences, volume 58 (Leiden; Boston: Brill, 2013); Juanita De Barros, Steven Paul Palmer, and David Wright, eds., *Health and Medicine in the Circum-Caribbean, 1800-1968*. (New York: Routledge, 2009).

governors and heads of education sought to actively undermine Puerto Rican identity, history, culture and language in the service of so-called “Americanization.” Resistance to such policies was often met by the threat of violence and reprisals on the part of U.S. administrators. Thus, English and “Americanization,” were forced upon an unwilling population under the threat of violence. Likewise, the reshaping of the Puerto Rican economy and labor sector led to a serious shift in the lives of workers, from where they lived and worked to the type of labor they engaged in. The U.S. government encouraged workers to resettle within the island in order to bolster sugar production, as well as to resettle outside of the island in order to ease the perceived problem of overpopulation. These shifts saw thousands of workers exit the island in search of better opportunities and in service of U.S. imperial projects. As will be discussed in detail below, workers often found themselves at the mercy of U.S. agents who took advantage of their labor and their bodies, exposing them to environmental extremes and harsh work conditions. Many workers paid the ultimate price of their lives in their search for economic stability. Finally, in response to World War I, U.S. policies around public health and hygiene relegated many poor and powerless women to prisons and hospitals for experimentation in sexually transmitted infections. These women, who were powerless against accusations of their ill repute and diseased bodies, often found themselves imprisoned as a way of protecting the far more valuable bodies of U.S. soldiers on the island. Their bodies, deemed to be of lesser value, were open to the violence of medical experimentation.

These experiments in education, labor migration as population control and social hygiene were possible because of the island's status as state of exception. The U.S. government's search to remake the island took on the biopolitical and necropolitical hallmarks discussed by Foucault and Mbembe. The chapter is thus interested in examining the operation of the state of exception and how it allowed for biopolitical force, experimentation and violence. Furthermore, this chapter is interested not only in examining biopolitics at work, but also in understanding islanders' reactions to such policies. The chapter argues that the United State government's biopolitical strategies were part and parcel of the state of exception. Such exertions of biopolitical force are a hallmark of the exceptional space of the colony and of colonialism. These early policies in the realms of education, labor and public health primed Puerto Rican society for the sort of violent dissent that would erupt during the 1930s.

Relying on a variety of sources including newspapers and other periodicals, as well as correspondence and government labor records, the chapter will first examine U.S. language policies in the realm of education. From the outset U.S. initiatives to "Americanize" the island were met with ambivalence that over time turned to resistance and hostility.<sup>235</sup> U.S. education policy sought to remake islanders into proper U.S.

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<sup>235</sup> Sandra Rodriguez-Arroyo, "The Never Ending Story of Language Policy in Puerto Rico," *Comunicación, Cultura y Política: Revista de Ciencias Sociales*, Vol.4-No.1 (Enero-Junio 2013): 79-98; Sharon Clappitt-Dunlap, "Nationalism and Native-Language Maintenance in Puerto Rico," *International Journal of the Sociology of Language*, 142 (January 1, 2000): 25-34; Solsiree del Moral, *Negotiating Empire: The Cultural Politics of Schools in Puerto Rico, 1898-1952* (Madison: The University of Wisconsin Press, 2013); Aida Negrón de Montilla, *Americanization in Puerto Rico and the Public-School System, 1900-1930* (Rio Piedras: Editorial Edil, 1970); Edith Algren de Gutiérrez, *The Movement against Teaching English in Schools of Puerto Rico* (Lanham, MD: University Press of America, 1987).

subjects through “Americanization.” This “Americanization” was to begin in primary school and continue throughout a child’s education. It consisted of English language education and indoctrination with American history, politics and values. It was the belief of U.S. educators that when children were properly “Americanized” and educated in English, they would pass that information along to their parents, families and communities. In this way indoctrination in the “American” way of life and values would occur both from the top down, through revamping political institutions and creating new government agencies and programs, while also from the bottom up, via the “Americanization” of the island’s children.<sup>236</sup> Though various English language policies were fashioned over the course of the first half of the 20<sup>th</sup> century these efforts to make English the prevalent language of education were ultimately unsuccessful.

The latter half of the chapter will then turn to an examination of biopolitical policies around labor and health and sanitation. The perceived problems of overpopulation and of a sick and diseased population loomed large for government agents on the island. The U.S. government’s concerns for the sickly and pathetic condition of the island’s inhabitants was expressed early on by military actors and continued to be a source of consternation for U.S. agents throughout the 20<sup>th</sup> century.<sup>237</sup> These problems

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<sup>236</sup> Del Moral, *Negotiating Empire*; Negrón de Montilla, *Americanization in Puerto Rico and the Public-School System, 1900-1930*; Julian Go, *American Empire and the Politics of Meaning: Elite Political Cultures in the Philippines and Puerto Rico during U.S. Colonialism*, *Politics, History, and Culture* (Durham: Duke University Press, 2008); José-Manuel Navarro, *Creating Tropical Yankees: Social Science Textbooks and U.S. Ideological Control in Puerto Rico, 1898-1908*, *Latino Communities* (New York: Routledge, 2002).

<sup>237</sup> Trujillo-Pagán, *Modern Colonization by Medical Intervention*; José Trías Monge, *Puerto Rico: The Trials of the Oldest Colony in the World* (New Haven [Conn.]: Yale University Press, 1997).

were addressed through a slew of policies that legalized divorce and birth control, encouraged migration to address overpopulation to quarantine, and promoted medical experimentation in the case of health and sanitation issues.<sup>238</sup> Here we see the biopolitical workings of the state of exception on open display.

### **EDUCATION, “AMERICANIZATION,” AND LANGUAGE POLICIES**

“Americanization” was a project hotly pursued by the U.S. government in Puerto Rico from the arrival of the army on July 25, 1898.<sup>239</sup> This project sought to inculcate islanders in the proper ways of being an “American,” in the image of U.S. North Americans. “Americanization” involved both radical and subtle shifts in the politics, education, culture and values of Puerto Rico’s inhabitants. It sought to reshape islanders’ identities so that they were foremost “Americans” rather than Puerto Ricans. This project was actively pursued by the various appointed governors of the island and other top U.S. agents in the fields of education and public policy. Over time, this project of “Americanization,” became a hotly contested political subject and a point of resistance to U.S. domination over the island. This is particularly true in the arena of educational

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<sup>238</sup> Ashford, *A Soldier in Science; the Autobiography of Bailey K. Ashford*; Mayo Santana, Ramírez de Arellano, and Rigau Pérez, *A Sojourn in Tropical Medicine*; Laura Briggs, *Reproducing Empire: Race, Sex, Science, and U.S. Imperialism in Puerto Rico*, (Berkeley: University of California Press, 2002); Julie H. Levison, “Beyond Quarantine: A History of Leprosy in Puerto Rico, 1898-1930s,” *História, Ciências, Saúde--Manguinhos* 10, no. Suppl 1 (2003): 225; Arleen Hernández-Díaz, *Labor-Management Relations in Puerto Rico during the Twentieth Century*, (Gainesville, FL: University Press of Florida, 2006).

<sup>239</sup> See generally, Go, *American Empire and the Politics of Meaning*; Moral, *Negotiating Empire*; Negrón de Montilla, *Americanization in Puerto Rico and the Public-School System, 1900-1930*; Navarro, *Creating Tropical Yankees*.

policy, which created a tug and pull between U.S. government designs for “Americanization” and islanders’ own ideas and desires.

It was a widely held belief that the best way to go about “Americanizing” the people of the island and creating proper U.S. subjects was through education. By and large the islands children presented the best possibilities for “Americanization.” This was especially true given the island’s large population of children. Children would be the key to converting the island from a bastion of Spanish oppression and a tropical backwater to a thriving U.S. colony. Children would learn the American, democratic way and they would teach it to their families and communities and in this way “Americanization” would spread quickly throughout the island. Thus it was that school policies and pedagogy became highly contested issues in the early part of the 20<sup>th</sup> century. Key among the questions raised at the time was that of language. What would be the language of instruction in Puerto Rican schools? A shift in the island’s official language from Spanish to English was a key element of the project of “Americanization,” but how should the government go about enacting this shift? Children seemed to be the way forward.

One of the main points of contention was around education and pedagogy. In other words, how would children be taught? To what extent would Puerto Rican cultural and linguistic values be respected and taught alongside ideas of “American” patriotism, English and US history and culture. Scholars of education in Puerto Rico have written extensively on the practice of U.S. empire building through pedagogy and education.<sup>240</sup>

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<sup>240</sup> See for example: Del Moral, Negrón de Montilla, Go and Navarro, cited above.

As Aida Negrón de Montilla has demonstrated, policies addressing the importance of Puerto Rican culture and history in education had a sort of natural ebb and flow that was determined by the ideas and beliefs of the various secretaries of education who oversaw the island.<sup>241</sup> These men, though they all believed in “Americanization” and the importance of English language education alongside courses in U.S. values, history and culture, had varying ideas as to what extent Puerto Rican history, culture and Spanish should also be included in island pedagogy. The ultimate goal was “Americanization” and the transformation of Puerto Ricans into what José-Manuel Navarro calls, “tropical Yankees.”<sup>242</sup> However, the tactics adopted varied.

As in the case of legal experimentation discussed in the previous chapter, Native American and African American educational experiments also provided the framework for creating an insular pedagogy. Historian Solsiree del Moral has demonstrated that experiments in Native American and African American education helped U.S. agents’ to form their pedagogical approaches to dealing with the non-whites on the mainland and they formed the building blocks of policies adopted on the island. Public education policies at the start of the 20<sup>th</sup> century reflected the racial, gender and social prejudices of U.S. society.<sup>243</sup> Thus, public education was imagined as a tool through which to include and exclude groups from the U.S. polity, as well as to funnel people into their proper

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<sup>241</sup> Negrón de Montilla, *Americanization in Puerto Rico and the Public-School System, 1900-1930*.

<sup>242</sup> Navarro.

<sup>243</sup> Del Moral, *Negotiating Empire*, 34.

place within that polity.<sup>244</sup> In this way, education and language policies reflected the biopolitical exigencies of empire. As del Moral has further demonstrated, the inhabitants of the U.S.’ new island territories joined the “broader community of inferiors—women, children, working class whites, eastern European immigrants, African Americans and Native Americans—who could be trained to fulfill their class, gender and racial location within U.S. society.”<sup>245</sup> Del Moral makes it clear that while U.S. school projects across the empire were informed by ideas of Anglo Saxon superiority and Protestant notions of a civilizing mission, they were always specific to imperial intentions and local conditions.<sup>246</sup> Therefore, though lessons garnered from Native and African American educational policies loomed large over educational policies for the island, they were never directed toward the eradication of Puerto Rican culture by force as was the case for Native Americans. Puerto Ricans, because they were seen as amicable, docile and receptive, did not require the same aggressive reeducation policies directed at Native Americans. As a result, the tactics employed to “Americanize” Puerto Ricans were similar to, but different from, the vocational instruction promoted in Native American boarding schools.<sup>247</sup>

Central to the U.S. imperial project on the island, was the question of how to shift the population from a Spanish speaking to an English speaking one. The issue of language on the island became an extremely contested one soon after the U.S.’ arrival

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244 Ibid.

245 Ibid.

246 Ibid, 36.

247 Ibid.

and has continued to the present.<sup>248</sup> The early years of military rule over the island saw a heavy push toward English only education and government institutions.<sup>249</sup> The military governor quickly proclaimed the need for an English only language policy in all grades of public education. In January of 1899, Governor Guy Henry declared that, “the system of school education should be looked into, and it is my desire to ascertain how many teachers they [the municipalities] can pay who can teach the American or English language, commencing with the younger children... The young children are anxious to learn, and now is the time for them to do so.”<sup>250</sup> In conjunction with this declaration, Henry also issued a new policy requiring all teachers to learn English and further requiring all those seeking employment as teachers to be subject to examination in English.<sup>251</sup> Frustration with and resistance to these early educational policies began immediately. Teachers, parents and students alike expressed their frustration and rejection of such policies.

In a 1900 report published in the journal *La Educación Moderna* distinguished teacher Ana Roqué argued that “it ha[d] been an error to place small children in the charge of American teachers, for it had been shown that the children have been unable to

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<sup>248</sup> Sharon Clappitt-Dunlap, “Nationalism and Native-Language Maintenance in Puerto Rico.” *International Journal of the Sociology of Language* (2000:142): 25–34; Sandra Rodríguez-Arroyo, “The Never Ending Story of Language Policy in Puerto Rico.” *Comunicación, Cultura Y Política*, (2013): 79–98; Amílcar Antonio Barreto, *The Politics of Language in Puerto Rico*. (Gainesville, University of Florida Press, 2001).

<sup>249</sup> Negrón de Montilla, *Americanization in Puerto Rico and the Public-School System, 1900-1930*, 1-33; Clappitt-Dunlap, “Nationalism and Native-Language Maintenance in Puerto Rico.”

<sup>250</sup> Negrón de Montilla, 10.

<sup>251</sup> *Ibid.*

learn an ‘iota’...”<sup>252</sup> Roqué considered the means and methods used by American teachers to teach children English to be “inhuman, erroneous and disturbing.”<sup>253</sup> In a later issue of the same journal, another teacher exalts her peers to reject English education because “it is our duty to resist with serenity and perseverance any reform which is incompatible with our special conditions. The procedure followed in the teaching of English falls within this last category...”<sup>254</sup>

The U.S. administration was not blind to teacher frustration and opposition. In a report to the military governor from 1900, the Director of Education, Victor Clark, wrote:

There is opposition to the American Schools. If left to itself Porto Rico would not establish them until that time comes when a controlling majority of its intelligent classes had received their education in the institutions of the United States. This opposition arises from several reasons. In the first place, the educational leaders of the island have been trained in Spain and France... they do not understand the American system and their resistance follows as a natural result of this fact.<sup>255</sup>

Clark advised Governor Davis and the War Department to take great care in implementing educational policy on the island at such an early stage. Clark understood that missteps early on would impair the U.S.’ ability to make the island “American.” He warned that the “great mass of Porto Ricans are as yet passive and plastic. Their ideals are in our hands to create and mold. If the schools are made American, and the teachers

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<sup>252</sup> *La Educación Moderna*, No. 8, August 26, 1900, 60.

<sup>253</sup> *Ibid.*

<sup>254</sup> *La Educación Moderna*, No. 4, July 29, 1900, 26-27.

<sup>255</sup> *Report on Civil Affairs of Porto Rico, 1899*, 164.

and students are inspired with the American... the island will become in its sympathies, views and attitude toward life and toward government essentially American.”<sup>256</sup>

These remarks evince the careful balance that needed to be struck on the island in order for the U.S. government’s Americanization policies to work. It also evinces, once again, the notion that Puerto Ricans were docile and ready to be reeducated and that such reeducation could progress rather smoothly. The next several decades of U.S. education and language policies would see subsequent Commissioners of Education attempt to find the balance that would lead to the creation of proper “Americanized,” English speaking subjects with mixed results. These experiments in education included requirements on teacher training and examination as well as the amount of English spoken in the classroom and the specific subjects that would be taught in English. Commissioner approaches sought to quicken the pace of English acquisition and “Americanization,” but tactics often had to be reigned in when protests from teachers, students and parents threatened to derail progress.

The passage of the Foraker Act in 1900 and the creation of a civil government for the island led to an easing of the English only education policy set up under the military government. Martin Brumbaugh was appointed the first Commissioner of Education under the newly established civil government and he set about shifting educational language policies. Brumbaugh adopted a more careful and gradual integration of English in education with Spanish instruction at the elementary level and English as a compulsory

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<sup>256</sup> Ibid.

subject. For high school education, the opposite was true: instruction was conducted in English with Spanish as a compulsory subject.<sup>257</sup> Brumbaugh also set the precedent, followed by subsequent Commissioners of sending Puerto Rican teachers to the United States for special instruction in English and pedagogy, as well as recruiting U.S. based teachers to come to the island. Because Brumbaugh's policy maintained Spanish as the language of elementary instruction and did not privilege English, it did not align with the larger U.S. colonial plan and his term ended rather abruptly in 1901.<sup>258</sup>

Brumbaugh's successor, Samuel Lindsay, took a slightly more conservative approach to the language question. He believed that in order for "Americanization" to move forward in the schools, and for English to become dominant, teachers had to be properly educated in U.S. American pedagogical methods.<sup>259</sup> With this in mind he established summer teaching institutes for Puerto Rican teachers at Harvard and Cornell Universities. Hundreds of teachers attended these summer institutes during Lindsay's tenure. In addition, in order to train Puerto Rican teachers at home, Lindsay pushed for the establishment of a Normal School that would train Puerto Rican teachers. This school would eventually become the University of Puerto Rico.<sup>260</sup>

The 1902 passage of the Official Languages Act codified both Spanish and English as official languages of the island and allowed for either to be used in conducting

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<sup>257</sup> Sandra Rodriguez-Arroyo, "The Never Ending Story of Language Policy in Puerto Rico," *Comunicación, Cultura Y Política*, January 1, 2013, 79–98.

<sup>258</sup> *Ibid.*, 82; Del Moral, *Negotiating Empire*.

<sup>259</sup> Rodriguez-Arroyo, "The Never Ending Story of Language Policy in Puerto Rico," 83.

<sup>260</sup> *Ibid.*

government business, including in the courthouse and the classroom. By and large, however, until the creation of the *Estado Libre Asociado* in 1952, government business continued predominantly in English and instruction continued to privilege the learning of English. Later policies implemented by Commissioner of Education Roland Faulkner reversed Brumbaugh's direction and required that English be the language of instruction rather than merely a subject of study.<sup>261</sup> Faulkner, who was Commissioner from 1904 to 1907, reasoned that since attempts to teach English as merely a subject had been unsuccessful in leading to true bilingualism of pupils, instruction in English was the next logical step.<sup>262</sup> This policy, implemented in 1905, remained in effect throughout the first decades of the 20<sup>th</sup> century with limited results and much consternation.

Issues arose immediately with the implementation of Faulkner's English instruction policy. Foremost was the difficulty of finding teachers who could give instruction in English. To address this issue, the School Law of 1905 was passed requiring that Puerto Rican teachers who wished to continue in the profession become fully fluent in English.<sup>263</sup> To this end, teachers were required to attend classes once a week during the school year and the summer. Teachers would take an oral examination to prove their proficiency in the English language and those who were certified as able to work on an English basis would receive an extra ten dollars a month.<sup>264</sup> In addition to these provisions, after July 5, 1905 all teachers would be tested annually on a progression

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<sup>261</sup> Negron de Montilla, 97.

<sup>262</sup> Ibid.

<sup>263</sup> Ibid.

<sup>264</sup> Ibid, 99.

of material and any teacher who failed the examination would be placed on suspension from duty until he or she passed the exam. If the suspension lasted longer than two years, the teacher could have their teaching license revoked entirely.<sup>265</sup> To encourage teacher compliance with these policies, the department of education offered incentives in the form of prizes and recognition for those teachers who scored the highest on the English examination.<sup>266</sup> Likewise, the department also listed the names of those teachers who failed to pass the examination and were on probation or suspension as a means of shaming teachers into learning.<sup>267</sup>

Despite the development of courses and requirements for teachers to learn English, the transition from a Spanish based education to an English one was a rough one that led to much strife within the educational community on the island. A 1907 report from the Superintendent from the town of Guayama illustrates some of the tensions raised by the new policies. He related that as was the case in many small towns of the island, the people of Guayama were not “in sympathy with [the policies] and there had been difficulty securing competent Puerto Rican and American teachers.” Additionally, he wrote, “Without careful intelligent supervision by American teachers, instruction in the English language is of problematical success.”<sup>268</sup> Examinations and English courses were a hardship for many rural teachers who had to travel to towns to attend the courses

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<sup>265</sup> Ibid, 100.

<sup>266</sup> Ibid.

<sup>267</sup> Ibid.

<sup>268</sup> *Report of the Commissioner of Education for Porto Rico for 1907* (Washington, San Juan, P.R: Govt. Print. Off, 1907), 434.

and take the examinations. The additional requirements meant that teachers spent more time away from their students as well as their families. Teachers expressed their unhappiness at these new policies in writings in local newspapers and educational publications.

Throughout the early decades of the 20<sup>th</sup> century various exams were administered and policies implemented to further both teacher and student learning of English with mixed results.<sup>269</sup> What is certain is that the policies and exams became a source of contention not only for teachers and students, but also for politicians and island residents in general. In a 1913 speech before the House of Delegates, prominent political leader Luis Muñoz Rivera decried that the examinations given to teachers in subjects such as anatomy and physiology were given in English. “Gentlemen of the House,” he stated, “this is useful knowledge, but the papers should be given to the candidates in Spanish.”<sup>270</sup> So great was the frustration of teachers at the English policies of the department of education that in 1913, the House of Delegates at the behest of the Teacher’s Association, introduced legislation to end the Department of Education’s class and examination requirements for teachers. Furthermore, the bill sought to make Spanish the official language of instruction in post-elementary education.<sup>271</sup> This bill was vetoed by the Upper Chamber of Congress, which was made up of members of the Governor’s cabinet and others appointed by him. Despite the bills failure, the Teacher’s Association and

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<sup>269</sup> Negron de Montilla, 104.

<sup>270</sup> Puerto Rico, *Report of the Commissioner of Education for Porto Rico for 1913*, 344.

<sup>271</sup> Negron de Montilla, 140.

others continued to rally for instruction in Spanish throughout the early decades of the 20<sup>th</sup> century.

Just two years later, in 1918, the House of Delegates once again attempted to pass legislation to curtail educational instruction in English and to end the examination of teachers. This bill went further than the previous one by attempting to reinstitute Spanish as the official language in judicial proceedings. The bill was met with great support among teachers and students alike and it led to a slew of student protests and activism around the island. In one incident a student at the Central High School in San Juan was expelled for circulating a petition in support of the bill among his fellow students. In response to the expulsion students at the high school organized a strike in support of their classmate. The school responded by expelling all students involved in the strike. This action raised the ire of parents who demanded their children be readmitted without penalties. The liberal newspaper *La Democracia* reported that the conflict was only resolved when the parents, with the help of several prominent attorneys, proposed opening up an alternative private high school that would have instruction solely in Spanish. The School would be named after the Speaker of the House of Delegates and a prominent Puerto Rican nationalist, Jose de Diego.<sup>272</sup>

In contrast to *La Democracia* and other newspapers that reported on the incident, the Annual Report of the Department of Education claimed that the strike was precipitated by the actions of a student notorious for misconduct and that the majority of

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<sup>272</sup> Ibid.

striking students were “encouraged and incited by outside influences.”<sup>273</sup> According to the report, the immediate results in the Central High School “were good, reduction of the numbers enrolled in classes made the teaching work more effective, and the withdrawal from school of those whose conduct had been least satisfactory made discipline an easy matter.”<sup>274</sup> The Department’s view is revealing in that it provides a happy spin on what for teachers and students was really a threatening proposition: the eradication of the Spanish language. Thus these students who voiced concerns about the English only policy were merely rabble-rousers and troublemakers. The difficult element had thus been weeded out and thus instruction could continue towards the remaining teachable students.

As a result of an uptick in student unrest and strikes during this time the Department adopted the following policy, which it disseminated through its Circular Letter No. 35 of November 23, 1915:

Any pupil of the public schools of Porto Rico who willfully or at the instigation of another person or persons leaves the school as a protest or participates in a school strike thereby suspends himself indefinitely from the public schools of Puerto Rico... Supervising principals, principals, acting principals, teachers of public schools who assist or lend their sympathy to school strikes or who knowingly readmit any pupil who has thus separated himself from the public schools make themselves liable to suspension.<sup>275</sup>

Despite the Department’s policy on strikes, student protest did not subside and only increased with the passage of the Jones Act and the grant of U.S. citizenship to island

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<sup>273</sup> Ibid, 141.

<sup>274</sup> Ibid.

<sup>275</sup> Puerto Rico, *Report of the Commissioner of Education for Porto Rico for 1915*.

residents. Shortly after the passage of the Jones Act a group of university students wrote a letter to the House of Representatives requesting that the House demand a declaration of independence for the island.<sup>276</sup> In response the Commissioner of Education, Paul Miller, ordered the Dean of the University to provide him with a list of all students who had signed the request to the House. Miller stated that “since the petition [was] made by American citizens at a time when the nation has been carefully scrutinizing the loyalty of all citizens,” he would bar any member of the graduating class whose name appeared on the letter from admission into the teaching profession.<sup>277</sup>

Miller’s demand and his allusion to the loyalty of the newly appointed U.S. citizens was a direct reference to the Sedition Act of 1918, which was an addition to the Espionage Act, that allowed prosecution for speech that was disloyal, profane, scurrilous, or abusive about the United States government or its flag.<sup>278</sup> With his assertion Miller demonstrated that student speech at the time was not only monitored and surveilled but also subject to harsh punishment. In a later incident, which occurred after the end of the war and the repeal of the Sedition Act, a graduating student at the Central High School in San Juan waved a Puerto Rican flag during graduation exercises and yelled his support for the independence of Puerto Rico. Miller responded by having the police remove the student and the “enemy flag from the place.”<sup>279</sup>

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<sup>276</sup> Negrón de Montilla, 171.

<sup>277</sup> Ibid.

<sup>278</sup> David M. Kennedy, *Over Here: The First World War and American Society* (New York: Oxford University Press, 2004).

<sup>279</sup> *La Correspondencia*, June 17, 1921, pg. 1.

The appointment of E. Mont Reilly as Governor in 1921 did nothing to quell the growing fervor among students. In his inaugural address the newly appointed governor addressed the students of the island directly telling them “there is no room on the island for any flag other than the Stars and Stripes. So long as Old Glory waves over the United States, it will continue to wave over Puerto Rico.”<sup>280</sup> The Puerto Rican flag had taken up a special symbolism for students who protested U.S. colonization of the island. It became a rallying point for students and an object of consternation for U.S. administrators who saw it as a display of nationalist rebellion. Students frequently and surreptitiously replaced the U.S. flag with that of Puerto Rico in protest as well as waved it at assemblies and graduations. These exercises of student protest were often met with repression and punishment as U.S. education agents sought to privilege U.S. symbols and American values over those of Puerto Rico.

Over the first few decades of the 20<sup>th</sup> century educational policies meant to “Americanize” students, and eventually their parents, became a source of frustration and tension for island residents. These policies served as catalyst for teacher, student and parent protests and also worked to cement Spanish as the language of Puerto Rico. The more U.S. agents pushed English language policies, the more students and teachers protested and pushed back. The fact that the predominant language on the island today is still Spanish speaks to the failure of U.S. language policies throughout the first decades of the 20<sup>th</sup> century. It also speaks to the fact that Spanish became closely tied with Puerto

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<sup>280</sup> Trías Monge, 74.

Rican identity during that period. The more U.S. tried to make proper “American” subjects out of islanders by insisting on English, the more islanders resisted by touting Spanish as an essential part of their Puerto Rican identity.

Though the U.S. sought to shape and mold residents into proper colonial subjects through educational policies that targeted the island’s children, these policies failed to garner the results sought. Instead, they worked to grow islander resentment and anger. These frustrations only grew as the early decades of U.S. rule wore on and they were ready to erupt by the 1930’s when the island saw a widespread wave of nationalist resistance and government repression of protest.

#### **LABOR PRACTICES, OVERPOPULATION AND THE BIOPOLITICAL STATE**

Overpopulation of the island was a central concern of the U.S. administration from the early days of the military government and continued throughout the 20<sup>th</sup> century. Government officials viewed large Puerto Rican families as examples of the ignorance and loose morals of the population.<sup>281</sup> The early 20<sup>th</sup> century was marked by several overarching discussions concerned with addressing the island’s problem of overpopulation. Indeed as the U.S.’ rule of the island pressed on and economic possibilities diminished for a greater sector of the island’s population more and more discussion was given to the issue of overpopulation. The island’s economic condition rarely featured into discussions of how to resolve the issue of hunger and malnutrition

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<sup>281</sup> Annette B. Ramírez de Arellano, *Colonialism, Catholicism, and Contraception: A History of Birth Control in Puerto Rico* (Chapel Hill: University of North Carolina Press, 1983).

among the island's poor and laboring classes. Instead, discussions focused on how to limit that class from multiplying. As a result U.S. agent's and Puerto Rican elites debated the various ways to resolve the problem. The two schemes that came to dominate the debates were migration and birth control. In the first two decades of the 20<sup>th</sup> century migration seemed to be the more likely solution to the problem, though during the 1920's and 1930's discussions around birth control took center stage.

The pressures felt by the United States during the conflict of World War I brought many of the tensions and problems of the island's relationship with the U.S. to the fore. They also brought out the biopolitical and necropolitical power of the U.S. to a more visible level on the island. Policies around labor and health and sanitation took center stage in the years around the war. These discussions were couched in the exigencies of war and the need to further the U.S. war effort; however, they were ultimately exertions of the U.S. desire to contain the proliferation of Puerto Rican life and to wrangle the islands inhabitants in ways that benefitted the U.S. government's imperial designs.

Labor migration as a form of population control began almost immediately after the U.S. arrived. Puerto Rican laborers held the potential to resolve the various labor shortages throughout the U.S. empire as well as help ease the dual problems of rising unemployment and overpopulation of the island. Puerto Rican workers were sought out to cultivate a slew of agricultural products from sugar to fruit to cotton and tobacco. They were recruited to the various insular territories of the U.S. empire as well as to the U.S. mainland itself. Puerto Rican migrants toiled in various industries in Cuba, the

Dominican Republic, the U.S. Virgin Islands, and the Philippines; additionally, they worked alongside other Caribbean islanders on the construction of the Panama Canal.<sup>282</sup>

Early in the U.S.' occupation of the island, American business men with corporate interests in Hawaii reached out to the Department of War seeking laborers to travel from the Caribbean island to the Pacific to work on Hawaiian sugar plantations.<sup>283</sup> U.S. owned and operated plantations in Hawaii were continually faced with the difficulty of securing dependable labor. Native Hawaiians resisted the harsh condition of plantation life and the hegemony of U.S. corporate interests on the islands.<sup>284</sup> As a result foreign workers were used in sugar cultivation. Beginning in the 19<sup>th</sup> century groups of Chinese, Japanese and Filipinos had been recruited to work the fields. With the U.S.' acquisition of Puerto Rico, agents in Hawaii saw another potential fount of workers. This possibility became especially attractive with the outbreak of war between Filipino nationalists and U.S. military forces in the Philippines.<sup>285</sup>

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<sup>282</sup> Julie Greene, *The Canal Builders: Making America's Empire at the Panama Canal*. (New York: Penguin Press, 2009); Dennis Nodín Valdés, *Organized Agriculture and the Labor Movement before the UFW: Puerto Rico, Hawai'i, California*, (Austin: University of Texas Press, 2011); Altagracia Ortiz, ed., *Puerto Rican Women and Work: Bridges in Transnational Labor*. (Philadelphia : Temple University Press, 1996); Elisabeth M. Aranda, *Emotional Bridges to Puerto Rico: Migration, Return Migration, and the Struggles of Incorporation*, (New York: Rowman & Littlefield, 2006); Gina M. Perez. *The Near Northwest Side Story: Migration, Displacement and Puerto Rican Families*. (Berkeley: University of California Press, 2004).

<sup>283</sup> National Archives and Record Administration (NARA), Record Group (RG) 350 – Records of Bureau of Insular Affairs, General Records Relating to More than One Island Possession, General Classified Files, 1898-1945; 1914-1945, Entry 5, Box 311: 1479-72 to 1493-103-237 pt2, Folder 1493-3 to 102, pt 1 (“Porto Rican Laborers for and in the United States”), Document No. 75.A.

<sup>284</sup> Clarence Senior, *Puerto Rican Emigration*. (Rio Piedras: Social Science Research Center of the University of Puerto Rico, 1947), 9.

<sup>285</sup> NARA, RG 350, Records of Bureau of Insular Affairs, Document No. 75 B.

For the initial trip over a thousand Puerto Rican men were recruited to travel to the Pacific as contract workers embarking on a several weeks journey around the South American continent and to the Pacific. Problems arose with the labor force almost immediately upon their arrival. The men found themselves isolated to remote parts of the islands and working under harsh conditions with little in the way of entertainment or diversion to ease the tensions of such a difficult life. Many ran away and eventually sought the aid of the U.S. government in returning to Puerto Rico.<sup>286</sup> After this initial failure, Hawaiian sugar agents then changed their tactics for recruiting and subsequent trips brought the wives and families of the laborers to Hawaii in order to help ease the difficulty of plantation life. Many of these families eventually settled in Hawaii upon completion of their labor contracts but a majority returned to Puerto Rico.<sup>287</sup>

Puerto Rican workers were also recruited to work in the Panama Canal Zone and in agricultural fields in the mainland United States. In the early 1920s Puerto Ricans were contracted to cultivate and pick cotton in Arizona.<sup>288</sup> A tightening of immigration laws along the U.S.-Mexico border made recruiting Mexican laborers difficult. As a result, the Arizona Cotton Growers Association reached out to the Secretary of War about the possibility of recruiting a Puerto Rican labor force. Two groups of islanders made the trip. The first consisted of 480 adults and 96 children. The second group of 105 families

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<sup>286</sup> Ibid.

<sup>287</sup> Ibid.

<sup>288</sup> Edwin Maldonado, "Contract Labor and the Origins of Puerto Rican Communities in the United States," *International Migration Review*, 13:1 (1979), 106.

was made up of 581 persons.<sup>289</sup> Though it is clear that these Puerto Rican men and women ventured to the southwest to aid in the production of cotton, little else is known as to the conditions under which these men labored and their families lived or for how long.

The onset of World War I presented the U.S government with an acute need for laborers to aid in the war effort at home. As soldiers were shipped abroad to fight, the War Department experienced a shortage of labor in various projects on the mainland. In order to address these shortages the War Department and the United States Employment Service worked together to recruit thousands of men from the island to work in various construction projects in the southern United States. This importation of Puerto Ricans facilitated the business of war by providing much needed male bodies to help construct roads and ready barracks and military outposts. Additionally, it also attempted to address the problem of continued unemployment and over population on the island. In May of 1918 the Department of Labor published a post in the U.S. Employment Service Bulletin, addressing the project:

As one of its means of augmenting the common-labor supply, the Department of Labor, through the United States Employment Service, will shortly begin bringing Porto Rican laborers to the continental United States. Within a month the first arrivals will be engaged in construction work on Government contracts, and the Employment Service already has arranged for the employment of more than 10,000 islanders on war work at

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<sup>289</sup> Ibid.

Norfolk, Newport News, and Baltimore and vicinity. Approximately 75,000 Porto Rican laborers already are available for work in the mainland.<sup>290</sup>

After some discussion with Puerto Rican political leaders and the Governor of the island, the Departments of Labor and War settled on sending the men to construction projects located in the southern states because the climate would be most “suitable to their health.”<sup>291</sup> An article in the Official U.S. Bulletin from early October 1918 described the arrival of the first group of men in New Orleans, Louisiana in sunny tones stating that everything had been readied for their arrival and that the men would be paid wages current at the places where they would be employed. The bulletin further described the enthusiasm of Puerto Rican laborers to join the war effort stating that when the first call for laborers was issued the “entire police force of San Juan had to be requisitioned to keep traffic lines open, so great was the crowd of applicants.”<sup>292</sup>

Though the initial impulse and idea for the project may have seemed a mutually beneficial one, problems became apparent almost immediately upon the departure of the first group of men from the island. Beginning in September of 1918, about 3000 Puerto Ricans left the island for work projects in Fayetteville, North Carolina; Lexington, Kentucky; and New Orleans, Louisiana. On September 25, 1918, mere days after the second group of laborers departed the island, Arthur Yager, the Governor of Puerto Rico, wrote to Brigadier General Walcott Jr., Chief of the Bureau of Insular Affairs, the agency

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<sup>290</sup> Department of Labor, “To increase common labor supply with Porto Rican,” *U.S. Employment Service Bulletin*. (Washington, D.C., May 21, 1918).

<sup>291</sup> Committee on Public Information, *The Official U.S. Bulletin*, (Washington, D.C.: Oct 3, 1918).

<sup>292</sup> *Ibid.*

then charged with matters relating to Puerto Rico. In his letter Yager expressed concern for the families of the laborers who had left the island for the U.S. mainland and for the families of those who were scheduled to leave. Yager's overarching concern was that the Bureau and the Department of Labor had not made provisions for the families and dependents of the men who had been sent to labor in the U.S.

According to Yager, "practically all of the men who have been taken and who will be taken have dependents who are looking to them for support, and this class of people are so improvident that their dependents here will be almost in a starving condition within a week or ten days after the boats leave."<sup>293</sup> Yager's letter evinces frustration with the Bureau and the Department for not including in their plans provisions for those dependents who would be left behind and would surely be in dire straits without their men to provide for them. Furthermore, he explains that such a situation was completely foreseeable given the experiences of Puerto Rican soldiers and their dependent families in the past. Yager extolls Walcott to communicate with those in charge of organizing the project to ensure that a workable solution be reached quickly. He writes, "if the matter should be allowed to drift along for any length of time without some action, the conditions may rapidly reach a point where it would be necessary for me to take very prompt and radical action to prevent the starvation of thousands of women and children who would be left without any means of support."<sup>294</sup>

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<sup>293</sup> NARA, RG 350, Records of Bureau of Insular Affairs, Document No. 64: "Letter of Arthur Yager to Brigadier General Walcott, Jr. dated September 25, 1918."

<sup>294</sup> Ibid.

Furthermore shortly after the start of the project a steady stream of letters from the laborers themselves began arriving at the office of the Resident Commissioner for Puerto Rico. These letters arrived from New Orleans, Little Rock and Fayetteville where conditions for workers were described as “pitiful,” “atrocious,” and “inhuman.”<sup>295</sup> Some workers expressed concern that they were not receiving their promised wages – some only received part, others none at all. They worried that they would not be able to provide adequately for their families back on the island given the problems they faced in receiving those promised wages. These letters asked the Resident Commissioner to send the workers home to Puerto Rico or to other parts of the U.S. where laborers had family that might assist them in getting home.<sup>296</sup>

At Camp Bragg in Fayetteville, North Carolina the situation for the laborers was so bad that they selected a representative who wrote letters on their behalf and entered a sworn deposition to the Resident Commissioner. In an initial letter dated October 7, 1918, Ramón Viña wrote that in the three weeks since the group of 1700 men had left the island for Fayetteville, three men had died and “90 percent of the 1700 are sick, some of them so very ill that they will also die...”<sup>297</sup> He goes on to complain about the conditions of food, sanitation, clothing and medical treatment for the Puerto Rican laborers at the camp. Viña lamented that

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<sup>295</sup> Ibid, Document Nos. 99, 99A.

<sup>296</sup> Ibid.

<sup>297</sup> Ibid, Document No. 123 “Letter of Ramón Viña to Resident Commissioner dated October 7, 1918.”

a large number of the men who came in this expedition are anemic and of poor physical condition and should have never left Porto Rico under any circumstances at all. If one adds to this the fact that the majority of them wear just a pair of trousers and a shirt in the way of clothing, you will deduct that with thin equipment they cannot stand the climate and much less when the real winter weather sets in.<sup>298</sup>

Viña's letter describes one of the key problems that most of the men faced in the various locations they were sent to, including parts of New Orleans and the south: inadequate clothing and lack of preparation for the weather. These men did not own the correct clothing to withstand the seasons in the continental United States. Somewhere in the planning for these labor camps, U.S. officials had neglected the fact that despite the warmer temperatures in the U.S. southern states, this climate was still far colder than that of tropical Puerto Rico. By and large the men were not prepared for the colder weather and large numbers of them became sick with pneumonia and influenza.

A subsequent letter dated October 12, 1918 and signed by 136 of the laborers at Camp Bragg names Rafael F. Marchán as their representative and pleaded for the Resident Commissioner to send the men further south where they had been promised that the climate would be similar to that of Porto Rico. The letter stated that at the time of writing twelve men had died and 200 were seeking treatment for illness in the camp hospital.<sup>299</sup> A subsequent sworn deposition signed by Marchán describes in greater detail the conditions under which the men lived in Camp Bragg:

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<sup>298</sup> Ibid.

<sup>299</sup> Ibid.

The affiant, Rafael F. Marchán, further deposes and says, that owing to the improper and unsanitary conditions under which the said Porto Ricans labor and live at the said Camp Bragg their health and comfort and even their lives are not only endangered and put in jeopardy but actually broken up and destroyed as it has been the case with some twenty-two of them who have died from utter lack of proper care and medical attention... the affiant further deposes and says, that as illustrating the general treatment accorded these Porto Ricans at the Camp, there have been such cases of outrageous unspeakable abuse and degrading ill treatment of the men that some have positively refused to continue at the Camp and announced their intention to leave, but have been prevented to do so by sheer compulsion of force, thus being deprived of their liberty and what is still worse compelled to remain in a state of involuntary servitude; and the affiant says, that even the Fire Chief, who evidently is a regular bully at the Camp has gone so far outside the scope of his authority at different occasions that the men under him are wont to look upon him as the terror of the place, the bulldog of the Camp, who has no hesitation in striking men with his fist or brandish [sic] his revolver in their faces; and the affiant further says that the acts of cruelty committed daily against these men are too numerous to be cited here in all their repulsive and disgusting details; that as illustrative of the callousness and heartlessness of the treatment accorded to these people by some of the men in authority at the Camp the case may be cited of a poor old man who was inhumanely knocked down and made to cry by one of these fiendish individuals who afterwards, finding him asleep near the same spot where he was knocked down, set fire to the dried leaves and twigs around his helpless form in order to frighten the old man, making him believe that he was to be burned alive.<sup>300</sup>

Marchán's deposition also describes the unsanitary conditions that the men found in the hospital at Camp Bragg and the ill care that they received at the hands of the doctors there. He recounts that the hospital staff often used the same instruments and supplies on numerous men without cleaning or sanitizing them thereby helping the spread of the influenza from which so many suffered. He further relates tales of such "apparent neglect and criminal negligence as to permit a man to die from a wound on his foot which was infected and aggravated by the first aid bandage which was put on it and never

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<sup>300</sup> Ibid, Document No. 124, "Sworn Statement of Rafael Marchán dated October 24, 1918."

removed for about a week until he passed away...”<sup>301</sup> It is safe to say that despite what is undoubtedly some exaggeration on the part of Marchán and the other laborers who complained to the resident commissioner, conditions at the work camp were fairly dismal for Puerto Rican laborers.

Similar letters arrived at the office of Felix Cordova Dávila, the Resident Commissioner for Puerto Rico. A telegram from a laborer, identified only as Reyes, working at a camp in Little Rock, Arkansas sent shortly after his arrival request the Resident Commissioner come to the camp so that he might see for himself the conditions under which the men toiled. Reyes described the laborers being taken out of the camp under soldiers guard and knocked about with butt-ends of guns.<sup>302</sup> According to Reyes, some of these men had only been paid part of the salaries owed to them and others had not been paid at all.<sup>303</sup> One hundred men were said to have perished in the labor camp in Little Rock, Arkansas in the few months that they were stationed there.<sup>304</sup>

By the end of November 1918 the war had come to an end and the shipment of Puerto Rican laborers with it. A report in the *New York Times* from December 1<sup>st</sup> noted that 10,000 laborers had been shipped to various states through the program.<sup>305</sup> The paper described the program in laudatory tones and praised the work of the Puerto Ricans for having been a considerable asset during the war effort. The article also described the

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301 Ibid.

302 Ibid, Document Nos. 99-99A.

303 Ibid.

304 Ibid.

305 *New York Times*, December 1, 1918.

conditions that laborers experienced in fairly bright terms and stated that the laborers were paid full wages, that the program brought “unwonted prosperity” to many Puerto Rican families, and that its was “the best thing that ever happened in Puerto Rico.”<sup>306</sup> These statements were incredibly far from the descriptions of conditions provided by laborers, the illnesses they experienced, the lack of pay, the poor treatment and harassment, as well as the concerns of Governor Yager who saw the program as disastrous for Puerto Rican families.

In contrast to the praise and applause of the *New York Times* piece, in a letter dated just a few days later on December 5, 1918, Gavin Payne, Field Director for the American Red Cross in Puerto Rico, describes the program and the laborers in much starker terms. Payne wrote to the Chief of the Bureau of Insular Affairs in order to describe the scene at Camp Las Casas, San Juan where he was providing emergency relief to the ships arriving from the U.S. with Puerto Rican laborers. He begins by stating that despite the principles of the Red Cross to serve and not to criticize, “no American citizen, seeing these men, could resist the impulse to recite the story of this lamentable lapse in our vaunted humanity and efficiency. No fair description of conditions as I saw them can be made without indicating culpability somewhere along the line.”<sup>307</sup> This indeed is rather scathing criticism of the U.S. from one of its own citizens. His letter continues to describe the pathetic condition of the laborers returning from the mainland

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<sup>306</sup> Ibid.

<sup>307</sup> NARA, RG 350, Records of Bureau of Insular Affairs, Document No. 92, “Letter from Gavin Payne to Chief of Bureau of Insular Affairs dated December 5, 1918.”

on the “pestilential ship,” the City of Savannah.<sup>308</sup> Most of the men were too sick to walk themselves off of the vessel and needed assistance. Payne describes the deck of the ship as being “littered with the sick.”<sup>309</sup> Furthermore, he claimed the “woeful emaciation in a number of cases brought vividly to mind pictures in the public prints some years ago of coolies in India when famines stalked abroad.”<sup>310</sup>

Payne’s letter harshly criticizes U.S. agents who dreamt up the scheme of sending the men to the U.S. He lamented that the “misguided theorist who advanced the idea of sending this type of men to our lusty mainland,” had not been present at the harbor to see “what crimes are committed in the name of Human Uplift.”<sup>311</sup> Payne describes the tattered and thin clothes the laborers wore upon their return and the fact that most men left wearing the exact clothes they returned in. Their inadequate clothing and protection against the cold led to the appalling sickness most of the men experienced. Furthermore, he angrily railed “how the physical conditions of these men could have escaped the notice of any governmental agency at the time the transport sailed, and how the quality of their garments, which with them were to brave the inclement days of winter, passed inspection is beyond conjecture.”<sup>312</sup>

Payne’s letter provides us with a stunning contrast to the *New York Times* and the U.S. Bulletin’s descriptions of the program. Furthermore, it buttresses the claims of

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308 Ibid.

309 Ibid.

310 Ibid.

311 Ibid.

312 Ibid.

Puerto Rican laborers themselves and their descriptions of the conditions under which they toiled. Payne's outrage and his criticism of the program are important in understanding the real toll the men suffered during these short months. Of course, Payne's letter also evinces the paternalism endemic in U.S. mainlanders who came to the island during the early 20<sup>th</sup> century. His letter affirms and reifies widely held notions that Puerto Ricans were ignorant, poor, helpless and in need of white saviors like himself. In this case, it was those very white saviors who placed the men's lives in danger to begin with. U.S. government needs for labor on the mainland in support of the war effort, combined with the island's ever present and growing problem of unemployment and the perceived problem of overpopulation created the perfect storm in which these men were caught up. They left the island under a belief that by doing so they could improve their situations and instead found themselves in a terrible nightmare.

This brief episode highlights several of the tensions and lasting questions that arose after the U.S. occupation of the island. In particular it threw the island's problem with unemployment into stark relief. This issue is one that had plagued the island throughout its history and was terribly exacerbated by U.S. economic policies.<sup>313</sup> Before the arrival of the United States the majority of the island's rural inhabitants toiled in small haciendas where the work was seasonal. Hacienda life was harsh and often inequitable, but it allowed laborers access to subsistence plots on which they could grow

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<sup>313</sup> See generally, Hernández-Díaz, James L. Dietz. *Economic History of Puerto Rico: Institutional Change and Capitalist Development*, (Princeton: Princeton University Press, 1986); Thomas Mathews. *Puerto Rican Politics and the New Deal*, (Gainesville: University of Florida Press, 1960).

enough produce to provide for themselves and their families and perhaps enough to sell at market.<sup>314</sup> As a result, most rural peasants eked out a living, if a meager one, working and living on haciendas. Urban workers while better paid, also faced problems of underemployment. Jobs tended to be concentrated in the smaller, skilled areas of artisans, masons, carpenters, tailors, machinists, etc.<sup>315</sup> Female workers were concentrated in the areas of domestic servants, laundresses, seamstresses, tobacco strippers and needle workers.

With the U.S. arrival, the island's trade relationships and economic schema were disrupted. Following the establishment of the military government, U.S. agents put most of their energies in creating conditions for opening up new markets to U.S. American producers and manufacturers.<sup>316</sup> The U.S. government set about creating policies to encourage national capital to invest in Puerto Rico and laws to protect the property and privileges of U.S. citizens on the island. Furthermore, tariff, fiscal, land tenure and monetary measures and cheap labor policies transformed the island into an investor's paradise.<sup>317</sup> Though initially island elites looked forward to the economic possibilities that a relationship with the U.S. could bring, they were quickly disappointed in the reality that

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<sup>314</sup> Nodín Valdés, 14-16.

<sup>315</sup> Hernández-Díaz, 6.

<sup>316</sup> See generally, Valdés, Hernández-Díaz; Dietz; Mathews; Kelvin Santiago-Valles. *"Subject People" and Colonial Discourses: Economic Transformation and Social Disorder in Puerto Rico, 1898-1947*. (Albany: SUNY Press, 1994); César J. Ayala. *American Sugar Kingdom: The Plantation Economy of the Spanish Caribbean, 1898-1934*. (Chapel Hill: University of North Carolina Press, 1999).

<sup>317</sup> Ibid.

the U.S. government established.<sup>318</sup> While access to mainland markets did indeed grow, the profits seemed to flow in one direction: out of the island.

Furthermore, the island was subject to U.S. shipping laws and customs regulations that made it difficult or impossible to trade with other, neighboring nations. These shipping and customs laws made island exports and imports prohibitively expensive and ultimately limited the island's trade partner exclusively to the U.S. The 1920 Merchant Marine Act established strict coastwise shipping provisions for the island that are still in effect today.<sup>319</sup> These provisions mandated that only U.S. owned ships could carry goods between U.S. ports. This protectionist law was meant to ensure that U.S. merchant ships would have prime access to U.S. port. However, for the U.S.' island territories these provisions were and continue to be inequitable and economically crippling.<sup>320</sup> The practical result of these shipping laws is that, for example, fruit and produce from the Dominican Republic, which is just a short trip across the Mona Strait from Puerto Rico, must first go to a Florida port, pay import tax, be unloaded and reloaded onto a U.S. ship and then set out across the Caribbean once more to be unloaded at one of the island's ports. This scheme served to ensure revenue and taxes for U.S. ports but made many goods prohibitively expensive for island residents.<sup>321</sup> Furthermore, agricultural policies that privileged the growing of sugar and tobacco on the island reduced the amount of land

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<sup>318</sup> Ibid.

<sup>319</sup> Hector I. Santos Santos, "Cabotage Laws: A Colonial Anachronism," *Revista de Derecho Puertorriqueno* 36 (1997): 451.

<sup>320</sup> Ibid.

<sup>321</sup> Ibid.

used to grow foodstuffs, with the result that more and more food products were imported from the mainland. These policies made food prohibitively expensive for many islanders.

In addition to the above shipping and customs laws that created economic inequalities for the island, the beet sugar lobby in the U.S. was concerned about the impact of the island's cane sugar on its bottom line.<sup>322</sup> Thus the lobby worked to implement import quotas on the island's sugar in order to limit the amount of cane sugar that could enter the U.S. and compete with beet sugar. In tandem with these provisions, the lobby also worked to pass legislation that would limit the amount of land that any single entity could own to 500 acres. This law was purportedly meant to protect small farmers on the island from large corporate sugar interests who would seek to consolidate sugar lands into huge mega-plantations. Though initially the 500-acre law and import quotas were enforced, over time and with the growth of the island's sugar sector both provisions were conveniently ignored.<sup>323</sup>

As the island's sugar sector grew and U.S. based venture capitalists sought to reorient the island's economy to one dependent solely on sugar, the hacienda system fell away.<sup>324</sup> Following the 1899 hurricane of San Ciriaco, the U.S. government encouraged heavy investment into building up the coastal areas as sugar producing centers with little investment dollars going to the central, mountainous coffee haciendas. While, coffee did

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<sup>322</sup> Ayala, *American sugar Kingdom*; Kelvin Santiago-Valles. "'Our Race Today [Is] the Only Hope for the World': An African Spaniard as Chieftain of the Struggle against 'Sugar Slavery' in Puerto Rico, 1926-1934." *Caribbean Studies* 35, no. 1 (January 1, 2007): 107-40.

<sup>323</sup> Ibid.

<sup>324</sup> Dennis Nodín Valdés, *Organized Agriculture and the Labor Movement before the UFW: Puerto Rico, Hawai'i, California*, 1st ed (Austin: University of Texas Press, 2011), 15.

rebound slightly, it never recovered to pre-hurricane levels. This was due, in part, to the U.S. government's interest in redirecting rural workers from a subsistence lifestyle in the coffee sector to a wage labor lifestyle in the sugar sector.<sup>325</sup> While rural workers were engaged in subsistence agriculture in the mountain coffee industry, they had no need for wage labor to feed them. With the shift to a sugar based economy, rural workers had no choice but to leave the mountain regions and subsistence farming for coastal areas and wage labor in the sugar plantation.<sup>326</sup> Thus U.S. policies favoring sugar production were as much about growing capital as they were about controlling workers lives. In order to build a labor force that was reliant on wage labor, the U.S. had to shift their lives away from a self-sustaining one in the mountains and to one reliant on U.S. corporations. In other words, the U.S. had to remake workers lives, to reshape their possibilities. By growing the sugar sectors and failing to develop the mountain agricultural areas, the U.S. government ensured that workers would congregate where the state wanted them, rather than where they had always been.

Over a short period of time, control over huge tracts of land, well over the proscribed 500 acres, was exercised by a relatively small group of U.S. controlled sugar corporations. By 1920 only 1.2 percent of the farms held 36 percent of all cultivated land and the value of Puerto Rican sugar exports was more than twice as much as the

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<sup>325</sup> Ibid.

<sup>326</sup> Ibid.

combined value of all other agricultural products.<sup>327</sup> Government policies establishing tax incentives for sugar production and limiting access to credit for small farmers helped the concentration of land in the hands of a few large corporate owners. By and large these large corporations were absentee landowners who reaped huge profits from Puerto Rican land while remaining on the mainland.

As discussed above, the growth of sugar agriculture and the reduction in other agricultural products led to an increase in the importation of foodstuffs and manufactured goods. This created employment opportunities in port cities that had to receive the volume of goods. However, the reliance on sugar as the island's primary economic commodity meant that the island's economic health was pinned to the vagaries of the global sugar economy. While before the 20<sup>th</sup> century, Puerto Rican laborers eked out a paltry living, nonetheless hunger and starvation was not a problem on the island the way it became after the U.S. arrival.<sup>328</sup> The shift occurred as a result of U.S. policies favoring sugar and forcing workers into seasonal, poorly paid work in the sugar industry. Though demand for sugar was strong for most of the early decades of the 20<sup>th</sup> century, several dips and the eventual collapse of the sugar economy dramatically affected the livelihoods of the island's residents. The fact that employment opportunities were so closely tied to the health of the sugar industry combined with the high price of foodstuffs on the island meant that many residents were constantly teetering on the brink of hunger and

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<sup>327</sup> Annette B. Ramírez de Arellano, *Colonialism, Catholicism, and Contraception: A History of Birth Control in Puerto Rico* (Chapel Hill: University of North Carolina Press, 1983), 12.

<sup>328</sup> Valdés, *Organized Agriculture and the Labor Movement before the UFW*, 15.

destitution. Their lives were entirely dependent on the demands for sugar and the government's response to those demands. This insecurity is what drove many Puerto Rican men to seek work opportunities elsewhere, including in the mainland U.S. during World War I. Here, again, we can clearly see the ways that U.S. policies worked to organize the lives of islanders in favor of empire. Hunger and poverty created by U.S. policies drove shifts in Puerto Rican laborers lives leading them from the mountains, into the sugar plantations and then island cities and eventually to the U.S. mainland and across the U.S. empire.

#### **PROSTITUTION, CITIZENSHIP AND THE NATION**

The debacle of the War Department and U.S. Employment Service's migrant labor program not only illustrated the problems raised by the island's economic dependence on large scale sugar production, but also highlighted the importance of the unanswered question of what Puerto Ricans were to the United States? This was a question that arose almost immediately after the U.S. took control over the island and which was raised repeatedly over the first two decades of U.S. rule. In 1901, the passage of the Foraker Act created a civil government for the island removing it from military control. It also explicitly established that island residents were no longer citizens of Spain but were instead citizens of Puerto Rico. The Foraker Act also included provisions for those who wanted to retain their Spanish citizenship. A 1904 Supreme Court case, *Gonzalez v. Williams*, affirmed that island residents were not U.S. citizens, but citizens of

Puerto Rico who were not subject to U.S. immigration laws.<sup>329</sup> The question of what rights were inclusive in this citizenship of Puerto Rico and its relationship to U.S. citizenship remained prevalent.

In 1917 with the passing of the Jones Act, Puerto Ricans were granted U.S. citizenship via legislative act. While there had been some political debate leading into the grant of citizenship, the inhabitants of the island themselves were not consulted in Congress' decision. In other words, citizenship came to Puerto Ricans whether they wanted it or not.<sup>330</sup> This unilateral grant of citizenship led many on the island to protest and to seek to return to Spanish citizenship. However, for those who had accepted Puerto Rican citizenship in 1901, there was no possibility of reverting back to Spanish citizenship.<sup>331</sup> Thus they were stuck with the unwanted and unrequested U.S. citizenship. It is not an accident that the grant of U.S. citizenship to the inhabitants of the island came merely two months before the passage of the Selective Services Act, which allowed the military draft to apply to the male residents of the island. This fact was not lost on Puerto Ricans who protested the grant. Members of the pro-independence Union Party, in particular, spoke out against the grant of citizenship and its timing.<sup>332</sup>

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<sup>329</sup> *Gonzalez v. Williams*, 192 U.S. 1 (1904).

<sup>330</sup> See generally Aleinikoff; Trias Monge; José A. Cabranes, *Citizenship and the American Empire: Notes on the Legislative History of the United States Citizenship of Puerto Ricans*. (New Haven: Yale University Press, 1979); Ediberto Román, *Citizenship and its Exclusions: A Classical, Constitutional and Critical Race Critique*. (New York: New York University Press, 2010); Jorge Benítez Nazario, Astrid Santiago Orria, and Idsa Alegría Ortega, eds. *Ciudadanía y Exclusion en Puerto Rico*. (San Juan: Tal Cual, 2010).

<sup>331</sup> *Ibid.*

<sup>332</sup> *Ibid.*

The onset of World War I and the passage of the Selective Services Act also brought another problem to the shores of the island: how to protect soldiers from venereal disease. From the arrival of the U.S. military on the island the question of disease had loomed large in the minds of U.S. agents. The U.S. Army initially encountered problems with mosquito born diseases like malaria and yellow fever, much as it had encountered in Cuba and Panama.<sup>333</sup> Early accounts of the island's inhabitants described Puerto Ricans as emaciated, sickly and malnourished.<sup>334</sup> The population was further described as indolent and lazy, a trait which was attributed to the topical condition and heat of the island.<sup>335</sup> Though some argued that this indolence would never allow Puerto Ricans to become proper enterprising US citizens, others saw these traits as in need of a remedy. Puerto Ricans only needed help from their US betters to leave behind a life of tropical lethargy and idleness.

The opportunity to address the problem of disease arrived early on when the island was struck by the worst hurricane in its history. As discussed briefly above, the 1899 San Ciriaco storm left nearly 4000 inhabitants dead and 250,000 homeless.<sup>336</sup> The island's mountain regions were devastated and its coffee plantations, the central crop at

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<sup>333</sup> Joseph A. Le Prince and A. J. Orenstein, *Mosquito control in Panama the eradication of malaria and yellow fever in Cuba and Panama*. (New York: Putnam, 1916); Julie Greene, *The Canal Builders: Making America's Empire at the Panama Canal* (New York: Penguin, 2009); Eileen Findlay, *Imposing Decency: The Politics of Sexuality and Race in Puerto Rico, 1870-1920*, (Durham, NC: Duke University Press, 1999); Mariola Espinosa, "A Fever for Empire: U.S. Disease Eradication in Cuba as Colonial Public Health," in Alfred W. McCoy and Francisco A. Scarano, eds., *Colonial Crucible: Empire in the Making of the Modern American State* (Madison: University of Wisconsin Press, 2009).

<sup>334</sup> Ramírez de Arellano, *Colonialism, Catholicism, and Contraception*, 7.

<sup>335</sup> Ibid.

<sup>336</sup> Stuart B. Schwartz, "The Hurricane of San Ciriaco: Disaster, Politics, Society in Puerto Rico, 1899–1901." *Hispanic American Historical Review* 72:3 (1992).

the time, were left in shambles.<sup>337</sup> Shortly after the hurricane struck, survivors began pouring into the cities from the mountain region and tent cities and infirmaries were set up in the twelve major districts of the island. In Ponce, the young military doctor in charge of the Army field hospital, Bailey K. Ashford, unwittingly stumbled upon the cause of the island's perceived indolence and lethargy. As the displaced islanders began arriving at the makeshift hospital Ashford noticed their pale and waxy complexions and flabby skin.<sup>338</sup> Recognizing the signs of anemia in the pale and thin Puerto Ricans, he ordered that they be fed meat in order to supplement their iron intake. The soldiers in charge of feeding and caring for the patients began to report that rather than improving their health, the meat was making them sick and causing them diarrhea. The islanders requested they be fed rice and beans and salted codfish, their staple diet, which they knew would not make them sick. Bailey acquiesced and ordered that the patients be granted their usual diets in the hope that their conditions would improve.<sup>339</sup>

Instead, much to Ashford's dismay, the patients continued to look pale and sick and many died under his care. "As soon as the sacred rice, beans and codfish arrived, everybody in camp began to purr," Ashford wrote in 1934,

but not the faintest tinge of red blood came into their faces. Moreover, they kept dying. It must be said that they died happily, and with their stomachs full... I catechized my wife, but she only replied: "That is the anemia of the country. They

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<sup>337</sup> Ibid.

<sup>338</sup> Bailey K. Ashford, *A Soldier in Science: The Autobiography of Bailey K. Ashford, Colonel* (New York, W. Morrow and Co, 1934), 42-45.

<sup>339</sup> Ibid, 42.

all die of it eventually. They say it is due to lack of food.' 'But I fed them by order! And the ungrateful things keep on dying!'<sup>340</sup>

Ashford's frustration with the continued sickness of his patients led him to sample and study their blood and eventually their feces. Through these studies he discovered that the great lethargy and sickness afflicting so many of the island's residents was in fact due not to malnourishment, but instead to a parasite, hook worm, which entered the body through the feet. Bailey began to experiment with procedures and remedies to rid the islanders of the parasite eventually stumbling upon a combination of purges and remedies that seemed to help. He published his findings in the *New York Medical Journal*, but it would be many more years before his findings were taken seriously.<sup>341</sup> Many doctors and patients held firm to the idea that the sickness of so many of the island's residents was caused by malnourishment rather than widespread parasitic infestation.<sup>342</sup>

Ashford's early experiments led to several campaigns to eradicate hookworm and anemia on the island. Eventually, Ashford's research and his efforts on the island led the New York based Rockefeller Foundation to offer its financial support to the campaign. A 1920 report in the Columbia, South Carolina newspaper, *The State*, details the efforts of the Rockefeller Foundation and the great need of the island. Despite the fact that Ashford had been working to address the problem of hookworm and anemia since 1900, the article cited Dr. Victor Helser of the Rockefeller Foundation as stating that there was

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<sup>340</sup> Ibid.

<sup>341</sup> Id at 67.

<sup>342</sup> Ibid.

more hookworm in Puerto Rico in 1920 than any other place in the world.<sup>343</sup> “Hookworm is probably the most serious economic issue which Puerto Rico faces today. I have asked cane planters why they did not pay more wages and they said because the laborers could not earn it and probably they are right.”<sup>344</sup> Anemia, the article goes on to explain, “which during the Spanish rule was believed to be due mostly to malnutrition, now is attributed to a great extent to infection. It is believed that the disease was brought in with the early slaves and thus spread uncontrolled throughout the length and breadth of the island.”<sup>345</sup> In an attempt to address the problems of anemia and hookworm on the island, the government and the Foundation would invest, \$357,000 in order to “bring relief to the unfortunate sufferers. A study undertaken by the Foundation has shown that nearly 90 percent of the population in rural areas harbor hookworm infection. Even light infection is said to cause mental retardation. Defective mentality thus produced renders the children incapable of assimilating instruction.”<sup>346</sup>

This article raises several important problems present in the approach of U.S. agents in Puerto Rico at the time. While Ashford may have been driven by a philanthropic desire to help the sick and unfortunate mountain peasants, he was undoubtedly also motivated by a desire for prestige and mobility in his field. However, Ashford’s and other U.S. agents overarching concern in eradicating disease on the island was to properly “Americanize” Puerto Ricans. American ideals valued enterprising, hard

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<sup>343</sup> “Hookworm [sic] Offers Serious Problem,” *The State: Columbia, S.C.*, March 21, 1920.

<sup>344</sup> Ibid.

<sup>345</sup> Ibid.

<sup>346</sup> Ibid.

working people who lifted themselves up by their bootstraps. Puerto Rican laziness and indolence was counter to that great U.S. American narrative. Thus it was necessary to discover the cause of and cure the island's inhabitants of their laziness. This of course, would in turn create better workers who would be able to cut greater amounts of cane and buoy the island's economy. The fact that the greatest benefactors of such economic growth were U.S. corporations and U.S. investors was of course essential to the drive to eradicate disease.

In these experiments we see clearly the biopolitical workings of the U.S. government on display. While no doubt the medical experiments were driven in some parts by a paternalistic desire to cure the poor Puerto Ricans of their disease and lethargy, the greater motivation was in creating a literal healthy body of workers. These peasants were necessary lives and as such the state had an interest in ensuring they lived and were healthy enough to cut cane. Thus the policies which funneled money into hookworm eradication and the creation of Ashford's Institute for Tropical Medicine was tied to the state's need to shape who lived and how. At the time, too many of the necessary workers were dying with deep repercussions for the government's great moneymaker: the sugar industry.

Furthermore, *The State* article also offers us a glimpse into the racialized notions of disease that were prevalent in the day. The article points to no source for its belief that hookworm infestation arose with the importation of African slaves to the island, and yet that claim is so loaded and fraught. It encapsulates the many beliefs undergirding the

campaigns to eradicate disease on the island. As important as it was to have healthy, productive workers, it was also important to cleanse the U.S.' new charges. The origins of Puerto Rican disease were African slaves and that sickness had been perpetuated by Spanish cruelty and indifference, it was now up to the U.S., the island's white savior, to rid the inhabitants of their disease, to "Americanize" them and make them healthy and productive U.S. subjects. The article's final sentence clearly illustrates the preoccupation with defect that U.S. agents on the island had. The island had to be rid of disease lest that disease produced a class of mentally defective subjects who could not assimilate the lessons of "Americanization." This was the overarching concern of empire of the day: how to make Puerto Ricans, and other insular inhabitants, into proper U.S. subjects. The fact that these experiments took place in Puerto Rico, rather than the U.S.' other island territories, was also not accidental. Puerto Ricans were seen as the U.S.' most docile new charges, able to be molded with little resistance. Thus the island and its inhabitants made for optimal subjects for the experimentations of empire.

Nowhere was the exertion of biopower more evident than in the realm of social hygiene policies. As Foucault enumerated, within the modern biopolitical state the exercise of right over life was in furtherance of securing life.<sup>347</sup> This biopolitical imperative is glaringly apparent in U.S. policies around prostitution during World War I. Policies enacted to inspect and contain women's bodies were meant to secure and protect the bodies of male soldiers. Thus the male body in its furtherance of protecting the

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<sup>347</sup> Michel Foucault, *Society Must Be Defended*, 248.

interest of the state was privileged over the female, disease-bearing body. Such policies were enacted in the mainland U.S. with the creation of the so-called American Plan, and fervently exported and furthered on the island.<sup>348</sup> The American Plan enumerated specific policies for protecting soldiers from prostitutes and the contraction of venereal disease. Key among these policies was the Department of War order banning prostitutes from being within a five-mile radius of any military installation.<sup>349</sup>

According to military doctor Herman Goodman, the American Plan in Puerto Rico, or the “Porto Rican Experiment” as he called it, was effective in corralling and containing the amoral state that prevailed on the island.<sup>350</sup> Goodman, like the author of *The State* article, also attributed the rampancy of syphilis on the island to the island’s racial origins. Puerto Rico, he wrote, was an island whose people “have been little changed by immigration, and the population has remained the offspring of the Spanish settler, his black slave, and a mixture of two races in all degrees.”<sup>351</sup> Goodman’s description evinces, the same belief that the descendants of African slaves carry the diseases brought to the Americas with them and only furthered and ignored by the Spanish. Here again, by invoking the tropical sun under which islanders are born, is a nod

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<sup>348</sup> For a discussion on the American Plan see Ruth Rosen, *The Lost Sisterhood: Prostitution in America, 1900-1918*. (Baltimore: Johns Hopkins, 1982); David J. Pivar, *Purity and Hygiene: Women, Prostitution, and the "American Plan," 1900-1930*. (Westport, Conn.: Greenwood Press, 2002).

<sup>349</sup> Jose Flores Ramos, “Virgins, Whores, and Martyrs: Prostitution in the Colony, 1898-1919,” in *Puerto Rican Women’s History: New Perspectives*, Felix V. Matos Rodriguez and Linda C. Delgado, eds. (New York: M.E. Sharpe, 1998).

<sup>350</sup> Herman Goodman, “The Porto Rican Experiment,” *Social Hygiene*, 5 (1919) 185.

<sup>351</sup> *Ibid.*

towards the notion that Puerto Ricans, born under the heat of the tropics, were not quite as industrious or capable as their white, northern masters.

Goodman's article published in 1919 in *Social Hygiene* recounts several experiments performed on imprisoned prostitutes and a sample of soldiers at Camp Las Casas in San Juan at the start of World War I operations on the island. Goodman enumerates the various statistics for infection around the island, including the fact that at the time 56% of men enlisted in the Puerto Rico Regiment were affected by syphilis.<sup>352</sup> He expresses the serious public health issue presented by syphilis and states that, "the problem faced in Porto Rico was an acute and pressing one if the twelve thousand men who made up the Porto Rico Army were to be protected from venereal disease."<sup>353</sup> Again, these soldiers, defenders of U.S. empire, needed protection from the scourge of syphilis carried by the diseased prostitutes of the island. Female bodies necessitated controlling and regulating in order that the operations of the state could go forward. In essence, prostitutes were seen as a threat to national security and as such their bodies had to be surveilled, contained and cleansed in order to protect the state.

As a result of this public health crisis, measures were implemented to limit soldiers' ability to travel within the island. Certain barrios and towns known for their thriving red light districts were completely off limits to enlisted men. These travel restrictions eventually led to tensions among soldiers and their families who resided in banned barrios. When the affected families of the Puerta de Tierra barrio petitioned the

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<sup>352</sup> Ibid, 187.

<sup>353</sup> Ibid.

military asking that their enlisted family members be granted permission to visit, the Commanding General at Camp Las Casas responded “the health of our soldiers is of such vital importance to our country that every reasonable and possible means must be employed to protect it.”<sup>354</sup> The families’ requests were denied and Puerta de Tierra remained on the list of banned locations.

Goodman praised the intervention of the Attorney General, Howard L. Kern, for ordering a change in the prostitution policies that had previously existed. Before the onset of World War I and the perceived threat of venereal disease to national security, the island had followed the old norms set out by the Spanish government wherein prostitutes had been required to register with police and were inspected weekly at San Juan’s Special Hospital for Women.<sup>355</sup> One week after the order of the Commanding General of Camp Las Casas banned travel for soldiers to certain parts of the island, Kern issued new policies requiring that perceived prostitutes be arrested and incarcerated for six months to a year.<sup>356</sup> Additionally, Kern extended the prostitution-free buffer zone around Camp Las Casas to ten miles and admonished judges and prosecutors that their past tactics had not been effective in containing the threat of venereal disease caused by prostitutes.<sup>357</sup> He extolled the judicial branch to take a harder line on prostitution and threatened that those

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<sup>354</sup> Ibid.

<sup>355</sup> Findlay, 170.

<sup>356</sup> Goodman, 189.

<sup>357</sup> Flores Ramos, 93.

who did not comply with these new, stricter policies would be dismissed and substituted by someone more efficient and more patriotic.<sup>358</sup>

Though the tactics taken by the U.S. military and Attorney General Kern, were well received among the conservative and elite sectors of the island and in particular by religiously affiliated women's groups such as the Women's Christian Temperance Union, the majority of island residents were affronted by these new policies. The newspapers *El Tiempo* and *La Correspondencia* became platforms where islanders expressed their anger and resentment over the mistreatment of poor women who were perceived to be prostitutes. Harsh criticism of Kern in particular appeared in the editorial sections of Puerto Rican papers with writers claiming that Kern's actions in coercing the judiciary branch to adopt policies not mandated by legislation was illegal.<sup>359</sup> Journalist Luis Dalta accused Kern of coopting the judiciary's independence and of transforming the judges and prosecutors of the island into puppets of the executive branch.<sup>360</sup> Prominent attorneys also joined their voices to the protest of U.S. policies insisting that the "repression against allegedly promiscuous women was a threat to the individual liberties of all Puerto Ricans."<sup>361</sup>

Furthermore, as historian Eileen Findlay has discussed, the opposition to these policies grew with the addition of socialists and labor union members.<sup>362</sup> The socialist

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358 Ibid.

359 Flores Ramos, 97.

360 Ibid.

361 Findlay, 183.

362 Ibid.

press in Ponce took up the cause of the accused and imprisoned women and spent much ink protesting and decrying U.S. anti-prostitution policies. Additionally, labor unions and working men and women came to the defense of these perceived prostitutes, arguing that many were merely poor, working class women who did not meet the standards of respectability set by the state and elite classes.<sup>363</sup> As Findlay argues, male allies of laboring women began to see the prostitution crackdown as a “betrayal of the democratic promise that had cemented U.S. colonial legitimacy for two decades among laboring Puerto Ricans of all races. The women came to represent hard-won civil liberties, cornerstones of that precious democracy.”<sup>364</sup> As a result, workingmen saw the attacks against their fellow workingwomen as an assault on all laborers and ultimately against the nation as a whole.<sup>365</sup>

In the end, the anti-prostitution campaign in Puerto Rico was short lived. The war came to an end about six months after the establishment of operations at Camp Las Casas and with it the threat to national security that venereal disease and prostitution posed. With the end of the war the funding for the various prisons housing the women dried up and with it the police’s zealous arrests. Those women who were already imprisoned at the end of the war remained there until their sentences were completed, but the flow of arrests slowed and eventually stopped. Eventually, police returned to their old ways of requiring registration and imposing fines for prostitution.

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<sup>363</sup> Ibid, 174.

<sup>364</sup> Ibid, 185.

<sup>365</sup> Ibid.

Both the work of Findlay and Laura Briggs, offer us unique perspectives on the complexity of the U.S. government's anti-prostitution campaign. As both show, women's bodies became blanks upon which the concerns of islanders were projected. As Findlay demonstrated questions of democracy and citizenship became part and parcel to the treatment of women perceived to be prostitutes. Accused and imprisoned women became stand-ins for the failures of U.S. colonialism. Laura Briggs, takes this a bit further, carefully and convincingly arguing that we can understand the moment of dissatisfaction and dissent around the "Porto Rican Experiment" as a stand-in for islanders' growing resentment of and dissent against U.S. policies in general and of the unsolicited grant of U.S. citizenship in particular.<sup>366</sup> She argues that the prostitute's diseased body became a metonym for the Puerto Rican nation.<sup>367</sup> The trespass and injury that U.S. agents perpetrated on poor Puerto Rican women who were accused, often wrongfully, of engaging in prostitution became a stand in for the injury and injustice perpetrated on the island by the U.S. government. As a result of this, Briggs and Findlay both argue, the treatment of prostitutes during this time galvanized protest and created a point around which unhappy Puerto Ricans across sectors and classes could rally.

## CONCLUSION

The "Porto Rican Experiment" and island residents' responses to it, illustrate the ways in which the biopolitical state sought to restrict and control the bodies of perceived

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<sup>366</sup> Briggs, 47.

<sup>367</sup> Ibid, 73.

diseased Puerto Ricans. Imprisoned women were subject to medical experimentation and harsh, invasive treatments. Their bodies were surveilled, contained, examined, and forcibly cleansed in order to neutralize the threat to male soldiers and to national security. The fact that these events raised the ire of the island population and galvanized Puerto Ricans across sectors demonstrates the growing unrest that characterized U.S.-Puerto Rico relations during the first decades of the 20<sup>th</sup> century. Though initially, many islanders saw possibility in the arrival of the U.S., sentiments across the island soured as it became clear that U.S. policies rather than create prosperity for islanders led too frequently to the harsh treatment of island residents while creating ever more wealth for U.S. agents and corporations.

United States' efforts to reshape islanders and island life in the first decades of the 20<sup>th</sup> century were marked by their experimentation with the lives and bodies of island residents. Attempts to reshape island educational, agricultural, economic and labor policies often exposed islanders to brutal conditions in which their lives were of little value. The machine of U.S. corporate interests cared very little about the bodily integrity of the island's residents. As a result, Puerto Rican laborers, students and those perceived to be diseased or a threat to the U.S.' colonial design often found themselves at the mercy of the U.S., their bodies open for experimentation, surveillance, imprisonment and violence.

As a result of these continued social and economic experiments, dissatisfaction with education, labor and social policies grew throughout the early decades of the U.S.

colonial rule of the island. More and more these tensions were manifested in protest that often turned violent. Labor strikes in the ports, sugar plantations, tobacco and needlework sectors grew more frequent and more violent throughout the decade of the 1920's. Furthermore, as U.S. inequality continued to manifest itself, students at the high school and university level became more vocal and more demonstrative of their frustration and resentment toward the U.S. government. Student walkouts proliferated and more and more incidents of student's substituting the Puerto Rican flag for the U.S. flag on school buildings were reported. Moreover, as the events surrounding the "Puerto Rican Experiment" demonstrated islanders were also ready to protest those health and safety policies that were perceived as invasive to their livelihood and their very bodies. Here too women and men took to the streets in often-violent protests to voice their anger and frustration with U.S. policies around anti-prostitution campaigns and later policies encouraging birth control and eugenics. The events of the early 20<sup>th</sup> century set the stage for the anger and violence that erupted during the 1930's. If the 1920's saw islanders' frustration with U.S. policies bubble and grow, the 1930's were the tipping point in which mass protest and violence became commonplace responses.

## Chapter Three

### Defining the Puerto Rican Nation: the Nationalism of Pedro Albizu Campos

What is a nation? This seemingly simple question has troubled scholars and philosophers since the era of the enlightenment and the creation of modern states. In 1882, French scholar Ernest Renan answered the question by stating that the nation was a “‘spiritual principle’ based on shared memories and the cult of a glorious past, as well as the ability to forget certain shameful events, and above all a ‘daily plebiscite’: the collective affirmation of a national ‘will’ by the citizens of a country.”<sup>368</sup> Renan’s notion of the nation, though idealized, nonetheless raises the quintessential questions that scholars continue to grapple with, namely *who* defines the nation and who is *included and excluded* in this definition?

These troubled queries are further complicated by the histories of colonialism and empire that most modern nations emerged from. Decades of colonial control often helped spur on clearly delineated ideas of the “nation” being those members in opposition to the colonizing power. However, such sharply drawn nationalist lines often led to complicated local struggles upon the removal of the metropolitan, colonizing power. Again, these newly independent nations struggled with the overarching question: who defines the nation?

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<sup>368</sup> Ernest Renan, “What is a Nation,” in Homi K. Bhabha, ed. *Nation and Narration* (Hoboken: Taylor and Francis, 2013), 8-22.

A hundred years after Renan made his pronouncements, political philosopher Benedict Anderson, defined the nation as an “imagined political community” that is imagined as both inherently limited and sovereign.<sup>369</sup> Anderson explained that the nation is “imagined because the members of even the smallest nation will never know their fellow members, meet them or even hear of them, yet in the minds of each lives the image of their communion.”<sup>370</sup> Furthermore, the nation is imagined as limited because “even the largest of them...has finite, if elastic, boundaries, beyond which lie other nations.”<sup>371</sup> The nation is further imagined as sovereign because “the concept was born in an age in which Enlightenment and Revolution were destroying the legitimacy of the divinely-ordained, hierarchical dynastic realm.”<sup>372</sup> Anderson explained that because the ultimate goal of a nation is to be free, “the gage and emblem of this freedom is the sovereign state.”<sup>373</sup> Finally, the nation is imagined as a community because “regardless of the actual inequality and exploitation that may prevail in each, the nation is always conceived as a deep, horizontal comradeship.”<sup>374</sup>

As with almost every aspect of the island’s experience, Puerto Rico’s status confounds Anderson’s conceptions of the nation. By Anderson’s definition can a nation be “a nation” if it is not sovereign, if it is not free? Perhaps in the case of Puerto Rico,

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<sup>369</sup> Benedict R. O’G Anderson, *Imagined Communities Reflections on the Origin and Spread of Nationalism*, (New York: Verso, 2006), 6.

<sup>370</sup> Ibid.

<sup>371</sup> Ibid, 7.

<sup>372</sup> Ibid.

<sup>373</sup> Ibid.

<sup>374</sup> Ibid.

Renan's definition is more accurate. Perhaps ideas of a Puerto Rican nation are more easily viewed through the lens of a "spiritual principle" based on a shared history. Perhaps the answer lies somewhere in between. Scholars of Puerto Rico have long grappled with understanding and defining Puerto Rican nationhood, citizenship and identity in its relationship with the United States.<sup>375</sup>

Thus, when we talk of Puerto Rico, how do we define the imagined community that makes up the Puerto Rican nation? What is the Puerto Rican nation and who gets to define it? These are some of the questions that Puerto Ricans, scholars and political thinkers have grappled with since long before the arrival of the United States to the island. What is clear is that Puerto Rican forms of nationalism have always played an important role in constructing a Puerto Rican identity that was initially in opposition to Spain and since 1898, in opposition to the United States. From Ramón Emeterio Betances and Segundo Ruiz Belvis' infamous call for revolt against Spain during the *Grito de Lares* to José de Diego's invocation for colonial subjects to "Stand Up! Rebel! Resist!" in his famous poem "*En La Brecha*" to Luis Muñoz Rivera's fiery condemnation of U.S. citizenship to his son, Luis Muñoz Marín's turn toward cultural nationalism and the

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<sup>375</sup> Jorge Duany, *The Puerto Rican Nation on the Move: Identities on the Island & in the United States* (Chapel Hill: University of North Carolina Press, 2002); Arlene M. Dávila, *Sponsored Identities: Cultural Politics in Puerto Rico*, Puerto Rican Studies (Philadelphia: Temple University Press, 1997); José Luis González, *Puerto Rico: The Four-Storeyed Country and Other Essays* (Princeton: M. Wiener Pub, 1993); Juan Flores, *Divided Borders: Essays on Puerto Rican Identity* (Houston: Arte Público Press, 1993); Frances Negrón-Muntaner, ed., *Puerto Rican Jam: Rethinking Colonialism and Nationalism*, (Minneapolis: Univ Of Minnesota Press, 2008); Frances Negrón-Muntaner, ed., *None of the Above: Puerto Ricans in the Global Era*, (New York: Palgrave Macmillan, 2007).

countless other unknown and unnamed, everyday exertions of nationalism in between, Puerto Rican nationalism has taken on many shapes and forms throughout the centuries.

Over the course of Puerto Rican history, these forms of nationalism have shifted from conceiving of Puerto Rico as a political nation, one that deserved autonomy, sovereignty and independence, first from Spain and then from the U.S., to a cultural nation. As anthropologist Jorge Duany has carefully demonstrated, this cultural nation is both U.S.-American and Puerto Rican.<sup>376</sup> It consists of U.S. citizens who are Puerto Rican in culture and are thus both a part of the U.S. nation and a part of the Puerto Rican nation.<sup>377</sup> But how did we get here? How did these ideas of Puerto Rican nationalism shift from demanding independence and political sovereignty to contemporary notions of the Puerto Rican nation, which is both a part of the United States and separate from it? In other words, what historical changes led Puerto Ricans to move from demanding political nationhood and towards claims of cultural nationhood in conjunction with U.S. citizenship? The answer to this important question lies in the vast historical shifts that occurred during the 1930s and particularly the role that Nationalist Party leader, Pedro Albizu Campos played in these shifts.

This chapter will focus on the political ideology of Albizu Campos and his conception of the Puerto Rican nation. This is important because Albizu Campos became the face and body of radical nationalism during the 1930s and as a result he also became a prime enemy of the U.S. colonial government. That decade saw the criminalization of

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<sup>376</sup> Duany, *The Puerto Rican Nation on the Move*.

<sup>377</sup> *Ibid.*

nationalism and with it the foreclosure of any real possibility of independence for the island. This had everything to do with the United States' response to Pedro Albizu Campos and his party and with the threat they became for the U.S. colonial project on the island. The 1930s saw the U.S. deploy its most repressive and violent techniques to deal with the growing unrest on the island and with growing demands for independence. The Nationalist Party was often a target of these techniques of repression.

Pedro Albizu Campos led the island's Nationalist Party for over thirty years and played a principle role in defining the party's ideology and political demands. His fiery rhetoric and unrelenting anti-U.S. ideology would eventually lead the U.S. to implement a deep surveillance program him, to infiltrate his Party, to criminalize his rhetoric and ultimately to imprison him on several occasions. Because in many ways Puerto Rican nationalism during the 1930's and until the creation of the *Estado Libre Asociado* (ELA) came to be entwined with he and his party, this chapter will focus on Albizu Campos' political development and his ideas of nationalism that so came to define the movement. Furthermore, because he came of age in a moment of intense global, political upheaval, his ideas of nationalism should be understood as being part of a larger, global movement of nationalism and nationalist demands that gained strength throughout the early parts of the 20<sup>th</sup> century. Influenced heavily by both the Indian and Irish nationalist movements, as well as by other Latin American and Caribbean nationalist ideologies, Albizu Campos' political beliefs should be understood as a part of a larger anti-imperialist struggle.

Perhaps, one of the greatest pitfalls the island struggles with today is with its isolation as a colony of the United States and as a liminal space that is neither Latin America nor the United States. While this is certainly the condition of the island today, it was not so during the early 20<sup>th</sup> century. The island was at the time considered a part, if a small one, of a larger, global anti-imperialist struggle. Thus when we seek to understand the role that Pedro Albizu Campos played in shaping the ideology of Puerto Rican nationalism, we must first endeavor to understand the historical era in which his ideas were formed and how the movements to which he was witness helped shape his understandings of Puerto Rico as a nation, his desires for the island and the limits of what was possible.

This chapter endeavors to explore just those themes in order to understand what Puerto Rican nationalism was for Pedro Albizu Campos. This discussion is fundamental because, though nationalism and nationalist resistance on the island took many forms throughout the period of U.S. colonialism, beginning in the 1920's and continuing into the early 1950's nationalism in Puerto Rico became deeply tied with the Nationalist Party and more specifically with Pedro Albizu Campos.<sup>378</sup> This discussion is key because Albizu Campos, his rhetoric, his very body, became a grave threat for U.S. hegemony on

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<sup>378</sup> Angel G. Quintero Rivera, *Patricios y plebeos: burgueses, hacendados, artesanos y obreros: las relaciones de clase en el Puerto Rico de cambio de siglo*. (Rio Piedras: Ediciones Huracán, 1988); José Juan Rodríguez Vázquez, *El sueño que no cesa: la nación deseada en el debate intelectual y político puertorriqueño, 1920-1940*. (San Juan: Ediciones Callejón, 2004); Reece Bothwell, *Orígenes y desarrollo de los partidos políticos de Puerto Rico, 1869-1980*. (Puerto Rico: Editorial EDIL, 1987); Ricardo Arturo Cruz García, *El impacto del poder político de los Estados Unidos en los principales partidos políticos de Puerto Rico aspirantes a la independencia, 1898-1952*. (Hato Rey: Ediciones, 2010).

the island. The U.S. endeavored to discredit Albizu Campos as a legitimate politician and political mind. Its agents portrayed him as an angry, irrational, mullato. The more he resisted and fought against U.S. hegemony, the more he was portrayed as crazy, unstable and eventually as a terrorist. Moreover, he and the Party became such a threat that the United States unleashed its full repressive and violent machine against it. These practices often included exposure to extralegal surveillance, imprisonment, threats and state violence – the hallmarks of the state of exception. Thus understanding what Albizu Campos stood for is key to understanding the perceived threat he and his movement posed to the United States government. That threat justified the U.S.’ extreme response and Albizu Campos’ treatment as *homo sacer* – the body exposed to violence, to experimentation, to political death.

The discrediting and delegitimizing of Albizu Campos and his movement coupled with the criminalization of nationalism and the foreclosure of independence opened up the way for the rise of cultural nationalism. Puerto Rico’s first democratically elected governor, Luis Muñoz Marín, was the prime proponent of this shift. Though initially he and the party he helped establish, the *Partido Popular Democratico* (Popular Democratic Party) were active proponents for independence, over time their platform became more liberal and centrists. Muñoz Marín would eventually shift course and work with the U.S. government to establish the *Estado Libre Asociado* (ELA) or Commonwealth of Puerto Rico, a status that created a local, democratically elected government but did nothing to change the island’s colonial status vis a vis the federal government.

Muñoz Marín was everything that Albizu Campos was not: elite, white and respectable – the perfect foil for the angry, mullato. While in his youth he espoused a belief in radical nationalism, ultimately he adopted a centrist view that allowed him to play ball with the United States.<sup>379</sup> Thus, while the U.S. government was busy surveilling and undermining Pedro Albizu Campos and his movement, it was forming a cautious alliance with Luis Muñoz Marín and his party. To U.S. agents the respectable, white politician presented a far better option for Puerto Rico. Muñoz Marín would become known as the architect of the ELA and one of the main proponents of the island's shift away from demands for political nationalism and towards a celebration of cultural nationalism.

Presently, in order to endeavor to answer the question of what Puerto Rican nationalism was during the period before the creation of the ELA, this chapter will undertake to contextualize Albizu Campos' ideas, to place them within the global context in which Albizu Campos was educated. The early 20<sup>th</sup> century was a hotbed of political ideology and change, with nationalist spirit and anticolonial rhetoric growing in prominence worldwide, and Albizu Campos came of age in the midst of this political upheaval. The decade before World War I and immediately following it saw the growth of nationalist movements around the globe and these movements and ideologies did much to shape Albizu Campos' own beliefs.

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<sup>379</sup> Juan M. García Passalacqua, ed., *Vate, de la cuna a la cripta: el nacionalismo cultural de Luis Muñoz Marín*. San Juan: Editorial LEA, 1998.

The chapter will focus on three key themes that are prevalent in the nationalism of Albizu Campos. In basic terms, Albizu Campos' guiding principle of nationalism was the existence of a Puerto Rican nation that should be completely removed from U.S. hegemony. However, his understandings of this Puerto Rican nation were informed by his Catholic beliefs, as well as his ideas about the history, cultural and racial makeup of the island. It is in examining these three major themes of *hispanidad* (or hispanicity), Catholicism, and race that we can begin to fully understand Albizu Campos' notions of what the Puerto Rican nation was and could be.

#### **WHEN PEDRO MET JOSÉ: ALBIZU CAMPOS' EDUCATION IN NATIONALISM**

In 1926, just a year after publishing his now infamous treatise on race and race mixing, *La Raza Cosmica*, Mexican public intellectual and educator, José Vasconcelos visited Puerto Rico. Vasconcelos arrived in Puerto Rico aboard the ship *El Coamo* as the invited guest of the rector of the University of Puerto Rico. He was to give a series of lectures in the island's major cities: San Juan, Ponce and Mayaguez. These lectures became the basis for the volume, *Indología: Una Interpretación de la Cultura Ibero-Americana*, the prologue of which includes a detailed account of Vasconcelos' trip to the Caribbean. In lively and descriptive language Vasconcelos details his arrival in San Juan harbor and his experiences on "the oppressed island."<sup>380</sup> His first-hand account offers an

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<sup>380</sup> José Vasconcelos, *Indología; Una Interpretación de La Cultura Ibero-Americana*, Segunda edición (Barcelona: Agencia mundial de librería, 1930), xiii. (All translations are my own.)

important perspective of the situation on the island in 1926 as Albizu Campos was coming to prominence.

In one initial encounter, Vasconcelos describes an exchange with a Nationalist Party leader in San Juan in which he began to comment on the beauty of the island, but was cut off by the man. “For God’s sake, don’t you also start rhapsodizing about how beautiful the island is. That is what they all say, especially those who don’t want to take a stand. Here we should speak only of our anguish,” exclaimed the leader.<sup>381</sup> In this exchange, and in many throughout his time on the island, Vasconcelos was pushed to take a stance on the colonial situation of Puerto Rico. After this exchange, Vasconcelos wrote that he was immediately able to feel the aforementioned anguish felt on the island. “I was free,” he wrote, “nobody pressured me about what I could say or silence.” Quite to the contrary, Puerto Rican intellectuals and political leaders urged him to speak his mind, give his honest impressions, and interact with whomever he chose in order that he could have a complete idea about life on the island. Vasconcelos described his own feelings of tangible freedom in light of the visible restrictions on speech experienced by the inhabitants of the island. “Liberty is empty if we cannot fully live it and there [in Puerto Rico] he who wants to make a living has to measure his words because, though there are no prisons for eloquence, the doors of economic success only open for those who are

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<sup>381</sup> Ibid, xv.

prudent. And even earning one's daily bread becomes near impossible for those who do not play along."<sup>382</sup>

Throughout his prologue Vasconcelos demonstrates himself to be acutely sympathetic to the plight of the inhabitants of the island in their desire for a change to Puerto Rico's colonial status. He especially reveals his sympathy for the island's Nationalists. By his own admission Vasconcelos was most impressed by his visit to Ponce and his meeting with local nationalist leader Pedro Albizu Campos. In describing this exchange he wrote:

In Ponce, we were welcomed by the nationalists. The local leader Pedro Albizu Campos, won me over immediately and has continued to impress me since. He has a solid background. I don't know how many years at Harvard! As a result, he has a deep knowledge of the rival culture and no one is as able as he to expound on its secret weaknesses and clever machinations. Few men have taught me so much in a single day as did Albizu Campos. I am certain that one day this ungrateful America of ours will recognize him and salute him as one of its heroes. He lives on what he earns defending the poor, which is to say, that he barely lives. Everyday he confronts temptations in the form of commissions and cases, which he rejects because it runs counter to his stance on collaboration with the invaders. The harshest demand of North American power in Puerto Rico is the forced imposition of U.S. citizenship on all Puerto Ricans. They cannot continue to be Spanish, they do not have the right to be Puerto Ricans, and they must use the yankee passport to enter and exit the island, enter and exit their own home.<sup>383</sup>

Vasconcelos prologue is noteworthy not only in that he openly expresses his clear sympathy for the cause of the island in its desire to be free from United States colonialism, but also in his clear interest in the eventual Nationalist Party leader, Albizu Campos. Vasconcelos assertion that "few men [had] taught [him] so much in a single

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<sup>382</sup> Ibid., xvi.

<sup>383</sup> Ibid., xxiv-xxv.

day...” is particularly striking given that at the time Vasconcelos was a famous public intellectual whose theories on race-mixing were being celebrated internationally, while Albizu Campos was barely three years out of law school, had not yet taken on the leadership of the Nationalist Party and was little known outside of the island. Historian Anthony M. Stevens-Arroyo has speculated that Vasconcelos’ interest in Albizu Campos sprang from the latter’s unique perspective on nationalism, which developed during his time as a student in the United States.<sup>384</sup> Stevens-Arroyo posits that “because he had lived outside of Latin America in his formative years, Albizu Campos had acquired a perspective on nationalism, culture and race that was not represented in Latin American discourse at that time...”<sup>385</sup> So deep was Vasconcelos’ admiration for Albizu Campos that a year later he became the official representative of the Puerto Rican Nationalist Party before the International Congress Against Cruelty and Oppression in the Colonies held in Brussels.<sup>386</sup> He also later advocated on behalf of Albizu Campos and other nationalists when the U.S. sought to repress the party and prosecute its leader.<sup>387</sup>

As Puerto Rican scholar Juan Manuel Carrión has acknowledged, “nationalism is many different and related things. When we talk about nationalism we are dealing, for example, with a political ideology, but also with things that go by the name of national sentiment and national identity... it also refers to cultural manifestations of collective

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<sup>384</sup> Anthony M. Stevens-Arroyo, “The Catholic Worldview in the Political Philosophy of Pedro Albizu Campos: The Death Knoll of Puerto Rican Insularity,” *U.S. Catholic Historian* 20, no. 4 (October 1, 2002): 53–73, 61.

<sup>385</sup> *Ibid.*, 60.

<sup>386</sup> *El Nacionalista de Ponce*, December 4, 1926.

<sup>387</sup> Stevens-Arroyo, “Catholic Worldview,” 61.

identity affirmation.”<sup>388</sup> This is certainly true for the nationalist ideology of Albizu Campos. While he initially joined the Union Party due to that party’s anti-U.S. stance, he eventually left it disgusted by members’ conciliatory nature and non-activity. Instead, he joined with a faction of Unionist Party leaders who founded the Nationalist Party, which had as its aim the complete independence of the island. Through the party he set out to liberate the island from U.S. hegemony, however as discussed below, his ideas about nationalism went far beyond the political. At the heart of his beliefs was the understanding that the island should be free from United States dominion, yet over the course of his life he allied with many different groups and touted many causes all of which had at its core the liberation of colonized peoples from the control of colonial powers. In a speech in 1930 he claimed that the island was “in a new phase of nationalism... this nationalism [did] not have, nor [did] it want, links with any political party whose programs were ambiguous or contradictory and whose goals were to confuse the people and further the power of the colony...”<sup>389</sup> In other words, nationalism went far beyond political parties. For Albizu Campos it was an ideology that encompassed the very identity of the nation.

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<sup>388</sup> Juan Manuel Carrión, “Two Variants of Caribbean Nationalism: Marcus Garvey and Pedro Albizu Campos,” *Centro: Journal of the Center for Puerto Rican Studies* 17, no. 1 (2005): 27–45, 31.

<sup>389</sup> Pedro Albizu Campos, *Pedro Albizu Campos: Obras Escogidas, 1923-1936, Tomo I* (San Juan: Editorial Jelofe, 1975), 172.

Much has been said about Albizu Campos' narrow and conservative notions of nationalism.<sup>390</sup> Some scholars have gone so far as to claim he was a fascist for his totalizing views on Catholicism as essential to Puerto Rican identity.<sup>391</sup> Others have criticized him for glorifying the Spanish past of the island and for desiring a return to it.<sup>392</sup> His ideas about the Puerto Rican nation and identity have often been labeled as "hispanophilic."<sup>393</sup> Scholar José Luis González himself, though signaling Albizu Campos' hispanophilic retelling of history, recognized that Albizu Campos' "idealization – or rather, the misrepresentation – of the historical past," was a product of his political coming of age under U.S. rule.<sup>394</sup> González concedes that it was the desperation that Albizu Campos saw in the Puerto Rican people under U.S. hegemony that led him to misrepresent the reality of life under Spanish rule.<sup>395</sup>

As a result of these varied opinions and scholarly interpretations of Albizu Campos' ideals and motivations, I believe it is more productive to our understandings of his nationalist vision if we begin with the premise that for him Protestantism and North Americanism were synonymous propositions whose ultimate goal was eradicating Puerto

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<sup>390</sup> Luis Angel Ferrao, *Pedro Albizu Campos y el Nacionalismo Puertorriqueño*, 1. ed (San Juan: Editorial Cultural, 1990); Ernesto Sánchez Huertas, "Algunas ideas tentativas del pensamiento social Cristiano en Pedro Albizu Campos," in Juan Manuel Carrión, Teresa C. Garcia Ruiz, and Carlos Rodriguez Fraticelli, eds., *La Nación Puertorriquena: Ensayos En Torno a Pedro Albizu Campos*, 1. ed edition (San Juan, P.R: Editorial de la Universidad de Puerto Rico, 1993).

<sup>391</sup> Ibid.

<sup>392</sup> Juan Manuel Carrión, "Etnia, raza y la nacinalidad puertorriqueña," in *La Nación puertorriqueña: ensayos en torno a Pedro Albizu Campos*.

<sup>393</sup> Ibid.

<sup>394</sup> González, *Puerto Rico: The Four Storeyed Country*, 7.

<sup>395</sup> Ibid.

Rican culture, history and identity. We can then understand his rhetoric and beliefs less as a call to a return to Spanish rule and Spanishness and more as a definitive rejection of U.S. hegemony. Albizu Campos' nationalist ideology was cobbled together from the various nationalist philosophies that permeated the early 1920's. He ultimately believed in an internationalist approach to nationalism wherein nations cooperated economically and politically for the benefit of all. This approach would eventually lead him to advocate for a Pan-Antillean Union, consisting of the larger Caribbean islands, which would ban together in opposition to U.S. hegemony in the region. As a result of this internationalist approach, we should understand his calls for a look back to a Catholic and Spanish heritage less as a retrograde, conservative form of nationalism and more as an attempt to establish the Puerto Rican nation in a long history that predated the U.S.' occupation.

#### **THE RADICALIZATION OF ALBIZU CAMPOS**

Pedro Albizu Campos was born on September 12, 1891 in the *Tenerías* barrio of Ponce, which was established by former slaves. He was the illegitimate son of a Basque merchant and the mixed-race, daughter of a former slave who worked as a domestic. His mother, Juliana Campos, died when Albizu Campos was a young boy, leaving him in the charge of a maternal aunt with whom he shared a close and loving relationship. Though as an adult his father, Alejandro Albizu Romero, would recognize him and Albizu

Campos would take his name, it was this early, impoverished upbringing that left a lasting impression on Albizu Campos and which would guide his life's work.<sup>396</sup>

A brilliant student, Albizu Campos graduated from Ponce High School in 1912 and attended the University of Vermont on a scholarship provided by the Masonic Lodge of Ponce. In 1913, on the recommendation of one of his professors, he transferred to Harvard University where he studied literature and chemistry. Upon graduating, Albizu Campos enrolled in Harvard Law School. However, in 1917, during the height of World War I, he took a leave of absence from Harvard and returned to Puerto Rico in order to join the United States armed forces. Albizu Campos was assigned to the all black 375th Regiment and was stationed in Ponce, where he trained noncommissioned officers. He achieved the rank of First Lieutenant before being honorably discharged in 1919 and returning to Harvard to complete his legal studies.

A longstanding historical myth promulgated by U.S. government agents and repeated over the years by biographers of Pedro Albizu Campos and historians alike, places Albizu Campos' radicalization and turn towards anti-U.S. nationalism on his experience of racial discrimination during his time in the military. This myth is evident in the countless surveillance documents and files produced by the F.B.I. on Albizu Campos throughout the period of the 1930's and until his death in 1965. This narrative attempts to

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<sup>396</sup> Biographical information for Pedro Albizu Campos gathered from the following sources: Marisa Rosado, *Las Llamas de La Aurora: Acercamiento a Una Biografía de Pedro Albizu Campos*, (San Juan, Puerto Rico: Ediciones Puerto, 2006); Ferrao, *Pedro Albizu Campos Y El Nacionalismo Puertorriqueño*; Margot Arce de Vázquez, ed., *Pedro Albizu Campos: Reflexiones Sobre Su Vida Y Su Obra*, 1. ed (Río Piedras, P.R: Editorial Marién, 1991); Juan Antonio Corretjer, *Albizu Campos*, Colección Libros de Bolsillo (Montevideo: Siglo Ilustrado, 1969).

explain the reason for Albizu Campos' great rage against the United States. In document after document informants, F.B.I. agents and other U.S. actors blame Albizu Campos' anti-U.S sentiment on his experience of discrimination in the U.S. military during World War I.<sup>397</sup>

An F.B.I report dated February 19, 1936, includes several mentions of this reasoning for Albizu Campos' ire. The document includes a narrative of Albizu Campos' history before and during his involvement with the Nationalist Party. It includes several testimonies given by various informants from Albizu Campos' past. One such informant was Charles Horton Terry, who was the Commissioner of Elections and Acting Secretary to Governor Blanton Winship at the time of his testimony, and who knew Albizu Campos when he was the Superintendent of Schools in Ponce. According to the document, Mr. Terry "related also how Campos, during the World War was enlisted in the United States Army, how he, due to his color, was assigned to a negro regiment of Infantry and how Campos, due to the discrimination, *began to hate the Americans* whom he, since then, referred to as the 'Yankee Invaders.'" (emphasis added)<sup>398</sup>

The same F.B.I. report includes another testimonial given by Dr. William F. Lippit, who at the time was the Commissioner of Health and the Director of Sanitation Services in Puerto Rico, and who claimed to have met Albizu Campos while he was serving in the U.S. military. The report describes Dr. Lippit's testimony thusly:

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<sup>397</sup> See generally F.B.I File: Pedro Albizu Campos, File No. HQ-105-11898

<sup>398</sup> F.B.I. File No. HQ-105-11898, Vol. 1, "Report of 02/19/1936," at 7.

Campos *began to hate* Americans when he enlisted in the United States Army... and was assigned to a negro regiment. Campos was so enraged that he was transferred to Puerto Rico and on his arrival here he was examined by a medical board... and it was decided by this board that Campos was a mulatto and he was assigned to a regiment of negro and mulatto Puerto Ricans. Dr. Lippit also stated that during the war Campos and an American officer entered a café where some American ladies were present and that an officer who was with these ladies introduced the white officer who accompanied Campos to the ladies but ignored Campos completely and that this incident further *embittered* Campos against Americans. (emphasis added)<sup>399</sup>

This simplified reasoning negated Albizu Campos' own stated and carefully thought-out reasons for denouncing the U.S.' control of the island. While his experiences of discrimination during the war effort may have contributed to his anti-U.S. sentiments, we cannot distill the entirety of his political ideology to such a facile series of events. It is more productive to consider Albizu Campos' own biography and how that might have contributed to his growing disillusionment with U.S. rule over the island and with his eventual turn to anti-imperialist and anti-U.S. nationalism.

Albizu Campos spent his formative years living on the island and witnessing the United States' colonial project first-hand. These experiences would necessarily have demonstrated the inherent inequalities in the early policies implemented by the U.S. in Puerto Rico. Furthermore, before enlisting in the U.S. armed forces Albizu Campos spent four years in the United States where he was a member of a vibrant academic and intellectual community. While at Harvard, as both an undergraduate and a law student, he was a member of several student organizations whose main interests were international

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<sup>399</sup> Ibid.

politics and law. He spent much of his time studying, writing and lecturing on issues of democracy and rights, law and politics as well as internationalism.<sup>400</sup>

In April 14, 1917, upon the United States' entrance into World War I, Albizu Campos published an editorial in the *Harvard Crimson* in which he explained Puerto Ricans unique position within the war effort. In that piece he proclaimed Puerto Rico's abhorrence of Germany and its support for the U.S.' efforts in defeating German tyranny. He clarified how the island's unique political history with the U.S. had led it to a different place than Cuba, which had eagerly joined the war effort. The war of 1898, he explains, had served to shift the island from a colony of Spain to a colony of the United States. In that status, the island had no democratic organizations and as such the island's politicians and parties had no real political power. However, as he noted in the *Harvard Crimson*

the Jones Bill which has become law, gives Porto Rico a form of home rule and makes Porto Ricans citizens of the United States. The press of the Island has expressed the joy that the people feel now due to such an important event, and there is faith in the United States and in the spirit of fairness prevailing here, which has led this nation to generous action for the benefit of assailed mankind.<sup>401</sup>

The Jones Act, which had become law in March of 1917, made Puerto Ricans U.S. citizens and created a democratically elected Senate.<sup>402</sup> It also established a bill of rights for the island since the U.S. Constitution's Bill of Rights did not apply to it. Finally, the

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<sup>400</sup> Ferrao, *Pedro Albizu Campos Y El Nacionalismo Puertorriqueño*; Rosado, *Las Llamas de La Aurora*.

<sup>401</sup> "Porto Rico and the War," *Harvard Crimson*, April 14, 1916.

<sup>402</sup> Pedro A. Cabán, *Constructing a Colonial People: Puerto Rico and the United States, 1898-1932*. (Boulder: Westview Press, 1999); José A. Cabranes, *Citizenship and the American Empire: Notes on the Legislative History of the United States Citizenship of Puerto Ricans*. (New Haven: Yale University Press, 1979); José Trías Monge, *Historia Constitucional de Puerto Rico*. (Río Piedras, P.R: Editorial Universitaria, 1980).

Act authorized the election of a resident commissioner who had previously been appointed by the President.

In April of 1917, Albizu Campos' attitude toward the United States' policies in Puerto Rico were favorable with regards to the Jones Act. However, his piece demonstrates that his approval was not without criticism as well. Albizu Campos points to pre-Jones Act policies as lacking democratic principles and not allowing for politics on the island to develop. The editorial is noteworthy also in demonstrating that he placed a great deal of hope in the promises of the Jones Act. He believed that the new policies would create greater democracy and political freedom on the island, and would ultimately allow island residents to have greater say in its own development. In April 1917, Albizu Campos seemed to believe that the Jones Act granted the island some sort of home rule from the U.S.; however, over time he came to understand that it did no such thing. This disillusionment, coupled with the development of his nationalist education during his time in Boston undoubtedly did more to influence his anti-U.S. sentiments than the experience of racial discrimination he encountered during the one year he spent in the military.

While in Boston attending Harvard University, Albizu Campos became closely acquainted with and was greatly moved by the liberation struggles of Indian and Irish nationalists. While ultimately, Albizu Campos' political philosophy and nationalist ideology would more closely follow that of Irish nationalism, he was exposed to and carefully considered the notions expounded by Indian nationalist followers of Mahatma

Gandhi. Albizu Campos was a member of several student organizations that held regular lectures and invited speakers to discuss topics of international law, policy and war.<sup>403</sup> In December of 1916, while in his first year of law school, Nobel Prize winning Indian poet, nationalist leader and close friend of Gandhi, Rabindranath Tagore gave a lecture entitled “The Cult of Nationalism” at Harvard University.<sup>404</sup> The lecture was sponsored in part by two student-run organizations, the Cosmopolitan and the International Polity Clubs. Albizu Campos was a member and an officer of both clubs.

In his lecture Tagore warned against the Western conception of the nation. He explained that before European powers introduced the concept of the nation in India, there was the concept of humanity. Though enemies fought battles and fostered ethnic hatreds, they were nonetheless based in notions of opponents as human races not as nations. Tagore makes a distinction between the spirit and the people of the West and the nations of the West. The people and spirit of the West had produced great men of art, literature and thought. However, the nations of the west had produced a mechanized society that had ultimately robbed the colonized world of humanity. Tagore summed up his point by stating that “while the spirit of the West marches under its banner of freedom, the Nation of the West forges its iron chains of organization which are the most relentless and unbreakable that have ever been manufactured in the whole history of

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<sup>403</sup> *Harvard Crimson*, October 14, 1916.

<sup>404</sup> *Harvard Crimson*, December 5, 1916.

man.”<sup>405</sup> He cautioned Eastern peoples seeking liberation from Western powers against replicating the atrocities of Western nations by fashioning themselves into new nations in the Western image.

While it is nearly certain that Albizu Campos was present at Tagore’s lecture, the extent to which Albizu Campos had contact with and interacted with Tagore are up for some debate. Some biographers of Albizu Campos claim that he was chosen to give a student rebuttal to Tagore’s lecture, though the substance of that rebuttal does not appear in the historical record.<sup>406</sup> Other biographers claim that Albizu Campos was chosen to be Tagore’s student host and that in that capacity he spent time one-on-one ushering Tagore around campus.<sup>407</sup> While the degree to which he came into direct contact with Tagore might be in dispute, it is clear that Albizu Campos thoughtfully considered Tagore’s ideas and took some of them to heart. His later speeches and writings nod to Tagore’s ideas on the nation as a system that robs the colonial world of its humanity, but for Albizu Campos such a system fattened up victims in order to digest them.<sup>408</sup>

Albizu Campos also spoke about the destructive nature of U.S. hegemony on the humanity of all people, and those of Latin America specifically, in an interview given in

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<sup>405</sup> Rabindranath Tagore, “Nationalism in the West,” *Atlantic Monthly*, March 1917. This was the essay version of the lecture “The Cult of Nationalism.”

<sup>406</sup> Antonio Ma Stevens Arroyo, *The Political Philosophy of Pedro Albizu Campos: Its Theory and Practice*, (New York: New York University, Ibero-American Language and Area Center, 1974), 7; Juan Antonio Corretjer, *Albizu Campos*, (Montevideo: Siglo Ilustrado, 1969).

<sup>407</sup> Corretjer, *Albizu Campos*; Margot Arce de Vázquez, ed., *Pedro Albizu Campos: Reflexiones Sobre Su Vida Y Su Obra*, 1. ed (Río Piedras, P.R: Editorial Marién, 1991); Marisa Rosado, *Las Llamas de La Aurora: Acercamiento a Una Biografía de Pedro Albizu Campos*, 2a. ed. (San Juan, Puerto Rico: Ediciones Puerto, 2006).

<sup>408</sup> Pedro Albizu Campos, “La Conciencia Puertorriqueña” in *Pedro Albizu Campos, Obras Escogidas, Tomo 1*.

January of 1927. He was asked whether he believed the U.S. posed a threat to Latin America or was instead Latin America's point of entry into a new civilization. He responded that he believed, "the United States is a danger for all humanity and especially for Ibero-America due to its absorptionist politics."<sup>409</sup> He went on to decry the United States for its treatment of immigrants and blacks within its borders as less than human and for exploiting their labor in order to enrich itself. "That is not civilization," he stated, "but barbarity... the North Americans have nothing to offer the world for its betterment, unless it is the destruction of its own empire."<sup>410</sup> Here we can see echoes of Tagore's beliefs about the destructive power of European nations to humanity at large. Furthermore, Albizu Campos too argued that Puerto Rico had its own traditions and history and humanity before the arrival of the U.S. Tagore's notion of an ancient civilization worthy of salvation from the Western nation was certainly one that would deeply impact Albizu Campos' thinking about the island's position vis-à-vis the United States. That belief too is visible in the 1927 interview in which he speaks of Europe and the Americas, Puerto Rico included, having a direct connection to Ancient Greco-Roman societies.<sup>411</sup> For Albizu Campos, however, that connection had degenerated within the United States. Ultimately, Albizu Campos would reject Tagore's arguments about the evils of "the Nation" and would seek to create a sovereign, political nation on the island,

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<sup>409</sup> "Entrevista con Pedro Albizu Campos" *Poliedro*, January 8, 1927 in *Pedro Albizu Campos: Obras Escogidas, Tomo I*, 35.

<sup>410</sup> *Ibid*, 36.

<sup>411</sup> *Ibid*, 35.

nevertheless it is clear that he took inspiration from Tagore's teachings and from the struggles of Indian nationalism in the early 20<sup>th</sup> century.

### **RADICAL, CATHOLIC NATIONALISM**

Ultimately, Albizu Campos found greater direct inspiration for his nationalist ideology from the teachings of Irish nationalism. Irish nationalism's Catholic roots, as well as its revolutionary fervor appealed to Albizu Campos' own personal history and to his understandings of Puerto Rican identity. Though Albizu Campos was raised attending the Catholic Church in Ponce, his sponsorship by the Masonic Lodge of Ponce as well as his participation in Masonic activities upon first arriving at Harvard point to the fact that during his early years at Harvard, he likely did not strongly identify with his Catholic faith.<sup>412</sup> However, his friendships with other Latin American students led him to eventually become a part of the Catholic Spanish Association whose mission was to foster ties between the Latin American students at Harvard and St. Paul's Parish in Cambridge, Massachusetts. Furthermore, by the time he enlisted in military service in 1917 he had also joined the Knights of Columbus demonstrating a renewed commitment to his Catholic faith.<sup>413</sup>

Catholic scholar and historian of Albizu Campos, Antonio M. Stevens-Arroyo, has done much to try to untangle Albizu Campos' understandings of Irish nationalism

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<sup>412</sup> Rosado, *Las Llamas de La Aurora*.

<sup>413</sup> *Ibid.*

and to identify the roots of his beliefs.<sup>414</sup> Stevens-Arroyo convincingly argues that through his exposure to the teachings of the 17<sup>th</sup> Century Catalán priest, Jaime Balmes, and specifically his work *El Protestantismo*, Albizu Campo began to reconsider his relationship with Catholicism. Through studying Balmes, Albizu Campos began to identify with the cause of Irish nationalism and more importantly to equate the Irish struggle for independence from Britain with that of Puerto Rico from the United States.<sup>415</sup>

Balmes taught that reliance on tradition was a moral, cultural, political and social virtue. He saw the traditions and cultural practices of a society as a pseudo-natural law and he considered that man was bound to the nation as in a marriage without the possibility of divorce. As a result, if a tyrant attempted to “take the life of the nation by denying its language, customs and freedom,” then the individuals of that nation were duty bound to defend the nation, by armed force if necessary, under the theory of just war.<sup>416</sup> Moreover, Balmes believed that Catholicism respected local cultures, while Protestantism sought to abolish local traditions and flatten national difference in “favor of a unified, centralized nation-state.”<sup>417</sup> For Balmes, “Catholic civilization preserved the diversity of even small nations by joining them into a global religion.”<sup>418</sup> In this reasoning, Irish

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<sup>414</sup> Stevens Arroyo, *The Political Philosophy of Pedro Albizu Campos*; Stevens-Arroyo, “The Catholic Worldview in the Political Philosophy of Pedro Albizu Campos”; Antonio M. Stevens Arroyo and Inter American University of Puerto Rico, *Catholicism as Civilization: Contemporary Reflections On the Political Philosophy of Pedro Albizu Campos*, Working Papers Caribbean Institute and Study Center for Latin America #50 (San Germán, P.R: Inter American University of Puerto Rico, 1992).

<sup>415</sup> Stevens-Arroyo, “The Catholic Worldview in the Political Philosophy of Pedro Albizu Campos”; Sánchez Huertas, “Algunas ideas tentativas del pensamiento social Cristiano en Pedro Albizu Campos.”

<sup>416</sup> Stevens-Arroyo, “The Catholic Worldview in the Political Philosophy of Pedro Albizu Campos”, 63.

<sup>417</sup> Ibid.

<sup>418</sup> Ibid.

nationalists and Albizu Campos saw a defense against the prevalent arguments that Ireland and Puerto Rico were too small and insignificant to be independent.

Though Balmes' ideology undoubtedly had some flawed and idealistic logic with regards to the preservative nature of Catholic civilization, nonetheless it was this philosophy that most appealed to Albizu Campos and which deeply influenced his ideas on nationalism. The notion that Protestantism was interested in eradicating local culture and traditions was on open display in Puerto Rico and Albizu Campos had borne witness to it first hand. As discussed in detail in the previous chapter, chief among the United States' early colonial projects was the quick and total "Americanization" of the island.<sup>419</sup> This was to be achieved through educational and social programs that would demonstrate the superiority of the U.S. American way of life. Even the rhetoric of democracy and law making for the island was couched in social Darwinian and Anglo-Saxonist language about tutelage and education that had deep roots in protestant ideology.<sup>420</sup> So much was Americanization and Protestantization a part of the U.S.' imperial design in Puerto Rico, that when the U.S. army arrived on the island in 1898, Chaplain Thomas Sherman

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<sup>419</sup> Julian Go, *American Empire and the Politics of Meaning: Elite Political Cultures in the Philippines and Puerto Rico during U.S. Colonialism*, Politics, History, and Culture (Durham: Duke University Press, 2008); Laura Briggs, *Reproducing Empire: Race, Sex, Science, and U.S. Imperialism in Puerto Rico*, American Crossroads 11 (Berkeley: University of California Press, 2002); Alfred W. McCoy and Francisco A. Scarano, eds., *Colonial Crucible: Empire in the Making of the Modern American State* (Madison, Wis: University of Wisconsin Press, 2009); José-Manuel Navarro, *Creating Tropical Yankees: Social Science Textbooks and U.S. Ideological Control in Puerto Rico, 1898-1908*, (New York: Routledge, 2002).

<sup>420</sup> Go, *American Empire and the Politics of Meaning*; Solsiree del Moral, *Negotiating Empire: The Cultural Politics of Schools in Puerto Rico, 1898-1952* (Madison: The University of Wisconsin Press, 2013).

predicted that the U.S.' arrival would mean the death of Catholicism on the island.<sup>421</sup> As a result of these pronouncements, Catholic nationalists fiercely rejected U.S. policies, especially those in the arena of education, which privileged protestant ideology over Catholicism. Thus rejection of the United States' rule over the island was as much a political as a religious belief. To reject U.S. hegemony over the island was also to reject the U.S.' protestant designs for its inhabitants and to affirm the island's Catholic heritage and Catholic ideology.

This idea is particularly well illustrated by the struggle for birth-control policies that erupted on the island during the 1920's and which continued into the 1950's. From the time of the military's arrival on the island, U.S. agents were greatly concerned with the perceived problem of overpopulation in Puerto Rico. This is a concern that has persisted into the contemporary period. In the early years of U.S. colonial rule, U.S. government agents were struck by the problem of malnutrition and unemployment on the island. They were also struck by the large families of peasants in rural areas in the mountains. To U.S. agents' eyes the reasons for such grave poverty and malnutrition were in part rooted in the problem of over-population of the island. Rural peasants, who were mostly Catholic and thus did not practice birth control, were too ignorant to maintain small families. It was the U.S. government's duty to educate them and protect them from themselves. With this in mind the U.S. began making way for policies that

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<sup>421</sup> Stevens-Arroyo, "The Catholic Worldview in the Political Philosophy of Pedro Albizu Campos," 55.

would allow for family planning and birth control as well as for divorce.<sup>422</sup> These policies were, of course, in direct contradiction with Catholic doctrine and were thus seen as attacks on the Catholic Church on the island and ultimately on the very nature of Puerto Ricanness. They were ways of eroding the power of the Church, while reaching the aims of the U.S. government. Furthermore, they were ways of controlling the very life and biological possibilities of the Puerto Rican people and were thus seen as a direct attack on the health and progress of the nation. It was exactly these sorts of policies against which Albizu Campos and the nationalist party railed.

As a result of his equation of Protestantism and “Americanization” with the eradication of Puerto Ricanness, Pedro Albizu Campos’ nationalism undoubtedly became dogmatic. His primary motivation was the preservation of the Puerto Rican nation which he believed was an entity apart from the U.S. with a long history prior to the U.S.’ arrival. Regardless, of the difficulty other politicians might have had at the time in defining exactly what the Puerto Rican nation was, for Albizu Campos it was a living, definable thing to which he dedicated his life. Essential to the nation was its culture, language, history and traditions that existed before the United States’ arrival. It was these fundamental elements that Albizu Campos believed the U.S. was interested in doing away with. As a result he adopted an unyielding ideology that was based in notions of a pre-U.S., Puerto Rican identity that was strongly Catholic and a direct response to the

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<sup>422</sup> Briggs, *Reproducing Empire*; Eileen Findlay, *Imposing Decency: The Politics of Sexuality and Race in Puerto Rico, 1870-1920*, (Durham, NC: Duke University Press, 1999); Annette B. Ramírez de Arellano, *Colonialism, Catholicism, and Contraception: A History of Birth Control in Puerto Rico* (Chapel Hill: University of North Carolina Press, 1983); Félix V. Matos Rodríguez and Linda C. Delgado, eds., *Puerto Rican Women’s History: New Perspectives*, (Armonk, N.Y: M.E. Sharpe, 1998).

protestant ideals brought to the island by U.S. actors. This brand of Catholic nationalism was conceived of in direct opposition to U.S. protestant hegemony, much like notions of Irish nationalism were conceived of in opposition to British protestant hegemony.

Though these policies were essential in creating a Catholic nationalist movement in opposition to the U.S. and to Protestantism, it is important to distinguish between the sort of radical Catholic nationalism espoused by Albizu Campos and his followers and that of more elite Catholics who had economic interests that were closely tied with the United States. While Albizu Campos believed in a Catholic nationalism that was ready and willing to battle the regime, elite Catholics were interested in preserving Catholicism without violence. They sought cultural hegemony and greater autonomy, but were ultimately not interested in completely severing ties with U.S. capital interests.<sup>423</sup> As a result Albizu Campos' brand of radical nationalist Catholicism was more inclusive and appealed to Catholics from the lower and middle economic classes, while elite Catholicism was far more concerned with the interests of wealthier creole elites. These two factions of Catholicism, though often at odds with each other, were nonetheless careful allies in the fight against U.S. protestant hegemony. Though their ultimate goals were different, they joined together to oppose Protestant controlled secularism in public schools and to contest U.S. imposed birth control policies.<sup>424</sup>

In addition to his emphasis on the supposed Catholic nature of the Puerto Rican nation, another essential element of Albizu Campos' nationalism was in pointing to the

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<sup>423</sup> Stevens-Arroyo, "The Catholic Worldview in the Political Philosophy of Pedro Albizu Campos," 58.

<sup>424</sup> *Ibid.*

long history and culture of the island before the arrival of the U.S. This previous history was, of course, necessarily tied with the island's links to Spain and its Spanish language and cultural heritage. As discussed above, because of this looking backwards for the existence of a Puerto Rican nation and identity, Albizu Campos was oft accused of longing for and idealizing the Spanish past of the island.<sup>425</sup> However, for Albizu Campos, pointing to the historical roots of the Puerto Rican nation was not only about establishing an identity independent of the United States, but also about embracing the nationalist history of the island.<sup>426</sup> As a result, Albizu Campos embraced the symbols of pre-U.S. Puerto Rican nationalism and touted the nationalist founding fathers, including Ramón Emeterio Betances who was among those that led the struggle for liberation from Spain.<sup>427</sup>

Throughout his term as president of the Nationalist Party, the party engaged in yearly celebrations on the anniversary of the *Grito de Lares*, the rebellion led by Betances that began in the town of Lares in 1868 and which eventually led Spain to grant Puerto Rico greater autonomy. In a 1930 proclamation made by the party in celebration of the *Grito de Lares*, Juan Antonio Corretjer, Secretary of the Nationalist Party, wrote:

the revolution to establish the independence of the nation has never faltered. The nation is defined. The sacrifice of its martyrs has consecrated its sovereignty. On that glorious date [September 23, 1868] the desire to be free was cemented and on

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<sup>425</sup> González, *Puerto Rico: The Four Storeyed Country*; Carrion, Ruiz, and Fraticelli, *La Nacion Puertorriquena*.

<sup>426</sup> Juan Manuel Carrion, "Etnia, raza y la nacionalidad puertorriqueña," 11.

<sup>427</sup> *Ibid.*

that date began the history of the independent nation, it does not matter how long it may take to liberate its sovereignty from foreign powers.<sup>428</sup>

Thus an essential part of the Nationalist Party's rhetoric was to include themselves in a long line of Puerto Ricans who fought for the independence of the island. Inserting themselves in this history lent more legitimacy to the party's aims and connected them to celebrated heroes of the Puerto Rican nationalist pantheon. Rather than embracing Spanish rule over the island and exalting the glorious days under Spanish dominion, the party claimed inclusion in the island's legacy of struggle for independence that began under Spain and continued into the period of U.S. rule.

Additionally, another of the central concerns of Albizu Campos' nationalist ideology was in elevating *la raza*, the race. But what exactly did he mean by *raza*? Was he referring to notions of biological race popular at the time, or to something else? To answer this question we can look to some of his speeches and writings. Specifically, the article "*Concepto de la raza*," an article which was published in the nationalist newspaper, *La Palabra*, on October 17, 1935, elaborates on what exactly *raza* was to Albizu Campos and the nationalist party. The article was published in celebration of *el día de la raza* (the day of the race), which was the celebration of Columbus' arrival in the Americas. In Puerto Rico, during the early 20<sup>th</sup> century, *el día de la raza* also had a tone of celebratory resistance to the presence of the U.S. For nationalists, in particular, it was a way to celebrate the islands culture and long history before the arrival of the U.S. Thus

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<sup>428</sup> Pedro Albizu Campos, "Una proclama de la junta nacional del partido nacionalista con motivo de cumplirse este mes el 63 aniversario de la rebelion de Lares." *Pedro Albizu Campos: Obras Escogidas, 1923-1936, Tomo I*, 169.

the piece can be seen a celebration of Puerto Rico and Latin America's traditions and culture in opposition to the United States.

The essay opens by questioning what Argentinian President Hipólito Yrigoyen referred to when he established el *día de la raza*.<sup>429</sup> To which race was he referring? For Albizu Campos it is clear that Yrigoyen referred to the Ibero-American race or the Latin American race. He states, “for us race has nothing to do with biology. Neither does it have to do with skin color, or hair type or eye color. Race is an infinity of virtues and characteristics. We [the Ibero-American race] are distinguishable by our culture, our courage, by our noble and elevated heritage and by our Catholic sense of civility.”<sup>430</sup> In this short passage it is clear that for Albizu Campos race is not about ethnicity but about culture, nation and region. In an earlier essay, “*La bandera de la raza*,” he explains that the goals of the nationalist party included immediately establishing the Republic of Puerto Rico, creating an Antillean Federation that would include the island of Haiti, creating an Ibero-American Union and establishing Ibero-American hegemony in Latin America.<sup>431</sup> From this platform we can glean that of utmost import for Albizu Campos and the party was a sense of Latin American unity and regional alliance in opposition to U.S. hegemony. Again, it is apparent that his discussions about race had everything to do with notions of Latin Americaness and Puerto Ricaness rather than ethnicity. For Albizu

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<sup>429</sup> Pedro Albizu Campos, “El Concepto de la raza,” *La Palabra*, October 17, 1935, 7.

<sup>430</sup> Ibid.

<sup>431</sup> Pedro Albizu Campos, “La bandera de la raza,” *Pedro Albizu Campos: Obras Escogidas, 1923-1936, Tomo II*, 31.

Campos, *la raza* is not an ethnic or biological condition, but a cultural, national and historical one.

In other writings, he acknowledges and echoes José Vasconcelos' notions about race mixing in Mexico, but applied to the Caribbean. He is clear that Puerto Rican culture and ethnicity is based on the three ethnic groups that populated the island through its history: native islanders, Spanish colonists and African slaves. For Albizu Campos that race mixing occurred was undeniable and it was this mixing that produced Puerto Rican culture, language, values and people. In this way Puerto Rico had already fulfilled the possibility of Vasconcelos' cosmic race: the island had already taken the best of the three elements and produced contemporary Puerto Rican society. Of course, this ideology of *mestizaje* served to flatten racial differences on the island and at the time was emerging as one of the central tenants of the rhetoric of the "*gran familia puertorriqueña*," which was put forth by the island's elite in order to rally anti-U.S. support.<sup>432</sup> It would also later form the cornerstone of Luis Muñoz Marín's cultural nationalism.

Due to this belief in the transformative power of *mestizaje*, to Albizu Campos' mind the Ibero-American race that inhabited Latin America and the island was no longer exclusively Spanish or white.<sup>433</sup> Albizu Campos thus espoused what historian Kelvin Santiago-Valles calls "racial democracy from below" or the notion that truly virulent

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<sup>432</sup> Marisel Moreno, "Family Matters: Revisiting *La Gran Familia Puertorriquena* in the Works of Rosario Ferre and Judith Ortiz Cofer," *CENTRO: Journal of the Center for Puerto Rican Studies* 22, no. 2 (2010): 74-105, 77.

<sup>433</sup> Pedro Albizu Campos, "La bandera de la raza;" Kelvin Santiago-Valles, "'Our Race Today [Is] the Only Hope for the World': An African Spaniard as Chieftain of the Struggle against 'Sugar Slavery' in Puerto Rico, 1926-1934," *Caribbean Studies* 35, no. 1 (January 1, 2007): 107-40, 118.

racial violence did not exist on the island not because of white benevolence, but because of the fact of race-mixing creating a non-white Latin race.<sup>434</sup> In contrast, as Santiago-Valles describes, racial democracy from above was categorized by the notion held by many “native-cultured, politico-literary” people that “tended to referentially acknowledge the ‘negro element’ by sentimentalizing slavery’s inherently conflicting racial structures in general.”<sup>435</sup> This form of racial democracy held that it was white, elite benevolence towards the mixed-race and negro elements of the population that led to a lack of virulent racism on the island. However, for Albizu Campos, racial democracy was not the result of the imposition of Spanish values and culture on a native and enslaved population, but was instead the result of a historical process wherein the entirety of the Hispanic race, culture, and people residing in Latin America had been transformed by widening its scope to include, on an equal footing, populations of indigenous and African descent.<sup>436</sup>

Thus, as Santiago-Valles explains, Albizu Campos saw the process of race mixing as a dynamic and transformative process in which a new racial entity was created. This is in sharp contrast to José Luis González’s notion of a four storied Puerto Rican nation in which the different layers of race and class were built up one on top of the other.<sup>437</sup> For González, much like Franz Fanon in his seminal anticolonial tome *The Wretched of the*

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<sup>434</sup> Ibid, 115.

<sup>435</sup> Ibid., 125.

<sup>436</sup> Ibid.

<sup>437</sup> González, *Puerto Rico: the Four Storeyed Country*. 15.

*Earth*, the first story (or the native culture for Fanon<sup>438</sup>) is a sort of static and unshifting layer upon which various colonialisms are placed. González describes the first story as being made up of African slaves and poor Spaniards who adopted slave culture. The second story consisted of white, Mediterranean immigrants who arrived in the 19<sup>th</sup> century and took over the coffee sectors. The arrival of the U.S. placed a third story on the structure of the Puerto Rican nation; finally, a fourth managerial class was created by Luis Muñoz Marín and the *Partido Popular Democrático* through the economic policies of the New Deal in the 1940's.<sup>439</sup> This final story also echoes Fanon's notion of a ruling class corrupted by colonialism layered upon the first native culture.<sup>440</sup> As a result, for González the Puerto Rican nation was incomplete, given that none of its stories were fully finished, and interrupted and as a result, it needed independence in order to complete its formation. In contrast, Albizu Campos saw the nation as fully formed, but stifled by its association with the United States. For Albizu Campos, in order to embody the fullness of its history, culture, language, etcetera, Puerto Rico needed complete independence and sovereignty.

As a result of these ideas of race mixing and racial democracy from below, Albizu Campos' rhetoric on *raza* ultimately focused not on ethnicity, but on nationality and regionalism. This understanding of an Ibero-American race bound in a shared past of colonialism and culture is a key part of his internationalist ideology and his designs for an

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<sup>438</sup> Frantz Fanon, *The Wretched of the Earth*, 1st ed (New York: Grove Press, 2004), 147.

<sup>439</sup> González, *Puerto Rico: the Four Storeyed Country*. 15-30.

<sup>440</sup> Fanon, *The Wretched of the Earth*, 148–156.

Ibero-American Union that would exercise Latin American hegemony in the region. If Latin American countries shared a history and a past of colonialism under Spain, they were living in a contemporary moment in which the United States exercised hegemony over the region. Thus Albizu Campos' call to arms and his rallying around a *bandera de la raza* (a banner of the race) was in order to shore up Latin American solidarity in opposition to U.S. hegemony in the region. Furthermore, Albizu Campos' understanding of *raza* as being localized and regional also explains why his call for a Pan-Antillean Federation included Haiti. Despite Haiti's linguistic differences and its identity as a black nation, it shared a colonial past that was ultimately Hispanic or Latin, as well as a contemporary history that was dominated by U.S. hegemony. Haiti was a sister in oppression and U.S. meddling, it too shared a past of race mixing and colonialism that was similar to Puerto Rico's in its Catholic and Latin roots. Furthermore, as Jossianna Arroyo-Martinez has noted, Haiti, through its early Caribbean revolution and fight for independence, was the cradle of humanity for enslaved and mixed-race peoples.<sup>441</sup> Thus Haiti's unique position vis-à-vis colonialism in the Caribbean was historically cemented and invoked in the nationalist struggles of the region and, in particular, of other Antillean nations.

Finally, because Albizu Campos' ideas of race were rooted in notions of nation and region rather than ethnicity or biology, he was highly critical of U.S. ideas of a binary of race wherein whiteness and blackness were the dominant paradigms. He often

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<sup>441</sup> Jossianna Arroyo, *Writing Secrecy in Caribbean Freemasonry* (New York: Palgrave Macmillan, 2013), 101.

spoke and wrote of the sort of racism practiced against African-Americans in the U.S. and pointed to this racism as a product of U.S.-American cruelty.<sup>442</sup> He decried U.S. racism and its implications for Puerto Rico and the ways the U.S. understood and treated Puerto Ricans. In his rejection of U.S. racism and concerns for the inequitable treatment of blacks and Puerto Ricans, he aligned with another Caribbean nationalist, Marcus Garvey, who loomed large during the years in which Albizu Campos was acquiring his nationalist education during the early 20<sup>th</sup> century.

#### **ALBIZU CAMPOS AND MARCUS GARVEY: ANGRY, BLACK MEN OF THE CARIBBEAN**

Though much has been written about these two men individually, little in the way of comparative work has been produced. Puerto Rican scholar, Juan Manuel Carrion, has written a short article that begins to highlight some of the similarities between these two important and influential Caribbean leaders. My analysis takes Carrion's article, "Two Variants of Caribbean Nationalism: Marcus Garvey and Pedro Albizu Campos" as its starting point. Marcus Garvey, a Jamaican born immigrant, arrived in New York in 1916 with hopes of growing his newly established black uplift organization, the Universal Negro Improvement Association (UNIA).<sup>443</sup> Garvey believed that racial uplift was the way to greater equality for black people across the world. He understood that changes

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<sup>442</sup> "La tragedia del negro yanqui," *La Palabra*, (Feb 10, 1936); Juan Manuel Carrion, "Two Variants of Caribbean Nationalism: Marcus Garvey and Pedro Albizu Campos." *Centro Journal*, 29.

<sup>443</sup> For more on Marcus Garvey, see generally, Robert A. Hill, Barbara Bair, and Marcus Garvey, eds., *Marcus Garvey: Life and Lessons: A Centennial Companion to The Marcus Garvey and Universal Negro Improvement Association Papers* (Berkeley: University of California Press, 1987); Judith Stein, *The World of Marcus Garvey: Race and Class in Modern Society*, (Baton Rouge: Louisiana State University Press, 1991); Tony Martin, *Race First: The Ideological and Organizational Struggles of Marcus Garvey and the Universal Negro Improvement Association*, (Westport, Conn: Greenwood Press, 1976).

would not come simply by seeking entry into white organizations and state institutions, instead Garvey believed that the building of economic power within the black community was a surer way to black equality and upward mobility.<sup>444</sup> The UNIA chapters were thus conceived of as forums in which to discuss potential new economic opportunities for African-Americans.<sup>445</sup> Though there is no historical evidence that directly links these two important nationalist leaders, several parallels in ideology and circumstances lead me to speculate that at the very least Albizu Campos was aware of Garvey's movement. Given the currents of nationalism that were flowing through the colonized world and the Caribbean and eastern United States, specifically, it seems unlikely that Albizu Campos was not aware of and borrowed from Garvey's rhetoric and movement.

Garvey's organization, the UNIA, immediately struck a nerve with blacks in the United State and it quickly spread across the northeastern United States. Chapters opened in major cities along the eastern seaboard shortly after its establishment in New York. The Boston chapter of the UNIA was established in 1919, the year that Albizu Campos returned to Boston to complete his legal studies after his discharge from the military.<sup>446</sup> The UNIA was known for holding large public demonstrations in which members

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<sup>444</sup> Judith Stein. "Statement in Support of House Resolution No. 84, Submitted to the Sub-Committee on Criminal Justice of the Committee on the Judiciary, July 28, 1987," Presented at United States Cong. House. Mail Fraud Charges Against Marcus Garvey. Subcommittee on Criminal Justice of the Committee on the Judiciary. *Hearing expressing the sense of the Congress that mail fraud charges brought against Marcus Garvey by the Federal Government were not substantiated and that his conviction on those charges was unjust and unwarranted.* 100<sup>th</sup> Cong., 1<sup>st</sup> Sess. Washington: GPO, 1987, 45.

<sup>445</sup> Judith Stein, *The World of Marcus Garvey: Race and Class in Modern Society.*

<sup>446</sup> Violet Showers Johnson, *The Other Black Bostonians: West Indians in Boston, 1900-1950,* (Bloomington: Indiana University Press, 2006), 62.

dressed in uniform and paraded through major thoroughfares.<sup>447</sup> These displays were reported in daily newspapers and were cause for concern for government agents who feared that Garvey and the UNIA would fuel racial tensions in the U.S. and bring on riots.<sup>448</sup> Given the visibility of the organization and the U.S. government's reaction to its growth, again, it is unlikely that Albizu Campos was not aware of the organization. Furthermore, given Albizu Campos' interest in internationalism and nationalism generally it is even more unlikely that he did not have knowledge of Garvey's movement. Regardless of whether we can point to any specific and tangible connection between these two men, the parallels between their movements and their struggles warrant an examination of the two and especially of the similarities in their nationalisms.

While Garvey's variety of nationalism was expressed in terms of racial identities that transcended any particular territory and idealized Africa, Albizu Campos espoused a type of civic, territorial nationalism with the shared qualities of language and culture.<sup>449</sup> Garvey was above all else concerned with the betterment of black people in the diaspora. One of the stated goals of the UNIA was "to fight for the emancipation of our race and the redemption of the country of our fathers."<sup>450</sup> He strove for a radical transformation of the racial status quo and the reversal of centuries of oppression of blacks. He was determined "that the black man would not be kicked about by all the other races and

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<sup>447</sup> Hill, Bair, and Garvey, *Marcus Garvey*; Stein, *The World of Marcus Garvey*.

<sup>448</sup> Ibid.

<sup>449</sup> Hill, Bair, and Garvey, *Marcus Garvey*; Stein, *The World of Marcus Garvey*; Carrion, "Two Variants of Caribbean Nationalism."

<sup>450</sup> Hill, Bair, and Garvey, *Marcus Garvey*, 181-252.

nations of the world.”<sup>451</sup> However, the change was to be led by blacks themselves for their own benefit.<sup>452</sup> Thus the thrust of his movement relied on solidarities of blacks throughout the diaspora. As has been discussed above, Pedro Albizu Campos’ ideas of race focused not on racial identities but on cultural and regional connections. Furthermore, while Albizu Campos’ conception of the Puerto Rican nation demanded a commitment to the liberation of Puerto Rico from U.S. hegemony, it did not exclude anyone because of ethnic or racial origins. For Albizu Campos, “Puerto Ricans are all the friends of the independence of Puerto Rico.”<sup>453</sup>

Despite the differences in their understandings of race, the similarities between the two Caribbean men’s rhetoric and movements are quite apparent. Firstly, both men believed in above all creating a sense of self-reliance and self-confidence in their followers. Through rhetoric of uplift and what amounted to radical self-love, they each sought to undo the detrimental and insidious damage of white supremacy and U.S. hegemony. One of Garvey’s clear goals was that the “negro should never more be disrespected,” and as such the UNIA sought to inspire “an unfortunate race with pride in self,” and to “lift them to the unprejudiced company of races and nations.”<sup>454</sup> Albizu Campos too was concerned with raising the holistic self-esteem of the Puerto Rican

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<sup>451</sup> Marcus Garvey “The Negro’s Greatest Enemy,” in *The Philosophy and Opinions of Marcus Garvey: or Africa for the Africans, Vols. I & II*, ed. Amy Jacques Garvey, (Dover, MA: The Majority Press, 1986), 124–34.

<sup>452</sup> Ibid.

<sup>453</sup> Pedro Albizu Campos “Son puertorriqueños todos los amigos de la independencia de Puerto Rico,” in *Pedro Albizu Campos, Obras Escogidas, Tomo I*.

<sup>454</sup> “The Principles of the Universal Negro Improvement Association.” in *The Philosophy and Opinions of Marcus Garvey: or Africa for the Africans, Vols. I & II*, 93–100.

people. He recognized that centuries of colonialism had taken a toll on the self-esteem of the island's inhabitants. Many believed the rhetoric put forth by the U.S. that the island was not ready for self-government, that Puerto Ricans were uncivilized, children who needed the U.S. to teach them the proper way to be a nation. As a result, one of Albizu Campos' tactics was to raise Puerto Rican self-worth by reminding them that they had history, culture, and worth long before the U.S. arrival. Throughout his life he argued that colonialism sought to undermine a people's will.<sup>455</sup> Thus in his inaugural speech as president of the Nationalist Party in 1930, Albizu Campos expressed the need for Puerto Ricans to adopt a more positive outlook with regards to the prospect of Puerto Rican independence.<sup>456</sup> He sought a promise from the Party directive that "an optimist philosophy should inform all our actions."<sup>457</sup> He was concerned that a pessimistic ideology rained down over the Puerto Rican people "that demoralizes and disheartens it and that we must cut short in every occasion. We have to raise the public spirit of Puerto Rico to the conviction that it can become whatever it desires, and that it is capable of achieving independence if that is its will."<sup>458</sup>

As a result of these concerns about pride and self-worth, both Garvey and Albizu Campos sought to create alternative narratives for their people, to create other stories, ones that empowered and buoyed up their communities. These alternative narratives often took on the look of revisionist history. As Benedict Anderson discussed in *Imagined*

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<sup>455</sup> Carrion, "Two Variants of Caribbean Nationalism," 40.

<sup>456</sup> Albizu Campos, *Pedro Albizu Campos, Obras Escogidas, Tomo I*, 87.

<sup>457</sup> Ibid.

<sup>458</sup> Ibid.

*Communities*, myth making and reimagining histories is oft a key element in fomenting nationalism and both Garvey and Albizu Campos relied on these tropes to full effect.<sup>459</sup> For Garvey this meant emphasizing the achievements of African peoples and creating a more Afro-centric retelling of civilization that focused on the contributions of Africa to Europe.<sup>460</sup> For Albizu Campos, as discussed above, it meant looking to the Spanish past of the island, for which he has oft been criticized. However, we should understand this looking backward not as a form of privileging Spain, but instead as a way of creating a counter-narrative to that put forth by the U.S. government. By looking to Spain, he sought to connect the island to a long history that went back to Ancient Rome.<sup>461</sup> In this way, Puerto Ricans had civilization long before the arrival of the U.S. This counter narrative was an exhortation to the people of the island to love themselves first and to reject the lies of the colonizer. In this way both Garvey and Albizu Campos sought to remake their people's self-images, raise their self-worth.

A second key similarity between Garvey and Albizu Campos was their deep concerns for the economic stability of their communities. As a result of this overarching concern, they each preached a brand of economic nationalism that sought to create or retake capitalist institutions for the benefit of their respective communities. For Garvey this desire led him to found the Black Star Line of ships that was meant to serve as

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<sup>459</sup> Anderson, *Imagined Communities Reflections on the Origin and Spread of Nationalism*, 7.

<sup>460</sup> Hill, Bair, and Garvey, *Marcus Garvey*; Stein, *The World of Marcus Garvey*; Martin, *Race First*.

<sup>461</sup> Carrion, "Two Variants of Caribbean Nationalism."

competition to white-owned shipping companies.<sup>462</sup> Garvey's grand vision included creating an alternative capitalist system that would be shaped by and for the benefit of afro-descended individuals. This alternative system would take black dollars out of the hands of white capitalists and in turn give both economic and eventually political power to the black community.<sup>463</sup> The Black Star Line was the first step towards fulfilling this vision.

Likewise, Albizu Campos demonstrated an overarching concern for the economic wellbeing of the island. He argued that colonialism, and U.S. interests specifically, had robbed Puerto Ricans of their land and resources. Absentee corporate landowners had displaced the majority of small-scale farmers on the island. As a result, the ranks of the unemployed and seasonal laborers greatly grew in the decades after the U.S. arrival. The years of the Great Depression worked to further the economic pains faced by Puerto Ricans on the island. It was this atmosphere of desperation that led Albizu Campos to call for the end "of hoarding of resources," so that they could be distributed among Puerto Ricans.<sup>464</sup> In this call for a redistribution of land, Albizu Campos looks back to the pre-U.S. Spanish past of the island to point to a time when Puerto Ricans had greater access to land and subsistence farming, a time when starvation and hunger did not run rampant on the island because people grew enough to survive.

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<sup>462</sup> Hill, Bair, and Garvey, *Marcus Garvey*; Stein, *The World of Marcus Garvey*; Martin, *Race First*.

<sup>463</sup> *Ibid.*

<sup>464</sup> Santiago-Valles, "Our Race Today [Is] the Only Hope for the World," 113.

This particular looking back has been criticized as Albizu Campos glorifying the Spanish past given that under Spanish rule little of the rural population of the island owned land.<sup>465</sup> However, as scholar Kelvin Santiago-Valles has convincingly argued, Albizu Campos was well aware of this fact, and was instead concerned with the *access* to land that Puerto Ricans enjoyed before the arrival of the U.S.<sup>466</sup> While under Spanish rule rural peasants did not own the land they worked, they nonetheless had access to small plots in which they were able to practice subsistence farming.<sup>467</sup> With the arrival of the U.S. most lands were consolidated under the control of large, absent corporate landholders, which ended subsistence practices and effectively dispossessed rural peasants of access to land. The impacts of this dispossession can be seen in the sharp rise in hunger and malnourishment that occurred after U.S. occupation and which not did exist under Spanish rule.<sup>468</sup> By rallying against U.S. control of land and resources, Albizu Campos argued, Puerto Ricans could regain their access to land and their economic power. Thus economic liberty was connected to national liberty in Albizu Campos' rhetoric.<sup>469</sup> With these calls for economic liberty Albizu Campos was able to garner support from the lower classes and especially agricultural workers, landless peasants and overwhelmed farmers.<sup>470</sup>

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465 Ibid.

466 Ibid.

467 Arleen Hernández-Díaz, *Labor-Management Relations in Puerto Rico during the Twentieth Century*, (Gainesville, FL: University Press of Florida, 2006), 6.

468 Ibid.

469 Santiago-Valles, "Our Race Today [Is] the Only Hope for the World," 115.

470 Ibid.

In sum, both Garvey and Albizu Campos were motivated by the fundamental belief that economic liberation was part and parcel to national liberation. They adopted differing approaches to seek this same goal, however their speeches and rhetoric evince an overwhelming concern with economic nationalism. In fact, so similar were their approaches to the economic betterment of their people that both men sought funds from their followers for their respective economic projects. Garvey opened up the Black Star Line to investors and in that way was able to purchase several ships.<sup>471</sup> Albizu Campos and the Nationalist Party sold bonds for the future Republic of Puerto Rico in order to fund their efforts.<sup>472</sup> Of course, both of these economic ventures were closely monitored and followed by the F.B.I. and the U.S. government.

A third important similarity in the nationalist ideologies of Garvey and Albizu Campos lies in their shared notions of nationhood and the belief in the need for nation. These desires for nation were by necessity anti-colonial in nature. Garvey himself came from the colonized island of Jamaica and had travelled extensively through the West Indies and Central America before arriving in the United States. Garvey was well aware of what colonialism had brought to people of African descent. As a result, one of Garveyism's guiding principles was the notion of "Africa for the Africans, at home and abroad."<sup>473</sup> He believed that black people in the diaspora needed their own nation from which they could exercise their own economic and political power. With this goal in

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<sup>471</sup> Hill, Bair, and Garvey, *Marcus Garvey*; Stein, *The World of Marcus Garvey*; Martin, *Race First*.

<sup>472</sup> "Purchases of Republic of Porto Rico Bonds," *The New York Times*, (April 10, 1931).

<sup>473</sup> The Principles of the Universal Negro Improvement Association." in *The Philosophy and Opinions of Marcus Garvey: or Africa for the Africans, Vols. I & II*, 93–100.

mind, Garvey worked to build relations with the Republic of Liberia, which had been founded by freed U.S. slaves in the mid 19<sup>th</sup> century. Garvey believed that blacks could only attain respect and power when they had developed their own nation.<sup>474</sup> In the early 20<sup>th</sup> century when Garvey expressed his desire for an African nation that was for Africans, he was necessarily butting heads against European powers that had colonial designs on the African continent.<sup>475</sup> Nevertheless, it was his own experiences under colonialism that affirmed for him the need for a free and independent nation for blacks in the diaspora.

Comparably, Albizu Campos' driving principle was anti-colonial. From the beginning of his political career he was vocal about his beliefs that U.S. control over the island amounted to an illegal occupation. In a 1927 interview given in the Dominican Republic, Albizu Campos was asked what his and the Nationalist Party's political platform entailed. He responded: "We are sworn enemies of *all* colonial systems... we must use every form of resistance at our disposal against foreign colonialism."<sup>476</sup> In another interview that same year, he went further and stated that Puerto Ricans were "anti-American because we have to battle a government whose only use on our soil is to rob it of its riches, destroy its culture, and reduce it to a despicable mass of peons. A powerful country like the U.S. has the ability to make Puerto Rico happy, but instead denies it the most basic rights of life and liberty, treating it instead like those old, crude,

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<sup>474</sup> Hill, Bair, and Garvey, *Marcus Garvey*; Stein, *The World of Marcus Garvey*; Martin, *Race First*.

<sup>475</sup> Carrion, "Two Variants of Caribbean Nationalism," 37.

<sup>476</sup> Pedro Albizu Campos, Interview given to J.B. Lamarche, *El Mundo*, July 12, 1927 in *Pedro Albizu Campos, Obras Escogidas, 1923-1936, Tomo I*, 50.

and oppressive empires which have earned the scorn of history.”<sup>477</sup> In these statements is the crux of Albizu Campos’ philosophy from which he did not deviate throughout his life.

One final and notable similarity between Garvey and Albizu Campos was the inspiration that both found in the nationalist philosophy and practice of Irish Nationalism. Aesthetically speaking the two men both borrowed heavily from the Irish Nationalist movement. Like the UNIA, the Nationalist Party also held political rallies and parades that included brass bands and men and women in uniform. Rhetorically speaking, both borrowed from Irish Nationalism’s radical and uncompromising rhetoric. Both men spoke openly against the oppression of colonialism and racism and made exhortations to their followers for change. It was these bold rhetorical styles and uncompromising views that brought both Garvey and Albizu Campos under the scrutinizing gaze of the agents of the Bureau of Investigation, precursor to the F.B.I.

Beyond the similarities in their ideas about nationalism and their approaches toward liberation, they also similarly provoked the U.S. government’s fear and ire. Both the UNIA and Nationalist Parties were heavily infiltrated and surveilled.<sup>478</sup> Government agents sought to undermine both men, portraying them as little more than angry, raving black men. In 1919, Garvey became an obsession for J. Edgar Hoover, then a young

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<sup>477</sup> “Para ser entendido, Puerto Rico tiene que plantearle una crisis grave a la administración colonial,” *El Mundo*, July 16, 1927, *Ibid*, 52.

<sup>478</sup> Kenneth O’Reilly, *Black Americans: The FBI Files*, (New York: Carroll & Graf, 1994), “New Light on Old F.B.I. Fight; Decades of Surveillance of Puerto Rican Groups,” *The New York Times*, November 28, 2003.

agent in the Department of Justice's Bureau of Investigation. Hoover and his agents searched for a means, any means, by which to bring charges against Garvey in order that he could be legally deported from the country.<sup>479</sup> In 1923, Hoover and his men finally found a flimsy means to do so and he was convicted of mail fraud and sentenced to five years in the federal penitentiary in Atlanta.<sup>480</sup> In the case of Pedro Albizu Campos, the federal agents also sought a means to silence him and quell his political rhetoric. They found it in 1936, when two Nationalist Party members assassinated the police chief, E. Francis Riggs.<sup>481</sup> Though Albizu Campos did not take part in the killing and was not present, he was nonetheless tried for seditious conspiracy on account of his role as the leader the Nationalist Party. In a final, ironic similarity between these two Caribbean men, in 1936, ten years after Garvey's release from federal prison, Albizu Campos entered the very same federal prison in Atlanta to serve a ten-year term.

These two men, both nationalist leaders of color, raised a sort of racialized ire in U.S. agents that was trained both on their rhetoric and on their bodies. Though they as individuals did not encompass the entirety of their movements and the varying ideas that were present within their respective groups, they as individuals did amount to threats, which the U.S. government sought desperately to contain. Their very persons became sights of surveillance and violence and labeled as dangerous to the U.S. Again, while

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<sup>479</sup> See generally: "Hearing expressing the sense of the Congress that mail fraud charges brought against Marcus Garvey by the Federal Government were not substantiated and that his conviction on those charges was unjust and unwarranted." 100th Cong., 1st Sess. Washington: GPO, 1987

<sup>480</sup> Ibid.

<sup>481</sup> Rosado, *Las Llamas de La Aurora*; Corretjer, *Albizu Campos*; Ferrao, *Pedro Albizu Campos Y El Nacionalismo Puertorriqueño*.

their political movements adopted differing approaches, they themselves were singled out for persecution and surveillance. They were vilified, mythologized as angry, black men and labeled as terrorists.

## **CONCLUSION**

This chapter has sought to examine the nationalist ideology of Pedro Albizu Campos and to trace the various elements that made up his nationalist beliefs. This discussion is important not only because nationalism in the early decades of the 20<sup>th</sup> century was so closely tied with Albizu Campos' ideas, but also because it is his ideas that lead him to become a target for surveillance and the violence of the state of exception. Furthermore, this analysis is fundamental to understanding the shift in Puerto Rican understandings of themselves as a cultural nation within in a U.S. context.

As we have seen, Albizu Campos was guided by an anti-colonial and anti-U.S. philosophy. The makeup of his anticolonial philosophy borrowed from many other ideas about nationalism. His time as a student in the United States at a historical moment of great upheaval and turmoil led him to adopt an internationalist perspective on culture and nation that he later incorporated into his own beliefs. As has been discussed, he was influenced by the movements of Indian and Irish nationalism as well as the ideas on race of José Vasconcelos. Furthermore, he shared many elements of his movement with the Jamaican nationalist Marcus Garvey. These various elements came together to define his views on Catholicism, race, history, culture and ultimately on the nation.

In its attempts to reign in the party, the U.S. government sought to create a fictionalized and mythologized notion of the Nationalist Party's leader in order to fix him as the ultimate nationalist enemy and justify U.S. agents' actions against he and his followers. Achille Mbembe has argued that in the colony "sovereignty was expressed as the right to kill. In such instances, power (and not necessarily state power) continuously *refers and appeals* to exceptions, emergency and a fictionalized notion of the enemy. It also *labors to produce* that same exception, emergency, and fictionalized enemy." (emphasis added)<sup>482</sup> Pedro Albizu Campos' and the Nationalist Party's political rhetoric and calls for revolutionary independence became the absolute threat that brought forth the violence of the state of exception. In Albizu Campos the U.S. government found a consummate enemy. He and the Party were so threatening to the U.S. government's designs on the island that the government unleashed a violent plan to repress and fracture the Party and limit the reach of its leader, Pedro Albizu Campos. With the rise of the Nationalist Party, the U.S. government, once again, visibly asserted its sovereignty over the island, but this time through its violent repression of the party.

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<sup>482</sup> Mbembe, "Necropolitics," 16.

## Chapter Four

### **Puerto Rico in the 1930s: Violence, Surveillance and Resistance in the State of Exception**

The 1930's saw a period of global insecurity and economic breakdown. With the onset of the Great Depression, already impoverished and vulnerable communities floundered more severely and struggled to meet their basic need. Puerto Rico, due to its heavy reliance on sugar and the economic stability of the United States suffered greatly as a result of the global economic downturn. The 1930's were a turning point for the island. As economic historian James L. Dietz described it in his important text, *Economic History of Puerto Rico: Institutional Change and Capitalist Development*, the 1930's saw a breakdown on the island of the monocultural, agricultural model of growth, which led to open and often violent class struggles and demands for change.<sup>483</sup> In the early years of the 1930's sugar workers, the largest sector of the rural working class, rebelled against the working conditions imposed on them by the corporate owners of large plantations and centrals. The standard of living for workers across all sectors, and particularly agricultural workers, worsened throughout the decade with unemployment on the rise and the cost of basic goods skyrocketing. Workers were unable to meet their basic needs leaving the majority of the working population in desperate and deplorable conditions.<sup>484</sup>

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<sup>483</sup> James L. Dietz, *Economic History of Puerto Rico: Institutional Change and Capitalist Development*, (Princeton: Princeton University Press, 1986), 135.

<sup>484</sup> *Ibid.*

In this climate the legitimacy of U.S. colonial rule over the island was widely questioned across class and political lines. As Dietz described

in the profound economic and social crisis of the world capitalist system, the extent of colonial domination of Puerto Rico and its position in the international economy increasingly became the focus of discussion, concern and defiance. Steps were taken to restore voluntary acceptance of the legitimacy of U.S. colonialism, but more repressive and less democratic means were also used to demand and ensure compliance.<sup>485</sup>

In this milieu, the struggles of workers, students, and nationalists emerged as a challenge to the colonial order and to U.S. dominance. The Great Depression did not create the crisis of the 1930's, but it worked to lay bare and exacerbate the problems inherent in U.S. colonial dominance over the island.<sup>486</sup>

This chapter argues that the decade of the 1930s saw the violence of the state of exception reach its apex. If the U.S. Supreme Court's decisions and U.S. laws and policies in the early 20<sup>th</sup> century created the state of exception in Puerto Rico, the 1930's saw the pinnacle of its violence manifested. Violence became the language of resistance and it was a language used by islanders and the state alike. The State perpetuated violence with impunity in order to pursue U.S. economic interests and government designs for "Americanization" of the island. This violence was physical as well as economic, environmental and political. This moment of violence came to a head during the 1930's when Puerto Rican frustrations with the colonial status quo and islanders'

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<sup>485</sup> Ibid, 136.

<sup>486</sup> Ibid.

desperation during the lean times of the Great Depression boiled over, pushing islanders to demand a change to their colonial status.

This period also saw the height of nationalism both on the island and in the growing Puerto Rican diaspora on the U.S. mainland. This growth in nationalism took on many shapes and demands for change. However, the most ardent and passionate calls for a change to the island's colonial status came from the *Partido Nacionalista de Puerto Rico* (Nationalist Party) led by Pedro Albizu Campos. In addition, the decade saw protests and labor strikes erupt all over the island and in various important economic sectors, from port workers, to sugar and tobacco laborers as well as lace makers and student strikes.

The 1930's saw worldwide demands for change and Puerto Rico was no different. Political nationalism was spreading across the globe and islanders harnessed this rhetoric of change in their demands for a resolution to their inequitable relationship with the United States. The once docile island that the United States government believed would be easily "Americanized" was coming alive and calling for change and violence often became the language of that call. Likewise, just as often violence was also the language of the U.S. government's response. In order to discuss the progression and growth of resistance and violence, the chapter will first engage in a brief history of the Insular Police force and its fraught relationship with island residents. The chapter will then turn to a discussion of the situation of workers on the island during the 1930's in order to discuss the various dynamics at play in those movements. The final section will discuss

the role of the Nationalist Party in fomenting violence as a means of resistance to the U.S.' colonial project on the island. The activities of the Party so angered and concerned the U.S. administration that it unleashed a campaign of deep surveillance and heavy violence on the Party's members in order to quash its activities.

### **CORRUPTION AND ABUSE IN THE INSULAR POLICE**

The Puerto Rico Insular Police was at the center of doling out violence in the service of U.S. empire. With the arrival of the United States government the police force was restructured and centralized. Under the old Spanish regime two police forces existed on the island: one an island wide force, the other a municipal force that was under the control of the municipal mayors.<sup>487</sup> In 1901, the old municipal police units were disbanded and the island force was centralized and placed under the control of the U.S. appointed governor.<sup>488</sup> The police chief, usually a mainland American with former military training, was appointed by the Governor and answered directly to him.<sup>489</sup> Though military rule over the island lasted only two years, military control over the Insular Police lasted over fifty years.<sup>490</sup> Until 1956, the force was directed by members of the U.S. military that had reached the rank of colonel.<sup>491</sup> Both the governors and police

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<sup>487</sup> Pedro A. Cabán, *Constructing a Colonial People: Puerto Rico and the United States, 1898-1932*. (Boulder: Westview Press, 1999), 155.

<sup>488</sup> *Ibid.*

<sup>489</sup> *Ibid.*

<sup>490</sup> Ramón Bosque-Pérez, "Political Persecution against Puerto Rican Anti-Colonial Activists in the Twentieth Century," in *Puerto Rico Under Colonial Rule: Political Persecution and the Quest for Human Rights*, Ramón Bosque-Pérez and José Javier Colón Morera, eds. (Albany: SUNY, 2006), 16.

<sup>491</sup> *Ibid.*

chiefs often arrived on the island with little knowledge of local affairs and with their racial prejudices and misconceptions about the island and its inhabitants firmly in place.<sup>492</sup> They arrived with a firm belief in the U.S.’ civilizing and Americanizing mission on the island. They arrived wanting to contribute to the project of U.S. tutelage in order to create proper U.S. subjects out of the islands unfortunate inhabitants.

It should come as little surprise then that the training that recruits received was also steeped in these deeply engrained U.S. beliefs. With the creation of the new centralized insular police force in 1901, the strength of the force was increased from 420 men to 739 men.<sup>493</sup> The force was then distributed among six military districts. A school was also created to train sixty men, ten from each of the districts, in semi-military training. In 1908, Governor Regis Post described the Insular Police as “semi-military in both organization and appearance. The discipline, drill and regulations of the force are in many respects similar to those of the Army.”<sup>494</sup>

Though on the surface the aim of the training received by the Insular Police was in the name of creating a modern, professional and non-political force that would serve the U.S.’ goal of empire building. In practice, the unstated goals of the Insular Police included the expansion of U.S. authority and surveillance capabilities.<sup>495</sup> Beginning almost immediately after the centralization of the island police force and abolishment of

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<sup>492</sup> José E. Martínez Valentín, *La presencia de la policia en la historia de Puerto Rico: 1898-1995*. (San Juan: J.E. Martínez Valentín, 1995) 30.

<sup>493</sup> *Ibid.*

<sup>494</sup> *Ibid.*, 156.

<sup>495</sup> Christopher Capozzola, “The United States Empire,” in Robert Gerwarth and Erez Manela, eds. *Empires at War: 1911-1923*. (New York: Oxford University Press, 2014), 246.

the municipal forces, the Insular Police force was charged with surveilling and reporting on political activities around the island.<sup>496</sup> Police circular letters were issued periodically throughout the island with orders from police higher-ups.<sup>497</sup> These letters chronicle the various interests and policies of leaders throughout the early period. One such circular letter issued in 1904, contained orders to the district heads to ensure police surveillance and reporting on all political meetings and gatherings in the districts.<sup>498</sup> Such surveillance practices would only increase and expand over the course of the first several decades of U.S. rule over the island.

With the onslaught of World War I, US colonial officials again expanded the Insular Police and took steps to connect its officers with the US Army's Military Intelligence Division.<sup>499</sup> This marriage would prove extremely important during the 1930's with the rise of social and political unrest on the island. The U.S. Army's Military Intelligence Division (MID) began more heavily surveilling political and labor activities on the island beginning in 1930 and continuing into the 1940's, with the most heavy surveillance activity taking place between 1935 and 1941.<sup>500</sup> The letters, memos, and reports by the MID total over 2,000 single-spaced, typed pages.<sup>501</sup> These reports were issued initially on a monthly basis but were later increased to a weekly basis once the

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<sup>496</sup> Martínez Valentín, 30.

<sup>497</sup> Ibid, 29.

<sup>498</sup> Ibid, 30.

<sup>499</sup> Capozzola, 248.

<sup>500</sup> Maria E. Estades-Font, "The Critical Year of 1936 through the Reports of the Military Intelligence Division," in *Puerto Rico Under Colonial Rule*, *supra* note 13, 55.

<sup>501</sup> Ibid.

political and social tensions on the island began to boil over mid-decade. Though surveillance of leftist political organizations also took place in the mainland United States during this volatile period, as historian Joan M. Jensen has argued, intelligence activities carried out by the MID in overseas territories were of a different nature from those carried out in the metropolitan country.<sup>502</sup> Jensen claims that in Hawaii, Puerto Rico, the Philippines and the Panama Canal Zone the focus of the MID's activities was not only on alien enemies but also on political dissenters.<sup>503</sup> In describing the evolution of the work of the MID in the territories from World War I to the 1940's Jensen wrote,

Surveillance had originated in the overseas colonies and remained more pervasive there than in the United States. While these overseas outposts guarded non-citizen civilians as part of their regular activities, surveillance in these areas shows more clearly what the MID could do when unhampered by citizen control and with its focus moved from alien enemy to dissenter... In Puerto Rico, the intelligence officer for the district simply took over the Insular Police Force of eight hundred men."<sup>504</sup>

During the 1930's the Insular Police, the MID and the nascent Federal Bureau of Investigation (F.B.I.) all had a hand in implementing a widespread surveillance program that monitored so-called subversive activities on the island.<sup>505</sup> However, the term

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<sup>502</sup> Joan M. Jensen, *Army Surveillance in America, 1775-1980*. (New Haven: Yale University Press, 1991), 74.

<sup>503</sup> Ibid.

<sup>504</sup> Ibid, 172-173.

<sup>505</sup> Ramón Bosque Pérez, "Carpetas y persecución política en Puerto Rico: la dimension federal," in Ramón Bosque Pérez and José Javier Colón Morera, eds. *Las Carpetas: Persecución política y derechos civiles en Puerto Rico*. (Rio Piedras: CIPDC, 1997), 46-62.

“subversive” came to have a very broad definition for U.S. officials on the island, making anyone participating actively in social and political life a potential target for surveillance and scrutiny.<sup>506</sup> These subversive activities ranged from organized political events of the left leaning and pro-independence parties, to student protests to labor stoppages and strikes. So wide was the surveillance net that the island’s first democratically elected governor, Luis Muñoz Marín, was himself surveilled and placed on the list of subversives during the 1930’s before eventually becoming the island’s most celebrated political leader and the architect of the Commonwealth of Puerto Rico. This surveillance and reporting mission of the Insular Police, MID and FBI helped to breed mistrust and tension between island residents and the police. Such tensions grew over the course of the first several decades of the 20<sup>th</sup> century and came to a head during the volatile 1930’s.

From the early days of the Insular Police there was a deep mistrust between island residents and police – a problem that only grew as the early 20<sup>th</sup> century progressed and which continues into the contemporary period. Corruption and police excess were problems that were first born with the creation of the island police and have only deepened over time. Fed by instances of surveillance and unlawful killings and unjustifiable force, island residents have often had a difficult relationship with the island’s police force. In 2012, the United States Department of Justice brought suit against the Puerto Rico police department, the second largest police force in the United States (second only to the New York City Police Department), for corruption and police

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<sup>506</sup> Estades-Font, 51.

brutality.<sup>507</sup> A report published by the American Civil Liberties Union, also in 2012, cited citizen mistrust of island police, corruption and police brutality as severe problems curtailing the efficacy of the island's police department.<sup>508</sup> These are long standing problems and ones that can be traced back to the early decades of United States rule over the island.

Throughout the historical record we see instances of the island's police exceeding their power in order to harass island residents or get away with illegal activities. Of course, it could be argued, as it was at the time, that this police force made up of island residents was not acting as an oppressive force on behalf of the U.S. but were instead abusing their power for personal gain and amusement.<sup>509</sup> While this may be true, it is undeniable that these men were also U.S. agents, trained by the U.S. military to protect U.S. interests on the island and to quell dissent. The fact that they too were island residents and Puerto Ricans only goes to the insidious nature and psychology of colonialism described by Franz Fanon in his famous treatise on colonialism, *The Wretched of the Earth*.<sup>510</sup>

Fanon argued that the colonized mindset created a group of natives who did not see themselves as part of the oppressed masses, but instead as part of the colonizing force. For Fanon “the agents of government speak the language of pure force. The

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<sup>507</sup> Charlie Savage and Lizette Alvarez, “Justice Dept. and Puerto Rico Agree to Overhaul the Island’s Troubled Police Force,” *The New York Times*, December 21, 2012.

<sup>508</sup> American Civil Liberties Union, “Island of Impunity: Puerto Rico’s Outlaw Police Force,” (New York: June 2012) available at [https://www.aclu.org/files/assets/islandofimpunity\\_20120619.pdf](https://www.aclu.org/files/assets/islandofimpunity_20120619.pdf).

<sup>509</sup> “Tobacco Outlook Still Bleak,” *Porto Rico Progress*, October 22, 1931.

<sup>510</sup> Franz Fanon, *The Wretched of the Earth*. (New York: Grove Press, 1963), 38.

intermediary does not lighten the oppression, nor seek to hide the domination; he shows them up and puts them into practice with the clear conscience of an upholder of the peace; yet he is the bringer of violence into the home and into the mind of the native.”<sup>511</sup> We need only look to Governor Regis Post’s quote discussed above where he explicitly exalts the police’s training because it was semi-military in nature and created a force that was similar in nature to the U.S. Army. Training and instruction served to create Puerto Rican police officers who served the U.S.’ interests on the island, who protected U.S. economic, agricultural and property interests from the threat of protesting and striking laborers and who were ready to suppress insurrection.<sup>512</sup> As discussed in the previous chapter, this logic was particularly heightened during World War I, when so-called social hygiene policies demanded the rounding up and incarceration of countless Puerto Rican women whose bodies were seen as potential threats to U.S. soldiers on the island.

That the Insular Police Force became an instrument of force and violence on the island is highlighted by several incidents from the years leading into the 1930’s. In a letter dated October 2, 1926, the acting prohibition administrator in San Juan, Frank Buckley, preemptively wrote to the Secretary of War, whose department oversaw the administration of the island at the time, and to Assistant Attorney General Mabel Walker Willebrandt in Washington D.C.<sup>513</sup> Buckley’s letter relates an incident in which he and

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<sup>511</sup> Ibid.

<sup>512</sup> Cabán, 152.

<sup>513</sup> National Archives and Record Administration (NARA), Record Group (RG) 350, Records of Bureau of Insular Affairs, General Records Relating to More than One Island Possession, General Classified Files,

two other prohibition inspectors were attacked during a festival in the city of Mayagüez in July 1926. According to Buckley, a group of seven drunken Puerto Rican men set upon the agents. The two agents accompanying Buckley brandished their weapons, but since they were in a public place with “hundreds of children and women present, I [Buckley] commanded them immediately to keep their guns and fight it out with their fists.”<sup>514</sup> Buckley’s letter explained that one of the agents, Pesquera, was the target of the attack. Pesquera had at one time been a bootlegger who had reformed his ways and joined the prohibition initiative. Pesquera’s former associates orchestrated the attack in retaliation for Pesquera joining with the prohibition agency. Buckley continues to describe the incident:

During the fight, I told Pesquera to run to the Police station, which was five or six feet beyond the street... He was pursued by three of the drunks, one of whom had a knife. When he came to a corner about a block distant, he met Corporal of the Insular Police, José López Velez. This corporal had a bad record. He has been before the Police Commission on at least two occasions for assaulting citizens. Pesquera, noting that he was pursued, went to this officer, showed him his customs badge and requested assistance. The officer’s reply was a curse, which I cannot mention here, and a crack over the head with his club for Pesquera.<sup>515</sup>

Buckley describes the tumultuous episode in which Pesquera, in an attempt to ward off the knife wielding, drunken man was also slashed across the hand. After the tumult several other customs inspectors arrived and the entire group proceeded to the police station to sort out the events. When Buckley asked Corporal López Velez why he

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1898-1945; 1914-1945. Box 930, 19889-768-829 to 19921-17, Folder 19906: “Insular Police in Puerto Rico.” Document No. 19906-51A.

<sup>514</sup> Ibid, Letter of Frank Buckley, October 5, 1926.

<sup>515</sup> Ibid.

had struck one of his men, the corporal's response was that he had not know that Pesquera was a customs inspector. Buckley's letter relates that after the incident, Buckley submitted affidavits from six of the customs officials present at the scene who heard López Velez admit to striking Pesquera. Furthermore, Buckley also obtained an affidavit from Luis Soler, one of the men who attempted to assault Pesquera, who testified to having heard López Velez admit to slugging Pesquera.

Buckley's stated purpose in writing directly to the Secretary of War and the Assistant Attorney General was to document the events because he feared that the corrupt Insular Police would try to cover up the incident.

Before the police investigation took place, I was tipped off that Corporal José López Velez had plenty of drag. I was advised that the officer appointed to investigate the situation, one Miguel Berreteaga, a General Inspector of the Insular Police force, had been instructed to apply the white-wash brush. In order to stop the whitewashing, I made a personal investigation, and before he got to Mayagüez, procured the affidavits in question. The attached letter will give both the Secretary of War and yourself an indication of how the police organization functions here. They take some poor policeman without influence and kick him out on the street for some minor violation of the regulations. Some other ombre [sic] with more influence than ability, deliberately assaults United States Officers and gets away with it. It is high-time for a new deal on the police force in Puerto Rico. I would recommend the cleaning out of the higher up from top to bottom.<sup>516</sup>

It seems that Agent Buckley's concerns were not unfounded. In the report of the incident submitted to the Chief of the Insular Police, Inspector Berreteaga wrote that the chief promoter of the incident was Luis Soler and that Pesquera and another unidentified man took part. Furthermore, Berreteaga reported that Soler and Pesquera resisted arrest and did not obey Officer López Velez' orders promptly. As a result, Officer López Velez

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<sup>516</sup> Ibid.

was “compelled to strike a blow with his club on Soler, to reduce him to obedience, managing to arrest him and take him to the police station.”<sup>517</sup> Berreteaga further reported,

in accordance with statements of witnesses... there is not clear and conclusive evidence that Corporal López struck Sr. Pesquera, Prohibition Agent, on the head, as has been categorically affirmed by some papers of San Juan. Sr. Domingo Pesquera told me personally that he was struck from his back and therefore cannot assure whether it was Corporal López who assaulted him.<sup>518</sup>

Berreteaga’s report concludes by noting that he has no doubts that Corporal López was instrumental in restoring order upon arriving at the scene. He wrote, “perhaps [López Velez] used his club to disperse the throng gathered there, and he might have reached for Sr. Pesquera with his club... but this is not enough to hold him responsible in this connection...”<sup>519</sup>

Just as Agent Buckley feared, López Velez was found not at fault for the assault upon Agent Pesquera and was allowed to continue to work in his capacity of Corporal in the Insular Police. Of course, we cannot know what really occurred during the tumult in Mayagüez during that fateful street festival. Though it is clear that Buckley was concerned enough about corruption and obfuscation within the force to address his fears directly to the Secretary of War. This speaks to a grave mistrust of the island’s police that affected not only island inhabitants, but U.S. agents as well.

These few documents provide us only with a he said he said view of the incident. However, they also point to problems endemic to the Insular Police, problems that were

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<sup>517</sup> Ibid, Report of Miguel Berreteaga, August 6, 1926.

<sup>518</sup> Ibid.

<sup>519</sup> Ibid.

well known to the public. Buckley's letter highlights some of the persistent problems with the Insular Police force: corruption and abuse of power. These serious problems reached across the island. Officers acting with impunity and without fear of consequences created an atmosphere of distrust on the island. This is borne out in repeated incidents of police abuse of power and assaults against ordinary islanders.

A little over a year after Agent Buckley wrote to the Secretary of War, a private citizen, Jesus María Gonzalez Torres of Guayama, also wrote directly to the Secretary of War with concerns about the Insular Police.<sup>520</sup> Gonzalez Torres' letter and the accompanying documents present a particularly fascinating incident from October 1927 that further illustrates the myriad problems raised by the police system. Echoing Buckley's letter, Gonzalez Torres stated that he was writing directly to the Secretary because he had no faith in the Insular Police. Gonzalez Torres, like Buckley, did not believe the Insular Police was capable of investigating or regulating itself.

The letter was forwarded from the Department of War to the Governor of Puerto Rico who forwarded it to the Chief of Insular Police and assigned Irving MacManus, Inspector of Insular Police, to investigate the events. Gonzalez Torres' complaint was two-fold. Firstly, he claimed that one Corporal José A. Burgos had threatened and abused a young woman named Ursula Garcia. Garcia, a nineteen year old, lived in the home of Maria Mendoza, who Garcia claimed had adopted her. Garcia swore via affidavit that she had engaged in a brief sexual liaison with Burgos and that when she chose to end the

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<sup>520</sup> NARA, Record Group 350, Records of Bureau of Insular Affairs, Document No. 19906-58.

affair Burgos threatened to cut her or kill her. Maria Mendoza and her biological daughter, Ines Mendoza, also submitted affidavits testifying to these facts.

The second part of Gonzalez Torres' complaint against Burgos stems from incidents that transpired on the night of October 27, 1927. The record contains various witness statements that often present contradictory information, nonetheless a general narrative of the events of that evening can be gathered. On the night of October 27, 1927, Gonzalez Torres, along with a group of friends, was at the home of Chucho Garcia in the Barrio Africa sector of the city of Guayama. The group was singing and celebrating late into the night. At some point Gonzalez Torres sent his employee, José A. Garcia, known as Tito, to the restaurant below the residence to procure food for the revelers.<sup>521</sup> Tito was in the restaurant, belonging to Juan Santiago, picking up food for his employer, when Corporal Burgos entered the place with Officer Miguel Blas Sanchez. Corporal Burgos spoke to Tito and he was arrested and taken to jail.

These are the clearly established facts that occurred that night, however many of the details are not well established. Specifically, there is some disagreement as to the time of the events in dispute. Furthermore, Gonzalez Torres claimed that once in custody Corporal Burgos beat Tito. This alleged assault is the basis for the complaint against Burgos. Gonzalez Torres points to this incident, along with the complaint put forth by Ursula Garcia, to argue that there existed a pattern of police abuse of power that was prevalent in Guayama at the time. Because he did not have faith in the force to

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<sup>521</sup> The record does not indicate whether José A. Garcia and Ursula Garcia were related to one another.

investigate and police itself, Gonzalez Torres hired a local attorney and notary to take the sworn statements of all witnesses involved in both the Ursula Garcia incident and the events of October 27<sup>th</sup>. In total Gonzalez Torres submitted seven affidavits to the Secretary of War.

Along with those documents submitted to the Secretary by Gonzalez Torres, the historical record also contains the many sworn statements procured by Irving MacManus, Inspector of Insular Police, during his investigation into the complaints against Corporal Burgos. In each of these statements MacManus intimates to the witnesses that Jesus María Gonzalez Torres himself created the sworn affidavits. He questions each as to their ability to read and write and as to who created the affidavits. All of the witnesses testified that they were called to Gonzalez Torres' home to give their statements. They were then asked to return several days later where they were presented with a written statement that was read aloud to them and which they each then signed or marked accordingly. MacManus' main concern with these interviews seems less in getting at the facts of the two incidents and more in discrediting the witnesses and Gonzalez Torres.

The two statements MacManus took from Corporal Burgos and Officer Blas Sanchez were particularly interesting. Burgos swore to the fact that on the night in question he was in charge of the night shift that oversaw patrols of Barrio Africa, which was predominantly inhabited by afro-descended individuals.<sup>522</sup> While walking on Fernando Street, Burgos and another officer, Sepulveda, heard singing and upon

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<sup>522</sup> NARA, RG 350, Records of Bureau of Insular Affairs, Document No. 19906-58, Report of Inspector MacManus, December 20, 1927.

inspection discovered a group singing and playing musical instruments. Among the group was José A. Garcia, also known as Tito. Burgos inquired whether the group had a permit from the mayor of the city, which was required in order to sing and play music after midnight. Burgos testified that the group had no such permit and additionally that many individuals were under the influence of alcohol and that he found a small bottle of rum on the individuals present.

According to Burgos, while the two officers searched the group, José Garcia ran away. Sepulveda assured Burgos that he knew Garcia and would catch up with him later. Burgos ordered Sepulveda to take the remainder of the group to the jail, while he went in search of Garcia. While searching for Garcia, Burgos came across Blas Sanchez on patrol and enlisted his help in locating Garcia. The two then saw Garcia walking down the street in the direction of Juan Santiago's restaurant. Burgos claimed that as Garcia "passed an automobile that was standing in the street, one of the occupants called to Garcia, saying 'Bring that ass here, I am going to break it!' Garcia responded 'prick, cunt, this ass is mine and I give it to whom I please.'"<sup>523</sup> Burgos then related that he and Blas Sanchez walked after Garcia as he entered the restaurant. Burgos stated that he asked Garcia why he had run away from him earlier in the night and that Garcia "responded in a foul manner because he was under the influence of liquor."<sup>524</sup> Burgos finished by stating that he ordered Blas Sanchez to take Garcia to the jail while he remained in the restaurant.

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<sup>523</sup> Ibid, Statement of José Burgos, December 13, 1927.

<sup>524</sup> Ibid.

Officer Blas Sanchez gave a similar account about the events in question. He stated that he was on duty in Barrio Africa when

José A. Garcia came up the street. Some fellows were in a car standing on the street and when he [Garcia] passed by, one of them called to him, 'Give me your ass!' and Garcia responded 'Prick, cunt, this ass is mine and I give it to whom I please, and no fool has a right to intrude upon my way of living.' He then entered the café and Corporal Burgos brought his [Garcia's] attention to the words he had used, and Garcia who was apparently intoxicated replied, 'Don't try to fuck me.' Whereupon the Corporal ordered me to take him to the jail... for disturbing the peace. I left with Garcia for the jail and the Corporal remained in the restaurant.<sup>525</sup>

Blas Sanchez' statement raises the issue of translation that all of these government produced documents suffer from. There is no doubt that the original statements were given in Spanish and later translated to English. It also extremely likely that Inspector MacManus' reports were also produced first in Spanish and then translated, but unfortunately only the English documentation remain for our inspection. In the case of Blas Sanchez' testimony, I believe that if Garcia said anything to Burgos in response to his supposed comments about his language, he likely said something like, "Don't try and fuck with me," or "Don't try and mess with me," which of course has an entirely different meaning to "Don't try to fuck me." The latter meaning, in combination with the story of the comments yelled from the parked car, imply that Garcia was not only a homosexual, but also available for purchase. Given both Blas Sanchez and Burgos' descriptions of the rest of the encounter between the men in the parked car and Garcia, the point was driven home that Garcia was a known "sexual deviant," and as such his testimony is not to be

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<sup>525</sup> Ibid, Statement of Miguel Blas Sanchez, December 13, 1927

trusted. The fact that this allusion to Garcia's sexual deviance is first introduced into the record by the two police officers is significant. With their statements Burgos and Blas Sanchez discredit Garcia as a possible victim because of his known or assumed sexual proclivities.

Furthermore, the fact that both Burgos and Blas Sanchez claimed that Burgos remained in the restaurant and that Blas Sanchez took Garcia to the jail is an important one. Two other witnesses provided testimony to both Gonzalez Torres and MacManus that they saw Corporal Burgos beat Garcia on the street on the way to the police station. These statements directly contradict Burgos' statement as to the order of events and his role in them. However, those testimonies do not receive the weight that the statements of the two officers do. Ultimately, Garcia's bad reputation and low station bar his position as a possible victim. A similar tactic was taken in the Ursula Garcia incident.

MacManus' filed two reports at the conclusion of his investigation: one on the Ursula Garcia matter and one in the José Garcia incident. Ultimately he dismissed Gonzalez Torres' complaints in both the Ursula Garcia and José Garcia incidents. In the former MacManus describes María Mendoza as having been the proprietress of a small restaurant that prepared and sold food to the poorer classes and where it was suspected, though never proved, that she sold illegal rum.<sup>526</sup> MacManus concludes that Mendoza had a grievance against the police because due to their vigilance and the investigation of her restaurant, her establishment did not prosper and she was forced to close it. As a result,

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<sup>526</sup> Ibid, Report of Inspector MacManus, December 21, 1927.

she was an easy victim for Gonzalez Torres. As for Ursula Garcia, Corporal Burgos' alleged victim, MacManus describes her as not bearing "a good reputation. In fact, [she] is said to sell her favors very cheaply and to anyone, she is rather good looking and in color is what is called Indian (India)."<sup>527</sup> He concludes that Corporal Burgos may have "joked with Ursula... but that a Copl. of the Ins. Police would threaten to beat or kill a girl of her condition is ridiculous, when she could be had for a few dollars."<sup>528</sup> MacManus ends his report on the Ursula Garcia incident by stating that it was clear from the women's statements that there was nothing serious between Ursula Garcia and Burgos and that they made their statements at the behest of Jesus Gonzalez Torres.

Here again, both Mendoza and Ursula Garcia's reputations discredit them from potential victimhood. The fact that Mendoza was suspected of selling illegal rum weighed more heavily than the fact that she was never actually found guilty of doing so. Furthermore, Ursula Garcia's purported bad reputation as a prostitute disqualifies her testimony as well. Tellingly, MacManus' report does not point to the source of the information as to Garcia's bad reputation. It's entirely likely that the information came from Burgos himself or other police officers that had an interest in portraying Garcia as a woman of ill repute. Of course, we will likely never know the answers to these questions. However, it is significant that the police rely entirely on the poor reputations and low class status of these individuals to discredit their statements. While it is entirely possible that other documentation has been lost to us, what is present in the record points to

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<sup>527</sup> Ibid.

<sup>528</sup> Ibid.

MacManus' findings as a foregone conclusion. The investigation itself comes off as a showpiece meant to appease higher ups. It doesn't seem as though the allegations in the complaint were ever given any real weight. It was always assumed that Corporal Burgos was innocent and it was only a matter of painting the alleged victims in the worst light possible. From the outset, their statements and claims were never given any weight.

In the matter of José Garcia, MacManus concluded that Gonzalez Torres falsified all the witness statements and that his complaint had no foundation.<sup>529</sup> MacManus pointed to the fact that many of the witnesses were illiterate as evidence that the statements were falsified. He concluded that if José Garcia has been beaten then there would have been a medical certificate created after his arrest. Of course, the absence of a medical certificate is not proof that Garcia was not beaten. Obtaining a medical certificate for injuries caused by the police officers would have implicated the officers in malfeasance, which obviously the officers would not have wanted to do.

George Lewis, Chief of the Insular Police, reviewed MacManus' reports and all documentation and reported back to the Governor. Lewis' report characterizes Gonzalez Torres as "a well-known political and social agitator among the colored population of Guayama," and as "exhorting ignorant persons to protests against and resist orderly and established things, such as the law and its enforcers."<sup>530</sup> In the final official government word on Gonzalez Torres' complaints Governor Towner wrote to the Chief of the Bureau

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<sup>529</sup> Ibid, Report of Inspector MacManus, December 20, 1927.

<sup>530</sup> Ibid, Report of George Lewis, January 6, 1928.

of Insular Affairs explaining that Gonzalez Torres' claims had been investigated and had been found to be without merit. Of Gonzalez Torres, Towner wrote:

*This man is a colored man who is a troublemaker in Guayama, who has an ambition to be taken notice of. The report of Colonel Lewis [Chief of the Insular Police] is fully justified by the facts in the case as evidenced by the general opinion of this ridiculous but troublesome man. He is the self-appointed leader of the little groups of troublesome negroes who are in continual war with the Police... (emphasis added)*<sup>531</sup>

It is, of course, impossible to know what really happened on the night of October 27, 1927 in Barrio Africa. However, what is most striking about the reports is how clearly at odds the citizens of Barrio Africa were with the police who were designated to keep the peace there. The clearly raced and classed descriptions of the Barrio's inhabitants are particularly striking. Burgos and Blas Sanchez' statements and MacManus reports all rely on the logic that the lower class and colored inhabitants of Barrio Africa, who were also criminals and sexual deviants, did not merit a closer look. Their statements were automatically suspect because of their lack of respectability. The police officers' statements were automatically given greater weight than those of the low status inhabitants of Barrio Africa. This lack of belief and doubt, while perhaps well founded, speaks to a larger dynamic of colonialism at play. This same logic applied to the larger colonial dynamic between the island and the United States government. It is the same disparaging attitude that many U.S. appointed officials took towards the islands' inhabitants.

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<sup>531</sup> Ibid, Letter of Governor Towner, March 9, 1928.

Furthermore, while, it is possible that MacManus' description of Gonzalez Torres as a rabble-rouser who sought attention and infamy by any means necessary could be correct. Nevertheless, the descriptions of Gonzalez Torres as a black agitator are suspicious given the time period and the island's colonial condition. Was Gonzalez Torres really a rabble-rouser or simply a man mistrustful of the U.S.' colonial project and of U.S. agents? The descriptions of Gonzalez Torres' seek to portray him as an uppity negro who didn't know his place. However, the reports also indicate that Gonzalez Torres was well known and respected among those in his community. Furthermore, he was literate and eloquent in his letters to the Secretary of War and later to President Coolidge himself. He expresses a sincere distrust of the police and their ability to investigate themselves. Ultimately, Gonzalez Torres may have simply been a citizen concerned with the treatment of the most downtrodden of his community.

Again, we will likely never know the true motivations of the parties involved in the incidents in Guayama. However, those incidents and Gonzalez Torres' letters coupled with Prohibition Officer Buckley's letters indicate that mistrust of the Insular Police was widespread. Both of the letters, from individuals in very different classes and stations of life, express the same lack of trust and apprehensions about the daily workings of the police as well as the larger institution in general. It is within this atmosphere of mistrust for the police that the island found itself as the decade of the 1930's was ushered in.

## **LABOR, PROTEST, AND THE INSULAR POLICE**

Police intimidation was rampant on the island and was often used to curtail worker strikes and political protests since the establishment of the Insular Force. As early as 1905, the Insular Police were dispatched to handle a strike in the sugar districts of the island.<sup>532</sup> Seventy-five officers were sent to handle the situation which according to the police chief would have resulted in “the sacrifice of the sugar crop of the island” had police not intervened.<sup>533</sup> The police force, often with the political and financial support of landowners, engaged in suppressing a number of major strikes throughout the early decades of United States rule.<sup>534</sup>

In one of the most important strike actions of the early period, 18,000 sugar workers brought twenty-four of the thirty-nine plantations to a halt for three months in 1915-1916.<sup>535</sup> This strike was one of the most violent of the early period. Plantation owners, with the knowledge of the island government, hired armed men to break the strikes. The police, too, were ruthless in breaking up the strikes with workers and police clashes in the districts of Vieques and Ponce resulting in the deaths of several workers and the injuring of dozens of others and the arrest of over 300 workers.<sup>536</sup> The American Federation of Labor condemned the government’s actions in failing to negotiate or arbitrate with workers and instead resorting to violence and police intimidation to deal

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<sup>532</sup> Cabán, 157.

<sup>533</sup> Ibid.

<sup>534</sup> Ibid.

<sup>535</sup> Ibid.

<sup>536</sup> Ibid.

with worker demands.<sup>537</sup> Labor organizer and Puerto Rican politician, Santiago Iglesias Pantín stated that workers' legal right to strike was effectively denied the moment the armed services were placed in the service of the sugar corporations.<sup>538</sup>

This practice and police clashes with workers continued throughout the early decades of the 20<sup>th</sup> century and finally came to a head during the 1930's as frustration over poor labor practices and unemployment boiled over. As unrest grew in nearly every employment sector of the island, the U.S. government cracked down on dissent and protest and the insular police was its chief instrument in these crackdowns. During the 1930's strike activity in Puerto Rico was at its height with strikes taking place in nearly every economic sector on the island.<sup>539</sup> Strikes broke out in the major commodity industries of sugar, coffee, and tobacco, as well as in public works, baking, needlework, button, hat and shirt manufacturing, highway construction, transportation and printing.<sup>540</sup>

It is noteworthy that the U.S. government files relating to the various strikes of the 1930's were labeled with the words "Puerto Rico Pacification." The term pacification is defined as either "the act or process of pacifying, the state of being pacified" or "the act of forcibly suppressing or eliminating a population considered to be hostile."<sup>541</sup> It is this latter definition that is striking given the nature of strikes as protected speech in the U.S.' democratic tradition. Despite the protected nature of labor strikes as political speech,

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<sup>537</sup> Ibid.

<sup>538</sup> Ibid.

<sup>539</sup> Arleen Hernández-Díaz, *Labor-Management Relations in Puerto Rico during the Twentieth Century*, (Gainesville: University Press of Florida, 2006), 144.

<sup>540</sup> Ibid.

<sup>541</sup> Oxford English Dictionary.

nonetheless the government sought to pacify them – to forcibly suppress or eliminate them. And in seeking to pacify the island, the police were the government’s chief tool.

The general air of discontent on the island at the time touched every party of life in Puerto Rico. During the period between 1930 and 1939, the island’s economy underwent major restructuring.<sup>542</sup> These changes were in response to the Great Depression and shifts in the global economic market and in the United States specifically. The island’s economy had been tightly linked with the U.S. market since 1898 and shifts on the mainland brought dire effects to the island. One of the major shifts that took place during this time was the United States move to decrease its investments in Latin America and the Caribbean as a result of the Great Depression.<sup>543</sup> Further shifts included fluctuations in the world prices of raw materials important to Caribbean economies, such as molasses.<sup>544</sup> As a result of these economic changes, the island’s agricultural sector, its primary economic engine, saw a prolonged decline throughout the decade. Such economic contraction and agricultural decline led to overwhelming unemployment and with it the shrinking of laborers’ buying capacity. The overwhelming result of these

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<sup>542</sup> See generally, Dietz; Hernández-Díaz; Dennis Nodín Valdés, *Organized Agriculture and the Labor Movement before the UFW: Puerto Rico, Hawai’i, California*. (Austin: University of Texas Press, 2011); Thomas Mathews, *Puerto Rican Politics and the New Deal*, (Gainesville: University of Florida Press, 1960); Kelvin A. Santiago-Valles, *“Subject People” and Colonial Discourses: Economic Transformation and Social Disorder in Puerto Rico, 1898-1947* (Albany; SUNY Press, 1994).

<sup>543</sup> Kelvin A. Santiago-Valles, *“Subject People” and Colonial Discourses*, 167.

<sup>544</sup> *Ibid.*

changes was that malnutrition, starvation and deterioration of health conditions became more prevalent during the 1930's.<sup>545</sup>

A study released by the Puerto Rico Reconstruction Administration in 1936 stated that, “in depression or prosperity, unemployment, underemployment and irregular employment prevail ... wages being so low that they hardly suffice to allow the rice and beans and codfish which is common among the workers.”<sup>546</sup> The report describes the large inequalities that persisted which allowed the small land owning class to prosper while the overwhelming majority of the population lived virtually unchanged existences.<sup>547</sup> The report also cited the health obstacles facing the laboring class on the island with “tuberculosis, malaria, intestinal diseases and pneumonia continuing to exact a high toll of human life.”<sup>548</sup> Furthermore, lack of nutrition contributed to the poor health conditions of workers. The report pointed to the limited amounts of milk and meat that workers had access to due to their low wages.

The poor health and limited possibilities of workers were directly linked to their loss of employment in the major sectors of the island such as sugar and tobacco, which were the island's most important export commodities at the time. With tobacco's decline, manufacturers began phasing out factories and limiting growth.<sup>549</sup> Likewise, the sugar industry saw large declines. Despite changes in the U.S. tariff structure that favored sugar

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<sup>545</sup> Ibid, 169.

<sup>546</sup> Cited in *ibid* at 170.

<sup>547</sup> Ibid.

<sup>548</sup> Ibid.

<sup>549</sup> Hernández-Díaz, 175.

and despite the fact that sugar employed close to half of the island's labor force. Between 1930 and 1939 wages in the sugar sector fell to 1900-1914 levels.<sup>550</sup> By 1933, per capita income was nearly 30% less than what it had been in 1930.<sup>551</sup> These decreases in wages coupled with increases in the price of basic foodstuffs and other necessities meant that most laborers were operating at a deficit and could not afford basic goods.<sup>552</sup> As a result, general living standards deteriorated severely during the 1930's. Furthermore, the economic difficulties that workers experienced during the decade were compounded by two destructive hurricanes that hit the island in 1928 and 1932. This situation created the perfect storm for the social and political unrest that erupted during this period.

This tempest of desperation and unrest came to a head in 1933-1934 when workers from several sectors went on strike across the island. In the six months between July and December of 1933 alone there were eighty-five strikes or actions by workers in tobacco, sugar, needlework, baking, transportation, dock works, and by the public car drivers.<sup>553</sup> In August of that year two thousand female needle workers went on strike in the city of Mayagüez.<sup>554</sup> The women demanded a 25 percent pay increase and modifications to a proposed industrial code. Reports of the strike from San Juan's *Porto Rico Progress* described the women stoning the factory of Maria Luisa Arcley. The paper describes a riot that subsequently ensued when sympathizers, rabble-rousers and

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<sup>550</sup> Dietz, 139-142.

<sup>551</sup> Ibid.

<sup>552</sup> Ibid.

<sup>553</sup> Ibid, 163.

<sup>554</sup> *Porto Rico Progress*, San Juan: August 31, 1933, 4.

the unemployed joined the workers and the group swelled to about 6000 people.<sup>555</sup> Police fired on the crowd killing Maria Feliciano, one of the striking workers, injuring a child who was present and wounding another man in the abdomen. The report further detailed the injuries of a man who was clubbed by police, as well as those of a police officer who was seriously hurt.<sup>556</sup> All told more than 30 strikers and 13 police were injured in the tumult. This strike followed others in Yauco and Caguas in the weeks proceeding it.

A MID report chronicling the subversive activities of December 1933 paints a broad picture of the strike events on the island that month. The report began by stating “a serious situation in reference to strikes confronted the Insular Government.”<sup>557</sup> The report then describes the various strikes taking place all over the island including the possibility of a general strike if the individual sectors were not dealt with. A dockworkers strike was initiated on December 18, 1933, which interfered with the loading and unloading of incoming merchant ships in the Port of San Juan. There is nothing in the report that points to any violence on the part of strikers. However, as a result of the strike the Postmaster of San Juan twice requested the intervention of federal troops claiming that strikers were interfering with the delivery of the mail. Both requests were denied as both times military officers found that strikers were not interfering with mail delivery. The MID report stated that it “was apparent that the Postmaster expected that there would be

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<sup>555</sup> Ibid.

<sup>556</sup> Ibid.

<sup>557</sup> National Archives and Record Administration (NARA), Record Group (RG) 165, Records of the War Department General and Specific Staffs, Military Intelligence Division, Correspondence 1917-1941: Box No. 2843, File No. 10110-2662/77, “Estimate of the Subversive Situations as of December 31, 1933,” January 10, 1934.

interference,” despite the fact that none existed.<sup>558</sup> This incident bespeaks the expectations of the Postmaster that striking dockworkers had criminal intentions to interfere with federal operations, rather than that workers went on strike to improve their working conditions and give voice to their complaints. Such incidents point to the larger air of suspicion on the island, where protest was taken not as a legitimate means of expressing frustration with the status quo and demanding change, but as a potential for criminality and lawlessness.

The report then describes the island wide Chauffeurs’ Union strike or protest against high gas prices. Drivers of public cars or *públicos* instituted a work stoppage in protest of the rising cost of gasoline on the island. The drivers called for solidarity boycotts and many private drivers and delivery drivers also joined in the work stoppage. The report details that the protest was able to stop all traffic in San Juan including streetcars.

The method used in bringing this about was to spread nails and tacks on the highways causing punctures in automobile tires. When cars stopped, holes were punched in all tires. In some cases cars were stoned and overturned and several buses suffered considerable damage. Streetcars stopped for fear of being stoned by the protesting elements. Merchants, fearing rioting and having no customers, closed their stores.<sup>559</sup> This was the scene in San Juan as described by the MID, however acting governor Horton attempted to reassure the Secretary of War that the situation was not so dire. In a telegram from the acting governor of the island sent to Secretary Cox of the Department of War on December 28, 1933, Horton reported on the situation of the gasoline strike

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<sup>558</sup> Ibid.

<sup>559</sup> Ibid.

stating, “strike naturally interfering with other activities... No casualties so far. Police force will be increased if necessary... Longshoremen strike was settled two days ago. Only other important strike at present being that of sugar workers of Guanica Central...”<sup>560</sup>

The Chamber of Commerce of Mayagüez provided statements about the condition of the strike that were in stark contrast to Horton’s description of the events. In a telegram sent to Cox the day before Horton’s telegram, the Chamber of Commerce described the situation in that city as a “state of anarchism and disorder.”<sup>561</sup> The telegram describes the strike having “stopped traffic and the handling of merchandise thus paralyzing [sic] business in general.”<sup>562</sup> Furthermore, the telegram states that the movement was island wide and that the strike was becoming an “epidemic” which the insular authorities seemed powerless to control.<sup>563</sup> The telegram ends with a call to the Secretary of War for urgent intervention to end the strike. The following day the Rotary Club of Mayagüez sent a similar telegram to the Secretary of War describing the disturbance caused by the strike and the insular authorities powerlessness to resolve it.<sup>564</sup> That telegram, too, urged the secretary to intervene.

It is important to note that these two telegrams were sent by the business interests of the city of Mayagüez whose profits were affected by the striking drivers. Both the

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<sup>560</sup> NARA, RG 350: General Records Relating to More than One Island Possession General Classified Files, 1898-1945; 1914-1945, 121-14 to 126-105-180, Pt. 2; Box 19, Folder 121-24 (Puerto Rico Public Order/Pacification – Gasoline Strike), “Cable from Governor Gore to Secretary Cox,” December 28, 1933.

<sup>561</sup> Ibid, “Telegram from Mayagüez Chamber of Commerce to Secretary of War,” December 27, 1933.

<sup>562</sup> Ibid.

<sup>563</sup> Ibid.

<sup>564</sup> Ibid, “Cable from Rotary Club of Mayagüez,” December 28, 1933.

Chamber and the Rotary Club's membership would undoubtedly have consisted of the more wealthy and elite class of that city. These men would have wanted a quick resolution to the strike and a quick return to business as usual. As a result, members of both organizations had an interest in exaggerating the dangers posed by the strike and its effects on the city in order to push the authorities to force an end to a legitimate protest.

After receiving several more such dire sounding telegrams about the anarchic state of the island, Cox once again reached out to Acting Governor Horton in a bid to assess the true nature of the protests. Horton's response describes negotiations between chauffeurs and the gasoline representatives as progressing, though he acknowledges that consumers had called for a boycott of gasoline in solidarity with striking drivers. Furthermore, despite the progress of negotiations, Horton authorized the deployment of two hundred fifty additional reserve policemen. Horton's telegram states, "police force increased. Some people slightly injured...I notified National Guard to be in readiness... Would like to have authority to use United States Army Regiment here so that it can be called out without delay if needed..."<sup>565</sup> Thus, despite Horton's assurances that things had been quiet on the island and that negotiations among the involved parties were progressing and an understanding was close, he nevertheless authorized greater police presence and desired greater military presence. His statement that some people were slightly injured is also intriguing. He gives no explanation beyond those few words as to the potentially violent turn of the strike and protest. We are left wondering who was

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<sup>565</sup> Ibid, "Telegram of Acting Governor Horton to Secretary of War Cox," December 30, 1933.

injured. Police? Workers? Other Protestors? We are also left wondering as to the extent of the injuries.

By January 5, 1934, a few days after the initial slew of anxious messages were sent to the War Department, Horton was reporting that all was quiet on the island and that negotiations with the various groups of strikers progressed positively. The MID report for January 1934 confirms the fact that once the strikers and gas companies reached a temporary agreement for the reduction of gasoline prices the gasoline strikes virtually disappeared.<sup>566</sup> However, the same MID report described another strike brewing in the sugar sector.

A few months before the January MID report, in September of 1933, sugar workers on the Eastern coast of the island attempted to bring production to a halt in protest of low wages and corporate policies that paid workers in vouchers to company stores rather than cash.<sup>567</sup> These initial attempts at protest led to fierce confrontations with island police and at least one riot, with one death and three wounded.<sup>568</sup> Another attempt at an island-wide strike took place in December of 1933, with the strike moving to several large sugar plantations. This attempt at a general strike among sugar workers slowly spread throughout the island's plantations.

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<sup>566</sup> NARA, RG 165, Records of the War Department General and Specific Staffs, Military Intelligence Division, Correspondence 1917-1941, File No. 10110-2662/80, "Estimate of the Subversive Situations as of January 31, 1934," February 10, 1934.

<sup>567</sup> Santiago-Valles, 189.

<sup>568</sup> Ibid.

On January 5, 1934, the *Federación Libre de Trabajadores* (Free Federation of Labor or FLT), a workers union that had existed since 1899 whose principles were similar to the American Federation of Labor (AFL) and whose political arm was the *Partido Socialista* (Socialist Party), entered into a collective bargaining agreement with sugar employers.<sup>569</sup> This marked the first time that the FLT signed a contract for all sugar workers on the island with the Sugar Producers' Association.<sup>570</sup> This agreement was most beneficial to employers because of the low wage scale that the agreement established; as a result, most sugar workers throughout the island rejected it and went on strike.<sup>571</sup> By January 10<sup>th</sup>, 14, 267 sugar workers were on strike. As labor historian Arleen Hernández-Díaz has explained, sugar workers protested not only against employer practices and low wages, but also against the FLT leaders and government policies.<sup>572</sup> Workers rejected the agreement for several reasons, including the fact that the minimum wages established were lower than the ones they already earned, the workday continued to be twelve hours, workers did not share in the industry's vast profits, employers continued to enjoy large tax exemptions, employers made a practice of paying workers with vouchers instead of cash, all while sugar prices continued to rise.<sup>573</sup>

Shortly after the start of the island-wide strike, on January 11<sup>th</sup>, striking sugar workers from the city of Guayama in the south-central part of the island, called upon

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<sup>569</sup> Hernández-Díaz, 144.

<sup>570</sup> *Ibid.*

<sup>571</sup> *Ibid.*

<sup>572</sup> *Ibid.*, 145.

<sup>573</sup> *Ibid.*

nationalist leader Albizu Campos to head up the strike.<sup>574</sup> Workers sought Albizu Campos' support in the strike because workers believed Socialist leaders to be allied with the FLT in support of the agreement.<sup>575</sup> This was an unprecedented move in Puerto Rican labor history, as previous strikes had relied on the political support of the Socialist and Communist parties who were allied with the AFL.<sup>576</sup> Previous strikes had focused on wages and labor policies, but had not taken on an anti-imperial tone. The introduction of Albizu Campos to the 1934 dispute meant that workers were ready to publically and politically relate their labor disputes with U.S. imperialism and oppression. Furthermore, it meant that the previously established rules of strike and protest no longer applied. Workers were now looking outside of the FLT and the Socialist Party for allies in their struggles.

The January 1934 MID report expresses concern for the political dimensions of the strike and the anti-U.S. turn that it quickly took. The report claimed that Albizu Campos, recognizing the strike's political possibilities, headed to Guayama where 1500 workers were on strike, and "attempted to take over the leadership of the strike. Since that date he has visited a number of Centrals making highly inflammatory speeches of an independence nature. Finally, Socialist leaders seeing the progress made by Campos

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<sup>574</sup> Taller de Formación Política, *¡Huelga en la caña!: 1933-1934*, (Rio Piedras: Ediciones Huracán, 1982), 119.

<sup>575</sup> Ibid.

<sup>576</sup> Ibid, 123.

made strenuous efforts to retain their hold on the labor groups.”<sup>577</sup> The MID report also dismisses the inconsequential role of the Communist party in the strike, but expresses deep concern of the potential for violence as a result of Albizu Campos’ involvement in the strike.

Upon receiving the invitation to lend his support to the strike Albizu Campos travelled from Ponce to Guayama and held a rally on January 12<sup>th</sup> in which 6000 striking workers were present.<sup>578</sup> This was in stark contrast to the 500 workers who had arrived for a rally held by labor organizer Colón Gordiany a few days before. Once workers understood that Colón Gordiany was interested not in listening to their demands, but in urging them to accept the agreement and return to work, the majority began to protest loudly and criticize the labor organizer and the agreement. Police arrived at the scene of the protest and removed 400 laborers from the assembly hall preventing them from voicing their demands or concerns to Colón Gordiany and other labor representatives.<sup>579</sup>

Despite the fact that Albizu Campos became involved in the strike at the request of sugar workers themselves, the FLT, the Socialist Party, plantation owners and U.S. agents on the island pointed to his role as a politician and not a labor organizer as a way to delegitimize his involvement with the strike.<sup>580</sup> Since the island’s first strikes in the 20<sup>th</sup> century, government and labor organizers had oft blamed “outside agitators” for inciting

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<sup>577</sup> NARA, RG 165, Records of the War Department General and Specific Staffs, Military Intelligence Division, Correspondence 1917-1941, File No. 10110-2662/80, “Estimate of the Subversive Situations as of January 31, 1934,” February 10, 1934

<sup>578</sup> *¡Huelga en la caña!: 1933-1934*, 123.

<sup>579</sup> *La Correspondencia*, (San Juan: January 15, 1934), 1 and 6.

<sup>580</sup> *¡Huelga en la caña!: 1933-1934*, 125.

strikes as a way of delegitimizing worker demands.<sup>581</sup> Workers were simply pawns of outside agitators who had their own interests in mind, rather than capable individuals with legitimate and real demands and concerns over their labor and bodies. This was a well-worn practice that had been used since the early years of U.S. rule.<sup>582</sup>

In response to Albizu Campos' involvement in the strike, the FLT held meetings at the various striking plantations throughout the island. In meetings held on the northern side of the island, the FLT was able to persuade some of the striking workers to accept the agreement and return to work. However, these meetings were often marked by heavy police presence meant to intimidate workers into returning to work and to prohibit any "outside agitators" from speaking to workers. In one such meeting held on January 15<sup>th</sup> in Fajardo, FLT organizers explained the agreement to striking workers after which workers agreed to return to work. However, also present at that meeting were 45 police officers from a special force trained in the maintenance of public order during protests and strikes.<sup>583</sup> During the meeting organizer José Salvá informed the workers that police were there to maintain public order.<sup>584</sup> However, all understood that police were really there to ensure that members of the nationalist party or other activists did not try to "manipulate" workers.<sup>585</sup> Of course, the irony of this situation is that Salvá himself was a representative of the Socialist Party and most of the other labor organizers were as well. So

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<sup>581</sup> *Huelga en la caña!: 1933-1934*, 132.

<sup>582</sup> *Ibid.*

<sup>583</sup> *El Mundo*, (San Juan: January 17, 1934), 1 and 5.

<sup>584</sup> *Ibid.*

<sup>585</sup> *Ibid.*, *supra* note 100.

“manipulation” by the Socialist Party was allowed, but not by other politicians or political groups.

To highlight the topsy-turvy nature of this strike and its uniqueness in the history of labor on the island, one particular incident is important to relate. Amidst growing strike activities across the island and workers’ growing support for the leadership of Albizu Campos, the FLT held a meeting in Yabucoa. On January 19, the newspaper, *El Día*, published a report written by politician Cayetano Coll y Cuchí, “the agitation in that town is tremendous [and] is headed by Sr. Pedro Albizu Campos who the police are afraid to arrest, despite the many entreaties to the police chief and Governor Horton to do so.”<sup>586</sup> In response to Albizu Campos’ presence and worker enthusiasm for his rhetoric and leadership, the FLT warned workers that if they did not sign onto the labor agreement and return to work, they were prepared to hire others to replace striking workers.<sup>587</sup> This was an unprecedented threat given that the FLT was the representative body of the workers! Never before had the workers own union threatened to hire scabs if workers did not return to work. The FLT had traditionally lobbied on behalf of workers and worked in their interests. These threats on the part of the FLT only further angered workers.

This situation was so charged that the usual dynamics among organizers, workers and politicians was turned completely upside down. This was in part due to the presence and leadership of Albizu Campos. When workers sought him out, they broke with the established dynamics of past strikes. They threw their lot in with the Nationalist Party

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<sup>586</sup> *El Día*, (Ponce, January 19, 1934), 5.

<sup>587</sup> *Ibid.*

rather than the Socialists and this sent the FLT and Socialists scrambling for ways to maintain control over workers and their own interests. Again, this situation was a product of the great unrest and underlying tensions of this era. Unprecedented poverty and hunger led desperate workers to break with the established roles they were expected to inhabit during these strikes. Workers were enraged that the FLT was not advocating for their best interests and they sought out other ways to voice their discontent and make themselves heard. Albizu Campos was more than happy to oblige workers in the call for help and leadership. He genuinely sympathized with the plight of the Puerto Rican workers and saw their situation as a logical conclusion of U.S. imperialism, which was concerned with profits over the wellbeing of workers. The fact that the strike also gave him a larger platform from which to make his arguments against U.S. imperialism and in favor of Puerto Rican sovereignty was an added benefit for the nationalist leader.

As the strike continued throughout January of 1934, worker exhaustion and hunger led many to accede to the FLT's agreement and return to work. Workers received pressure from the FLT, from politicians, the government and the police to break the strike. Acting Governor Horton himself called on police and local judges to "investigate and immediately take before the courts of justice any person who evidence tended to show committed defamation against labor organizers."<sup>588</sup> Defamation is defined as the writing or making of statements that tend to slander or harm another's reputation.<sup>589</sup> Horton's call for the criminalization of such statements was a response to Albizu

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<sup>588</sup> *¡Huelga en la caña!: 1933-1934*, 153.

<sup>589</sup> Oxford English Dictionary.

Campos' fiery statements against labor organizers and the government. It was his hope that by cracking down on so-called defamation he could silence Albizu Campos and workers who took harsh positions against the FLT and the U.S. government.

Not surprisingly, this call for arrests and prosecution for defamation of labor leaders was interpreted rather loosely by the police. One man in Yabucoa was arrested for making the following statement: "that police officer López is an abuser, because he tried to take me to work by force and there is no fool who is going to get me out of my house."<sup>590</sup> It seems fairly plain that this worker's statement did little to harm the officer's reputation. Instead, it's more likely that the officer in question was annoyed by the worker's statement and took the governor's instructions a bit too liberally. Regardless of the effect on this particular officer, the governor's call for greater arrests for defamation had a chilling effect on worker protests.<sup>591</sup>

By January 24, 1934 only 1,025 workers remained on strike throughout the island.<sup>592</sup> As the month wore on workers from the various plantations across the island accepted the agreement and returned to work. However, small, localized strikes continued to arise throughout the sugar sector as workers claimed their employers were not meeting the terms of the agreement. Workers in Guanica and Humacao held work stoppages due to disputes concerning work start times and longshoreman wages.<sup>593</sup> Despite workers' efforts to continue the strike and have their demands for greater wages and better

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<sup>590</sup> *¡Huelga en la caña!: 1933-1934*, 155.

<sup>591</sup> *Ibid.*

<sup>592</sup> *Ibid.*, 165.

<sup>593</sup> *Ibid.*, 178.

conditions met, by the early days of February 1934 exhaustion, lack of income and state pressure led the last of the sugar workers to return to work.

Though the general sugar strike of 1933-1934 was ultimately unsuccessful, worker resentment and frustration had not dissipated and disenchantment with labor policies only continued to grow. Between 1934 and 1935 between 50,000 and 60,000 laborers went on strike and between 1936 and 1937, 13,119 workers went on strike.<sup>594</sup> The continued decline in the agricultural sector resulted in the growth of strikes in other employment sectors such as dockyards, telephone, ground transportation and needlework. In January and February of 1938, the island saw its second major strike of the decade when dockworkers held a month-long strike demanding wage increases and control over the unloading of cargo shipments.<sup>595</sup>

The strike involved all of the island's major ports and all 7500 dockworkers, including stevedores, tallymen, maintenance workers, security guards, shipping clerks and others.<sup>596</sup> The workers' opponents in the strike were the owners of major shipping lines, all of whom, because of U.S. cabotage laws, were U.S. flag carriers and were U.S. based firms.<sup>597</sup> Though the strike involved few workers, its effects were widespread. Because of the island's dependence on imports and on the ports for commerce, the strike

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<sup>594</sup> Dietz, 164.

<sup>595</sup> Santiago-Valles, 192.

<sup>596</sup> Taller de Formación Política, *No Estamos Pidiendo El Cielo: Huelga Portuaria de 1938*. (Río Piedras, Puerto Rico: Ediciones Huracán, 1988).

<sup>597</sup> Antonia Lauria-Perricelli, "Puerto Rico in the 1930's," in *Revisiting Caribbean Labour: Essays in Honour of O. Nigel Bolland*, Constance R. Sutton, ed. (Kingston, Jamaica: Ian Randle Press, 2005), 4.

impacted close to 100,000 other workers indirectly dependent on the docks.<sup>598</sup> Throughout the action, the threat of government intervention to end the strike was imminent. The acting governor Rafael Menéndez issued a statement in the early days of the action that the island would not be cut off and isolated on to the whims of the 7500 men on strike, instead “the Government of Puerto Rico will maintain free commerce if necessary.”<sup>599</sup> Just days after making these statements on January 13, 1938, Menéndez declared a state of emergency on the island.<sup>600</sup> With this strike as in previous ones, the police and government used their usual tactics to repress workers’ voices of protest and to intimidate workers into ending the strike.<sup>601</sup> By the start of February, with the intervention of the Mediation and Conciliation Commission, workers and employers reached an agreement wherein workers were granted a temporary pay increase and the creation of an arbitration board to settle future disputes. Because the strike had such far-reaching implications for the island, it succeeded in forcing government and labor organizers into negotiations and forced them to take worker demands seriously.

The 1930’s saw the effects of years of inequitable and untenable economic and social policies come to a crashing climax on the island. In response to growing inequality, falling wages, and unmitigated hunger workers took to the streets to demand change and the police took to the streets with them. In these disputes it became clear again and again that both government and police were willing to work with employers, mostly U.S.

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<sup>598</sup> Ibid.

<sup>599</sup> *El Día*, (Ponce: January 7, 1938), 8.

<sup>600</sup> Hernandez-Diaz, 145.

<sup>601</sup> Santiago-Valles, 192.

corporate owners, in order to ensure the status quo. However, more and more this status quo could not provide for the masses of frustrated, angry and hungry islanders who demanded change by all means available to them. The state too was willing to employ all means available in order to quell the growing discontent. Nowhere is this more evident than in its dealing with labor and nationalism.

### **NATIONALISM, SURVEILLANCE AND VIOLENCE**

As the 1930s wore on, unrest on the island continued to grow as the Nationalist Party become larger and ever more vocal. This period coincided with general political and labor unrest in the mainland United States. Since the 1920's the Department of Justice's Bureau of Investigation, headed up by J. Edgar Hoover had adopted a central goal of gathering intelligence on political radicals and subversives.<sup>602</sup> In the 1930's Hoover's surveillance programs expanded to include anti-subversive efforts that involved receiving daily reports from countless informants all over the country. Though the Insular Police had been involved in surveillance and intelligence gathering since the creation of the force, Hoover's federal program arrived in Puerto Rico in the late 1920's with the expansion of the Nationalist Party.<sup>603</sup>

Though a file on Pedro Albizu Campos had existed at the Bureau of Insular Affairs (BIA) since September of 1917 during his time in the U.S. military, heavy

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<sup>602</sup> Thomas Mathews, *Puerto Rican Politics and the New Deal*, (Gainesville: University of Florida Press, 1960), 70.

<sup>603</sup> NARA, RG 350, Bureau of Insular Affairs, General Records Relating to More than One Island Possession General Classified Files, 1898-1945; 1914-1945, Personal Name and Information File, 1914-1945, Entry 21, Box 13, Folder: "Albizu y Campos, Pedro."

surveillance of he and the Party began during his tour of Latin America.<sup>604</sup> In 1927, while serving as the vice-president of the Party, Pedro Albizu Campos undertook a tour of Latin America and the Caribbean in order to garner greater inter-American solidarity with the cause of Puerto Rican nationalism.<sup>605</sup> This trip took him to Mexico, Peru, Venezuela, Panama, Cuba, Haiti and the Dominican Republic. During this trip he gave many interviews to the press and speeches before interested audiences. The content of these interviews and speeches were of a decidedly anti-imperial and anti-U.S. nature and they quickly caught the attention of the U.S. diplomats serving in these various countries. Several letters and press clipping forwarded from diplomats in Haiti, Cuba and the Dominican Republic to the Secretary of War attest to the growing concern over Albizu Campos' activities abroad and the Nationalist Party's activities in general.<sup>606</sup> The U.S. government's response to these cables and letters was to continue to monitor Albizu Campos and the Party.

In Puerto Rico, the 1930's opened with Pedro Albizu Campos taking over the leadership of the Nationalist Party, which ushered in a period of increased and intense Party activities. As discussed previously, Albizu Campos' vision for the Party was one of action. He had long been a member of the Union Party and had watched as that group debated and grandstanded about their belief in independence for the island, but had ultimately done little to move that goal forward. With his taking over the leadership of

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<sup>604</sup> Ibid.

<sup>605</sup> Marisa Rosado, *Las Llamas de La Aurora: Acercamiento a Una Biografía de Pedro Albizu Campos*, (San Juan, Puerto Rico: Ediciones Puerto, 2006).

<sup>606</sup> See NARA, RG 350, Personal Name File: "Albizu y Campos, Pedro," generally.

the Nationalist Party in 1930 he determined to take proactive steps toward the goal of liberation for the island. Albizu Campos' leadership of the Party ushered in a period of nationalist mobilization. This period saw the party and its leader become more visible and vocal in island politics and in the global movement for decolonization. As a result of these activities, he and the Party were increasingly monitored and surveilled and the Party infiltrated. As he and the Party grew more vocal and active, the state came down hard on nationalist activity.

Under Albizu Campos' leadership one of the first major projects undertaken by the Party in the 1930's was the sale of bonds to raise money for the establishment of the Republic of Puerto Rico. A *New York Times* report from April 10, 1931 describes the project: "the Nationalist Party has issued the first \$200,000 of \$5,000,000 in gold bonds, called the 'independence loan.' The bonds are issued in \$5 denominations and state on their face they will become payable from the Republic's treasury five years after the Republic's recognition with 4% interest from the date of recognition."<sup>607</sup> This was the first step in the Party's major campaign to raise money and awareness for the cause of the Republic of Puerto Rico. A public offering of bonds was attempted in 1932.<sup>608</sup>

At the time of the first sales, the Chief of the Bureau of Insular Affairs (BIA) wrote to the governor of Puerto Rico, Theodore Roosevelt, inquiring as to the legality of the bonds and to the political implications of the sale. Roosevelt's response evinces a lack of real concern with the sale. He wrote, "I would not pay any attention if I were you to

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<sup>607</sup> *New York Times*, April 10, 31.

<sup>608</sup> *Ibid*, June 29, 1932.

the question of the bonds... this represents the activity of the element represented by the four boys [you] saw in the automobile cheering, 'Puerto Rico libre.' I cannot see how anybody would be so foolish as to purchase the bonds."<sup>609</sup> However, in August of 1932 after the bonds were offered publically on the Wall Street market, the Chief of the BIA write directly to the Army Judge Advocate General, Blanton Winship, to seek his legal advice about the public offering and the legality of the bonds. Winship's response stated:

there is no legal objection to any individual or associations of individuals, or political party, advocating independence for Puerto Rico if they desire to do so, or to their raising of money for propaganda for that purpose, provided that they confine their efforts wholly to peaceful and legitimate means of influencing public opinion... it does not appear that any overt acts of violence, rebellion or resistance to the Government have been attempted or are presently contemplated.<sup>610</sup>

Winship did however note that the bonds, because they were issued by a non-existing Republic, might be fraudulent and legal proceedings could proceed under that theory, though none ever were. Ironically, just two years later, Winship would himself be appointed governor of the island and be forced to contend personally with the Nationalist Party and would take a decidedly different attitude towards the Party's advocating for independence.

In addition to the prevalent labor unrest on the island and the growing fears of expanding nationalism during the early years of the 1930's, political unrest from all political leanings was growing. The belief that the island's colonial situation was not

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<sup>609</sup> NARA, RG 350, Bureau of Insular Affairs, Box 1071, " 26429A-141 to 171 to 26461-4-20" Folder 26429-B ("PR Independence Bond Issue for \$5,000,000"), Document No. 1.

<sup>610</sup> Ibid, Document No. 3.

serving the people of the island was spreading. And protests began to take shape not only in the labor sector, but also among university and high school students who engaged in walkouts and strikes with more frequency throughout the decade. Students began to understand that they could voice their frustration over a myriad of issues by staging protests and strikes. As discussed previously, students had often used these tactics to attack education policies around compulsory English language education and “Americanization,” however with increasing frequency during the 1930’s student strikes were ever more political.

On October 16, 1933, a student strike broke out at the University of Puerto Rico in protest to Governor Robert Gore’s appointment of Alonzo Torres to the University Board of Trustees. Torres had been involved in island politics for quite some time, but was seen as a decidedly political appointment and one that garnered the ire of the Liberal Party and students with radical and nationalists leanings. The fact that Torres was the personal appointment of Gore, an unpopular governor whose policies caused ever more dissent on the island only, further fueled opposition to his appointment. The MID report from December 8, 1933, explains that though not all students were involved in the strike, a majority of the student body supported it and as a result the students were able to prevent mass attendance from classes.<sup>611</sup> A mass of students marched to the governor’s house in Old San Juan. Twenty were selected as a delegation to meet with the governor

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<sup>611</sup> NARA, RG 165, Records of the War Department General and Specific Staffs, Military Intelligence Division, Correspondence 1917-1941, File No. 10110-2662/74, “Estimate of the Subversive Situations as of November 30, 1933,” December 8, 1933.

and express their concerns with the appointment of Torres, but Governor Gore refused the delegation.<sup>612</sup> In response some two thousand students took to the streets carrying an empty casket urging the governor to return home.<sup>613</sup> Gore eventually desisted and met with a delegation of two students. On October 24<sup>th</sup>, following the meeting with student leaders a few days before, Gore telegraphed the chief of the BIA to inform him that a bomb had been found under the governor's office following the students' visit.<sup>614</sup> The bomb was extinguished before causing any damage to property or individuals. However, in response to this incident and growing student absenteeism from courses, on October 23<sup>rd</sup>, university leaders declared a two-week recess in the hopes that time away from campus would quell some of the students' ire and disband the strike leadership.

On October 27<sup>th</sup>, a letter was sent from the U.S. Immigration and Naturalization Services (INS) in Washington D.C. to the INS office in San Juan and the governor's office cautioning that one of the striking students had recently been in Cuba and had participated in political rallies against the Cuban government there. The letter warned that several Cuban students were headed to Puerto Rico to "instruct Puerto Rican students in revolutionary methods and tactics," and cautioned that all Cubans "of this class endeavoring to enter Puerto Rico," should be carefully examined.<sup>615</sup> This letter from INS evinces the pan-Caribbean solidarity movements that occurred in response to U.S.

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<sup>612</sup> Mathews, 88.

<sup>613</sup> Ibid.

<sup>614</sup> NARA, RG 350, Bureau of Insular Affairs, Folder 121-15 ("Press Clippings on Pacification in P.R."), Document No. 121-22, Telegram from Gore to Cox of October 24, 1933.

<sup>615</sup> Ibid, Document No. 121-23, INS letter of October 27, 1933.

hegemony across the region. While the early 1930's saw great dissent and political unrest in Puerto Rico, Cuba too saw a growth in political unrest and dissent in response to the illegal, U.S. backed presidency of Gerardo Machado.<sup>616</sup> This moment of student solidarity is just one of many in which islanders from the several islands shared in each other's protest movements to fight U.S. colonialism and hegemony in the region.

On November 7<sup>th</sup>, Torres resigned his position as trustee effectively ending the student strike with students returning to classes shortly thereafter.<sup>617</sup> This episode at the University of Puerto Rico marked just one of numerous student strikes that took place throughout the island during the 1930's. Increasingly, students left the classroom and took up protests in order to make their voices heard. In the increased political fervor of the decade, students played an important role in demanding an end to the status quo in U.S. colonial rule. The University of Puerto Rico itself became a center of much political activism and protest throughout the period.

As the decade wore on and the protests and political agitation continued to grow, the Insular Police force became ever more militarized and bold. In a move to crackdown on rising dissent and nationalism, the U.S. government appointed E. Francis Riggs as the Chief of Insular Police in 1933. Riggs had fought in the Spanish-Cuban-American War in 1898 and was of that variety of military strong man that saw the threat to U.S. hegemony on the island as a personal affront. With his arrival, and with the approval of the governor, he set about militarizing the police by issuing automatic weapons to officers

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<sup>616</sup> Richard Gott, *Cuba: A New History*, (New Haven: Yale University Press, 2006), 127-129.

<sup>617</sup> Mathews, 89.

and training the force in pacification techniques.<sup>618</sup> Riggs also adopted a shoot-to-kill policy on nationalist activity. It was open season on nationalists and the police chief sanctioned it.

Also in response to the growing unrest in the labor sector and the rise of nationalism on the island, President Roosevelt appointed General Blanton Winship as governor of the island. Winship had also fought in the Spanish-American War as well as World War I and, as discussed above, had served as the Judge Advocate General in the U.S. Army. After the previous governor Robert H. Gore resigned the position of governor amid accusations of incompetence and having too weak a hand to lead the island, former governor James Beverley wrote to Roosevelt advocating for the appointment of Winship. “I strongly favor an ex-army officer for next governor,” Beverley wrote, “one who has sufficient experience to know how to size up and handle delicate situations and who has courage to do his duty whether it is popular or not. Is not General Winship available for a position of this kind?”<sup>619</sup> In an attempt to bring order to the chaos overtaking the island and to bring in the “strong hand of a proven administrator,” Roosevelt appointed Winship.<sup>620</sup> At the time of his appointment, *The Nation* questioned the effectiveness of the appointment given that he brought “an inbred sense of superiority of the United States and its institutions, and a kindly contempt for ‘backward’ and underprivileged

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<sup>618</sup> Dietz, 168.

<sup>619</sup> Cited in Mathews, *Puerto Rican Politics and the New Deal*, 112.

<sup>620</sup> *Ibid*, 113.

peoples.”<sup>621</sup> This belief in U.S. superiority was quickly on display as Winship too took a strong position against anti-U.S. displays and pro-independence rhetoric and demonstrations. As the decade wore on, both Winship and Riggs became targets of protest and dissent as their policies were seen as oppressive and undemocratic.

The three years from 1935 to 1938 saw the most radical and violent demonstrations on the island. On October 20, 1935, in a nationalist political meeting held in the town of Maunabo and transmitted over the radio, Pedro Albizu Campos denounced the Chancellor of the University of Puerto Rico, Carlos E. Chardon, a close political ally of Luis Muñoz Marín and a member of the Liberal Party, and accused him of turning the university into a bastion of “Americanization” that produced traitors to Puerto Rico. The speech called out the leadership of the university, the Liberal Party and the students as being complicit in the “Americanization” of the university and of not joining the fight for independence. A MID report from October 25, 1935 quotes Albizu Campos declaring, “The students of the University of Puerto Rico are a bunch of coward, traitors to their country, an aggregation of sissies.”<sup>622</sup> Whether Albizu Campos’ did indeed call the students sissies, is a matter of dispute; however, it is certain that Albizu Campos’ rhetoric, undoubtedly passionate, was accusatory and critical of the students’ devotion to the cause of Puerto Rican independence. The radio broadcast stirred the anger of the

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<sup>621</sup> *The Nation*, January 4, 1934.

<sup>622</sup> NARA, RG 165, Records of the War Department General and Specific Staffs, Military Intelligence Division, Correspondence 1917-1941, File No. 10110-2662/134, “Monthly Summary of Subversive Activities – Puerto Rico Area,” dated October 25, 1935.

University of Puerto Rico students who quickly organized a rally in protest in the Assembly Hall of the University.<sup>623</sup>

On October 24<sup>th</sup>, the day of the gathering, fearing clashes between protesting students and nationalists, the acting university chancellor requested that special detectives from the police force be sent to the Assembly Hall in order to monitor the situation.<sup>624</sup> Shortly after arriving at the Hall, the detectives noticed a suspicious looking car carrying five nationalists and circling the university campus. They recognized the driver as nationalist leader Ramon Pagan who they described as seemingly waiting for something or someone. The detectives advised the acting university chancellor who quickly cancelled the protest gathering. The detectives then returned to police headquarters and notified the local chief of police of the appearance of the nationalists. According to the MID report, Police Chief Beniamino headed towards the university with one of his corporals and met the nationalists' car at the entrance to the city of Rio Piedras, just half a mile from the university. Corporal Perez stopped the nationalists' car and asked Pagan to produce a driver's license, which he was unable to do. Perez then jumped on the car's running board and ordered Pagan to drive to the station with Beniamino following in his car.<sup>625</sup>

The MID report acknowledges that there was dispute over what occurred after Perez hopped on the car's running board and it headed towards the police station:

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623 Ibid.

624 Ibid.

625 Ibid.

- 1) As the car was proceeding [to the station]... Pagan quickly drew out a pistol and shot Perez who was standing on the running board at the driver's left. Perez fell but somehow managed to fire back at Pagan, killing him instantly. Chief Beniamino, who was driving his own car closely behind, rushed to the scene; Or
- 2) As the car proceeded... Perez thought that Pagan was acting suspicious. He [Perez] was nervous and excited, faced with five men whom he was certain were armed. Perez lost his head and shot Pagan through the breast. Pagan, drawing his own automatic 45, shot Perez through the abdomen. Another shot from Perez wounded another of the car's occupants.<sup>626</sup>

As with subsequent shootings between police and nationalists, there remains dispute as to who started the fray – the nervous Corporal Perez or the nationalist Pagan. Both Perez and Pagan immediately expired from their wounds.

The MID described the events that followed stating that the remaining occupants attempted to restart the car, which had stalled when Pagan's body slumped over the wheel. Beniamino and several other officers arrived as the car's occupants attempted to restart the automobile and a gunfight ensued. The remaining occupants pulled out their guns and began to shoot at police who took cover behind Beniamino's car and responded with their own barrage of bullets. One of the nationalists launched a bomb toward the police officers, injuring a bystander when it exploded. According to the report, the remaining nationalist, Jose Santiago, attempted to flee the fray by jumping in a taxi and ordering the driver to take him to Santurce, but the driver instead jumped out of the taxi and a fistfight ensued. Police arrived and opened fire on both, believing the driver to also be a nationalist. When the shooting died down, Jose Santiago was dead and the taxi

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<sup>626</sup> Ibid.

driver, fortunately, walked away with only a few scratches.<sup>627</sup> The last remaining nationalist, Dionisio Pearson, was gravely wounded and was taken to the hospital.

Following the Rio Piedras events, the Prosecuting Attorney for San Juan quickly exonerated the officers involved in the shooting. Given that the lone nationalist survivor of the incident was gravely wounded and in a hospital, immediately following there was no nationalist version of the events, there were no witnesses to dispute police testimony as to what occurred on that day. The shooting quickly polarized Puerto Rican society with many angry that the police officers were not investigated or prosecuted. Meanwhile, the funeral of the four nationalists killed in the Rio Piedras affray saw some 8000 people attend from all parts of the island. Albizu Campos spoke at length during the services blaming both Winship and Riggs for the deaths claiming they were a direct result of their campaign against the Nationalist Party.<sup>628</sup>

On March 4<sup>th</sup>, upon his recovery, Dionisio Pearson was brought before the District Court of San Juan. His defense team consisted of six attorneys led by Pedro Albizu Campos. Albizu Campos often served as defense attorney for Nationalist Party members who were brought to trial during the early part of the decade for a host of things including accusations of illegally carrying weapons or holding illegal rallies. After

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<sup>627</sup> Ibid.

<sup>628</sup> Ibid.

several weeks, the jury returned a verdict of not guilty of the charge of “assault with intent to commit murder against Corporal Jorge Perez of the Insular Police.”<sup>629</sup>

At the time some U.S. agents argued that the nationalists would not be found guilty of crimes of violence such as assault or incitement to violence if put before a Puerto Rican jury in Insular Court because insular juries were too easily coopted and intimidated. Furthermore, Puerto Rican prosecutors would not show the necessary aggression and dogmatism to convict the nationalists.<sup>630</sup> In sum, some in the U.S. government felt that sympathy with the nationalist cause would preclude an insular court, made up of Puerto Ricans, from finding nationalists guilty. This logic would become important when Pedro Albizu Campos and other nationalist leaders were brought to trial before a federal jury for what amounted to political crimes.

In retaliation for the killings in the Rio Piedras tumult, on February 23, 1936, Elias Beauchamp and Hiram Rosado, two young members of the Nationalist Party, shot and killed the chief of the Puerto Rico Insular Police, E. Francis Riggs in San Juan. The shooting occurred on a Sunday morning when Riggs was returning from Catholic mass. The Monday morning edition of the newspaper *El Mundo* described the killing as having taken place while Riggs was sitting in the front seat of his car alone.<sup>631</sup> His driver, Policeman Angel Alvarez, had left the car, gun in hand to arrest Hiram Rosado who had

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<sup>629</sup> Ibid, File No. 10110-2662/141, “Monthly Summary of Subversive Activities – Puerto Rico Area,” dated March 25, 1936.

<sup>630</sup> Ibid, File No. 10110-2662/144, “Memorandum for the Chief of the Military Intelligence Branch; Re: Conference with Dr. Ernest Gruening, Department of the Interior, concerning the current situation in Puerto Rico” dated April 7, 1936.

<sup>631</sup> *El Mundo*, San Juan, February 24, 1936, 1.

fired at the car while Alvarez was driving. While Alvarez went to arrest Rosado, Elias Beauchamp approached the car and shot and killed Riggs.<sup>632</sup> Rosado and Beauchamp were both arrested and taken to the police headquarters where they were shot about half an hour after they were arrested.<sup>633</sup>

The two young nationalists were held in the office of the police chief whose door was guarded by a police officer, Fernando Lozada. Police reports claimed that a few minutes after the two were placed in the chief's office shots were fired. Lozada claimed that he became aware that Beauchamp and Rosado had gotten ahold of weapons stored in the chief's office. When he gave other officers warning of the fact, several officers rushed to the office and fired at the two men, killing one instantly and mortally wounding the other.<sup>634</sup>

Beauchamp and Rosado's deaths garnered much public discussion and opinion. An estimated 8000 people attended funeral services for the two nationalists. The MID report of the incidents indicated that following the police shootings of the two nationalists "public sentiment [was] running high against the police ... Colonel Riggs was popular among all classes of Puerto Ricans, but popular indignation against his assassination has been overshadowed by a strong popular indignation against the police for what is

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632 Ibid.

633 Ibid.

634 Ibid.

considered the murder of the young assassins.”<sup>635</sup> Though five police officers were indicted for the deaths of Rosado and Beauchamp, four of them were later acquitted and a mistrial was found in the case of the fifth.<sup>636</sup>

Immediately following the death of Riggs a riot broke out in Utuado when police began to search all individuals they suspected of being nationalists. Residents placed blame for the shooting and subsequent deaths and injuries on the overzealous police who aggressively detained and searched citizens.<sup>637</sup> Several weeks following the shootings of Beauchamp and Rosado, Governor Winship ordered and helped to plan an island-wide search of Nationalist Party offices, clubs, the offices of *La Palabra*, the Nationalist Party weekly newspaper, and the residencies of the Party leadership.<sup>638</sup> The raids took place on the morning of March 7, 1936 and produced “several revolvers, pistols, sabres [sic], wooden rifles and bayonets. Also a United States Springfield rifle and a powerful bomb were found in Mayagüez. Incriminating correspondence was also found in several places.”<sup>639</sup> As a result of the assassination of Riggs and the raids, eight nationalist leaders, including Pedro Albizu Campos were arrested and charged with seditious conspiracy or conspiring to overthrow the federal government.

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<sup>635</sup> NARA, RG 165, Records of the War Department General and Specific Staffs, Military Intelligence Division, Correspondence 1917-1941, File No. 10110-2662/137, “Monthly Summary of Subversive Activities – Puerto Rico Area,” dated February 25, 1936.

<sup>636</sup> Mathews, 255.

<sup>637</sup> NARA, RG 165, Records of the War Department General and Specific Staffs, Military Intelligence Division, Correspondence 1917-1941, File No. 10110-2662/137, “Monthly Summary of Subversive Activities – Puerto Rico Area,” dated February 25, 1936.

<sup>638</sup> Mathews, 251.

<sup>639</sup> NARA, RG 165, Records of the War Department General and Specific Staffs, Military Intelligence Division, Correspondence 1917-1941, File No. 10110-2662/139, “Monthly Summary of Subversive Activities – Puerto Rico Area,” dated March 12, 1936.

Following the arrests, tension on the island remained high with islanders continuing to blame the police for the murders of Beauchamp and Rosado and the government for the purely political charges brought against the nationalist leaders. Throughout the month of March 1936 incidents of violence against the police and police violence against nationalists continued to escalate. On the night of March 17<sup>th</sup>, a bomb exploded outside the main high school building in the city of Cabo Rojo. No damage to life or property was reported and the culprit was never found.<sup>640</sup> In late March, a clash between insular police and nationalists took place in the town of Aguas Buenas. A confrontation between several officers and Luis Angel Lasa, a young nationalist, led to one officer hitting Lasa with his club, rendering him unconscious, before arresting Lasa and transferring him to the police station. As other nationalist in the town found out about Lasa's encounter with the police they began to gather and surround the police station. In response, the chief of police of the town called for reinforcements that quickly arrived from the city of Caguas armed with shotguns. At the arrival of the additional officers, the crowd of nationalists dispersed without further incident.<sup>641</sup>

Amid this growing tension, Winship continued his intimidation of the party and of the island's inhabitants in the hopes that by using the oppressive arms of the state he could quiet dissent. A student strike was organized and scheduled for March 18<sup>th</sup> in protest of the arrest of the Party leaders. However, in the days leading up to the strike

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<sup>640</sup> Ibid, File No. 10110-2662/141, "Monthly Summary of Subversive Activities – Puerto Rico Area," dated March 25, 1936.

<sup>641</sup> Ibid, File No. 10110-2666/147, "Weekly Summary of Subversive Activities – Puerto Rico Areas," dated April 16, 1936.

Governor Winship authorized the mobilization of the National Guard to several towns that were known nationalist's strongholds and where leaders were organizing the student strike. On the morning of March 19<sup>th</sup>, residents awoke to find several companies of troops camped in their towns. The MID report detailing these events, boasts that nowhere did the student strikes materialize and that sending the National Guard troops had a "very salutary effect."<sup>642</sup> Certainly, the arrival of heavily armed men in uniform would do quite a lot to quiet any potential dissent, especially given the fact that residents were already wary and suspicious of the potential for violence at the hands of the police and the state. It is no wonder that the strikes did not take place.

The death of Riggs had another consequence that greatly stirred the ire and passions of island residents. Riggs' nomination for the position of Chief of Insular Police had been put forth by his good friend Senator Millard Tydings of Maryland.<sup>643</sup> Tydings, who took Riggs death personally, saw his friend's assassination and subsequent events as an indication that islanders desired independence. He and Ernest Gruening, Administrator of the Puerto Rico Reconstruction Administration and former Secretary of the Interior, believed that a bill granting the island independence would quiet dissent and political unrest on the island. Two months after Riggs' assassination the Tydings Bill was introduced in Congress. The Tydings Bill, which was put together at the behest of the Senator by the legal division of the Department of the Interior contained some rather

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<sup>642</sup> Ibid, File No. 10110-2662/141, "Monthly Summary of Subversive Activities – Puerto Rico Area," dated March 25, 1936.

<sup>643</sup> Mathews, 253.

harsh economic provisions for the island that looked to many like punishment for Riggs death rather than a real possibility for the island's economic solvency post independence.<sup>644</sup>

The bill called for an island-wide referendum on the question "Should the people of Puerto Rico be sovereign and independent?" If a majority answered in the affirmative, complete independence would be completed in four, yearly stages.<sup>645</sup> Each year the duty on Puerto Rican products imported into the U.S. would be increased by 25% until at the end of four years the island would be on equal footing with other countries.<sup>646</sup> This particular provision was problematic for island residents and politicians who pointed to the bill proposing independence for the Philippines over a ten-year period and as providing for a much more reasonable 5% yearly tariff increase. Puerto Rico, being significantly smaller and more greatly economically linked to the U.S. than the Philippines, would be unable to take on such a heavy import burden in such a short amount of time.<sup>647</sup> It was this harsh tariff burden that islanders saw as punitive retribution for the death of Riggs.

Rather than quieting dissent and political unrest as the Senator and Gruening had hoped, the Tydings Bill had the opposite effect, causing quite a stir on the island. Although the Bill was proposed rather late in the legislative season and was unlikely to

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<sup>644</sup> Frank Otto Gatell, "Independence Rejected: Puerto Rico and the Tydings Bill of 1936," *The Hispanic American Historical Review*, Vol. 38, No. 1 (Feb., 1958), 25-44.

<sup>645</sup> *Ibid.*, 33.

<sup>646</sup> *Ibid.*

<sup>647</sup> Mathews, 254.

pass in the U.S. Congress, nevertheless reaction on the island was swift and passionate. Luis Muñoz Marín, who at the time was a Senator in the Puerto Rican Senate with the Liberal Party, had been in Washington, D.C. for some time championing the cause of Puerto Rican independence. When the Tydings Bill was proposed the *Washington Post* interviewed Muñoz Marín and he described the Bill as “not only bad but impossible of execution... I am for independence and the Liberal Party [that] I represent is for independence but we want to get it quickly and we want to get it right.”<sup>648</sup> On the island, the MID reported “nearly everybody has objected to the ‘harsh restriction on trade and drastic conditions imposed’ on the island.”<sup>649</sup> However, despite concerns over the economic future of the island, many viewed the introduction of the Tydings Bill as revealing the U.S. government’s openness to granting the island independence.

The April 30, 1936, MID report includes the various statements made by the island’s political leaders in response to the Bill. Rafael Martinez Nadal, the President of the Senate of Puerto Rico and of the Republican, pro-statehood, Party had harsh words for the Bill stating that the bill betrayed the people of Puerto Rico, was but an act of revenge for Riggs’ death, and was grossly unfair and dishonorable.<sup>650</sup> Furthermore, Martinez Nadal added that the U.S. really gave the island no choice at all, “We have the choice of a free republic, with ruin and starvation, or the ignominy of slavery [under

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<sup>648</sup> *Washington Post*, (Washington, D.C., April 28, 1936).

<sup>649</sup> NARA, RG 165, Records of the War Department General and Specific Staffs, Military Intelligence Division, Correspondence 1917-1941, File No. 10110-2662/152, “Monthly Summary of Subversive Activities – Puerto Rico Area,” dated April 30, 1936.

<sup>650</sup> *Ibid.*

continued colonialism].”<sup>651</sup> However, ultimately Martinez Nadal stated that rather than being lifelong slaves and imposing political slavery on

our grandchildren, our course is not doubtful. Any man worthy of being called a son of this land, rather than ignominy with a full stomach, must prefer hunger with dignity and honor. If the Tydings Bill becomes law, every man who feels himself to be free, must vote for the Republic of Puerto Rico. Between hunger and dishonor, we must point out to our people the way to honor.<sup>652</sup>

These statements made by the president of the pro-statehood party are significant in illustrating the frustration the Tydings Bill caused on the island. Even the pro-statehood leader saw the Bill as an insult to the island’s residents. The Bill was seen as damning the island to one of two unwanted positions: the inequality and oppression of colonialism or independence but without any support to enable the island to place itself on a course for self-sufficiency.

Luis Muñoz Marín also had harsh words for the Tydings Bill claiming that the Bill did not recognize the U.S.’ own great responsibility for “the disastrous economic situation” of the island.<sup>653</sup> He decried the Bill and instead urged the U.S. government to work with the Liberal Party to draft an alternative bill that would place the island on the road to independence but without such steep economic penalties and in a time that would allow the island the possibility of successful independence.<sup>654</sup> Pedro Albizu Campos for his part dismissed the Tydings Bill as unnecessary. He believed that the island did not

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651 Ibid.

652 Ibid.

653 Ibid.

654 Ibid.

need the permission granted by the Bill to hold a referendum. “The Nationalist Party does not accept the plebiscite because we believe in the free determination of our country...”<sup>655</sup> Furthermore, he viewed the mere existence of the Bill as evidence that the U.S. government admitted to the sovereignty of Puerto Rico to decide its own condition. Thus, for him and his Party, the Bill indicated that the island could itself call a Constituent Convention, elect its own government and proceed to act as a sovereign nation.<sup>656</sup> Finally, Antonio Barceló, the President of the pro-independence Liberal Party, was also unenthusiastic about the economic provisions of the Bill and called for a greater period of transition before complete independence. But, ultimately, Barceló was for independence “even though we may die of hunger.”<sup>657</sup>

Such was the sentiment of the island’s political leaders of the time. Given the nature of the Bill and political leaders disappointment with its provisions, political leaders from the Liberal, Socialist, Nationalist, and Communist parties came together in various towns under the name of the “Puerto Rican United Front.” The goal of this group was to push for a Constituent Assembly in order to organize a government for the Republic of Puerto Rico.<sup>658</sup> A mass meeting of the Puerto Rican United Front was held on May 10, 1936 in the city of Caguas. Over 10,000 people were thought to have attended the meeting where leaders called for each municipality to prepare a body that would

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<sup>655</sup> Ibid.

<sup>656</sup> Ibid.

<sup>657</sup> Ibid.

<sup>658</sup> Ibid, File No. 10110-2662/157, “Monthly Summary of Subversive Activities – Puerto Rico Area,” dated May 14, 1936.

come together and insist of all political leaders that a Constituent Assembly be called. Interestingly, Antonio Barceló of the Liberal Party declared, “if necessary, we [the Liberals] will go to the revolution. If the Nationalists do not go, we will go alone.”<sup>659</sup> This declaration on the part of the President of the Liberal Party was telling of the spirit of pro-independence that had taken over the island. Though the Liberal Party had always had a radical group within its ranks that had called for independence immediately, never before had they clamored for a revolution.

Independence and the Tydings Bill were the topics of the day for politicians and regular citizens alike with newspapers spending pages and pages discussing the merits and demerits of the Bill. Furthermore, independence zeal took over the island with the U.S. flag being lowered in several cities and replaced with the one-star flag of Puerto Rico, which at the time was associated with the Nationalist Party. On the University of Puerto Rico’s campus students replaced the U.S. flag with that of Puerto Rico on the main building. The Puerto Rican flag was later lowered and replaced by the U.S. flag, only to be replaced once more by the Puerto Rican flag later the same day.<sup>660</sup> Furthermore, in the municipalities of Aguas Buenas, Lares and Maricao local mayors personally took down the U.S. flags in their towns and raised the flag of Puerto Rico over their town halls.<sup>661</sup> In the city of Ponce, the hometown of Albizu Campos and the largest city on the Caribbean coast, the principal of the Ponce High School, Mariano Villaronga

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<sup>659</sup> Ibid.

<sup>660</sup> Ibid.

<sup>661</sup> Ibid.

raised the flag himself and then refused to take it down when directed to do so by police.<sup>662</sup>

On May 12<sup>th</sup> a riot broke out at the San Juan Central High School when the school principle lowered the Puerto Rican flag from the school's flagpole.<sup>663</sup> Shortly after the Tydings Bill became public, students at the school had raised the Puerto Rican flag and greased the flagpole so that the flag could not be lowered. For two weeks the one-star flag of the Republic had flown over the school. Then on the 12<sup>th</sup>, after the day students had left the school, the principle ordered the flagpole cut down and the flag removed. When the night students arrived that evening and saw the Puerto Rican flag had been taken down they refused to enter the building and attend classes. As news of the protest spread throughout the area, the night students were joined by the school's day students as well as by university and other high school students from nearby areas. The crowd grew to about 2000 people. Students threw stones at the school and punctured the tires of the cars of arriving police officers. Police were initially unable to control the growing crowd, but once reinforcements arrived carrying shotguns and teargas the students collectively left the school and the crowd proceeded through the streets of San Juan to the governor's mansion where they congregated for about 15 minutes yelling pro-independence slogans. The crowd eventually dispersed.<sup>664</sup> The following day students at the Central High School

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<sup>662</sup> Mathews, 261

<sup>663</sup> NARA, RG 165, Records of the War Department General and Specific Staffs, Military Intelligence Division, Correspondence 1917-1941, File No. 10110-2662/157, "Monthly Summary of Subversive Activities – Puerto Rico Area," dated May 14, 1936.

<sup>664</sup> Ibid.

once again refused to attend classes and as news of their protest spread students at other high schools in the region also refused to attend class. Soon students at area private schools also began refusing attendance and by 11:00 am that day all the San Juan area schools were closed.<sup>665</sup> In response to the threat of a general student strike in San Juan, the governor mobilized two companies of the National Guard. The governor proclaimed that he would use all the forces at his command to secure respect for the United States, its institutions and its flag.<sup>666</sup> Insular police, though they were often present at student strikes, seemed reluctant to use force against what were ultimately children.<sup>667</sup> As a result the National Guard was deployed frequently in response to student strikes.

These were but a few of the pro-independence displays that marked the period following the Rio Piedras events, the assassination of Riggs and the introduction of the Tydings Bill. The people of the island were stirred up. They clamored, fought and put their lives and bodies on the line for change and it seemed as though change was on the horizon. Ultimately, the Tydings Bill failed to move through the Congressional process and died that session. However, the dichotomy it set up – continued colonialism or independence and economic ruin, did much to push island politics, and especially Luis Muñoz Marín, toward adopting the possibility of the *Estado Libre Asociado* or Commonwealth of Puerto Rico. In 1938, Muñoz Marín and other dissatisfied members of the Liberal Party founded the *Partido Popular Democratico* (Popular Democratic Party

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<sup>665</sup> Ibid.

<sup>666</sup> Mathews, 261.

<sup>667</sup> Ibid.

or PPD) whose platform was one of increased local sovereignty for the island in association with the United States, in other words, colonialism by another name.

The summer of 1936 saw the trials of Albizu Campos and seven other nationalist leaders. The first trial held on July 14<sup>th</sup> concluded with a hung jury. That jury, consisting of seven islanders and five North Americans, was unable to find the men guilty of seditious conspiracy.<sup>668</sup> It should be noted that the charges brought against the men were themselves controversial. Many in the U.S. administration and the ACLU argued that bringing charges that amounted to nothing more than political crimes would do nothing but further foment nationalism on the island. These same voices argued that the men should be charged with accessory to murder for the death of Riggs rather than incitement to overthrow the U.S. government.<sup>669</sup> Countless letters arrived from all over Latin America and the U.S. pleading for the release of the Nationalist Party leaders. Lectures and rallies were held in Haiti, Cuba and the Dominican Republic to raise funds and awareness to the cause of Puerto Rican nationalism.<sup>670</sup> Furthermore, pleas arrived from groups in Argentina, Mexico, Ecuador, Peru, and Chile.<sup>671</sup> Letters also arrived from U.S. based academics that warned that the prosecutions would have a detrimental effect on U.S.-Latin America relations. However, despite the protests the prosecuting attorney,

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<sup>668</sup> Dietz, 169.

<sup>669</sup> Mathews, 265-266.

<sup>670</sup> See generally, NARA, RG 126, Department of the Interior, Office of the Territories Classified Files, 1907-1951; 9-8-78: Puerto Rico, Law and Order, General; 9-8-78: Puerto Rico, Law and Order, Nationalists; Box No. 933, Folder: "Law and Order: Nationalist Party, Albizu Campos, et al., Trail and Conviction of, Misc. Protests."

<sup>671</sup> *Ibid.*

Cecil Snyder, determined to get a conviction and fearing not getting one if the decision was left to an insular court and jury, proceeded with the federal charges of seditious conspiracy.<sup>672</sup> Once the first jury came back with no decision, Snyder set out to stack the deck in his favor.

The second jury pool, consisting of fifty-five men was carefully selected to ensure that regardless of which twelve men ended up serving on the jury they would nonetheless be sympathetic to the prosecution.<sup>673</sup> Thus, despite the defense having the ability to eliminate a number of proposed jurors with or without cause, the pool from which the defense drew jurors was composed of carefully selected individuals. In the end the jury consisted of ten North Americans and two islanders.<sup>674</sup> This was incredibly suspicious to island residents and others who saw the prosecutions as little more than show trials. At the time of the trial, the island's population consisted of nearly two million Puerto Ricans and about five thousand North Americans and yet the trial jury ended up consisting of a majority of North Americans. The jury quickly returned a guilty verdict, by a vote of ten to two.<sup>675</sup> The nationalists were sentenced to between two and ten years in federal prison.

In response to the events of the spring and summer of 1936 and the growing pro-independence fervor overtaking the island and after the shocking events of Rio Piedras and the prosecutions of Albizu Campos and the other nationalist leaders, Winship pulled the noose ever tighter around the nationalists. With growing frequency requests for legal

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<sup>672</sup> Mathews, 268.

<sup>673</sup> Ibid.

<sup>674</sup> Dietz, 169.

<sup>675</sup> Ibid.

demonstrations and marches were denied and police intimidation to tamp down such manifestations was more and more frequently used.<sup>676</sup> On one occasion in January of 1937, a request for a nationalist parade in San Juan was denied and machine guns were set up in the proposed parade area to back up the denial.<sup>677</sup> Winship believed that by limiting the Party's ability to legally protest and foment their political beliefs the group would eventually quiet down or better yet, fade away. The administration hoped that with the convictions of Albizu Campos and the other nationalist leaders for seditious conspiracy that the Party would fragment. Of course, as history has borne out and as Luis Muñoz Marín himself predicted several weeks later, "people will relinquish their civil rights once or several times, but always a time comes when they become determined to exercise them and then there is an explosion."<sup>678</sup>

For the Nationalist Party such an explosion occurred on March 21, 1937 with the events of the Ponce Massacre, discussed briefly in the Introduction. As described above, nationalists sought and received a legal permit to hold a march and demonstrations in the city of Ponce on Palm Sunday. The permit once granted was subsequently pulled at the behest of the chief of police and the governor. Nationalists, who in the words of Muñoz Marín were determined to exercise their civil rights, chose to hold their scheduled activities. Anticipating that the demonstration would turn bloody the Chief of the Insular Police and the Ponce chief of police had called for an increase in the cities police force

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<sup>676</sup> Mathews, 310.

<sup>677</sup> Ibid.

<sup>678</sup> Ibid, 308.

from the usual 35 men to 150.<sup>679</sup> The men were armed with rifles, carbines and submachine guns and spread out over the proposed parade route in order to intimidate the Party into discontinuing their actions. Instead, when the designated hour arrived the band played the Puerto Rican anthem, “La Borinqueña,” and the march began. As discussed above, shots rang out with the results being the deaths of 19 individuals and the injury of hundreds.

In the days that followed, at the request of the chief of police, the district attorney of Ponce, Rafael Pérez Marchand began an investigation into the events of Palm Sunday.<sup>680</sup> The conflicting reports Pérez Marchand received from police and witnesses led him to report to the governor that the true culprit of the events could not be determined. The district attorney’s reports contained the various testimonies of all the parties involved, with a section containing the testimonies of police and government officials, a second containing the statements of the nationalists, a third the sworn statements of disinterested witnesses, and a fourth containing reports submitted by doctors who treated the dead and wounded. Ultimately, Pérez Marchand found that he could not determine who fired the first shot. However, these findings did not sit well with Winship who wanted the blame placed squarely on the shoulders of the nationalists. Upon submitting his own report to the Senate, Governor Winship relied only on the

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<sup>679</sup> Ibid, 311.

<sup>680</sup> NARA, RG 126 – Department of the Interior, Office of Territories Classified Files, 1907-1951; 9-8-78: Puerto Rico, Law and Order, General; Box 933, Folder: “Law and Order, Nationalist Party, Ponce Riot of March 21, 1937 (Palm Sunday Massacre), General (Part 1: March 22, 1937- May 1937); “Preliminary Report of the District Attorney of Ponce to the Honorable, The Attorney General of Puerto Rico,” dated March 22, 1937, and “Preliminary Report of the District Attorney of Ponce to the Honorable, The Attorney General of Puerto Rico,” dated March 24, 1937.

portion of Pérez Marchand's report that included the police and government officials' statements, but did not include the witness testimony that contradicted police statements.<sup>681</sup>

The Palm Sunday events once again sent the island into turmoil. The events were quickly labeled as a massacre on the part of the police. Photos taken by *El Mundo* and *El Imparcial* demonstrated that most of those shot and wounded were unarmed civilians who were shot in the back while trying to flee the fray.<sup>682</sup> The number of victims also spoke to the firepower possessed by the police officers present at the demonstration and which the nationalists simply did not have. In the end indictments were brought against twenty individuals: two police officers, and eighteen nationalists.

In response to the horror elicited by the Palm Sunday massacre, the Citizens Committee of Ponce for the Defense of Civil Liberties called on the ACLU to hold its own investigation into the events of that day.<sup>683</sup> In the report made to the ACLU, the Ponce Committee stated, "Puerto Rican opinion has been unable to reach an intelligent conclusion [on the events] because of lack of faith in the official investigation carried out by the government, the government itself being one of the parties considered responsible for the lamentable events in Ponce and having been from the first on the defense."<sup>684</sup> In other words, concerned citizens of Ponce did not trust the police and the government to police itself. The institutions of the government had demonstrated themselves to be

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<sup>681</sup> Mathews, 311.

<sup>682</sup> Ibid, 312.

<sup>683</sup> *The New York Times*, (New York: May 15, 1937), 3.

<sup>684</sup> Cited in Ibid.

defensive since the events occurred and the Committee felt the only recourse was to call on an outside, neutral party to investigate the happenings of Palm Sunday. Arthur Garfield Hayes, counsel for the ACLU, arrived in Ponce determined not only to investigate the events of the Ponce Massacre, but generally the question of civil rights on the island. Governor Winship, though opposed to the idea of the ACLU investigation, agreed to meet with Hayes and the committee but warned that their investigation could interfere with the official investigations and prosecutions of those found at fault.<sup>685</sup>

Several weeks after he arrived in Ponce, Hayes and the committee published the results of their investigation and they were scathing. Hayes placed the blame for the Ponce Massacre squarely on the shoulders of Governor Winship and his policies of repressing civil liberties on the island.<sup>686</sup> The report reached several important conclusions:

- 1) The facts in the Ponce case show that a slaughter took place.
- 2) The civil liberties have been repeatedly denied by order of the governor during the last nine months. He has not recognized the right of freedom of speech and freedom of assembly. Those who tried to use these rights were threatened by force.
- 3) The Ponce massacre was due to the denial by the police of the civil rights of assembly and parade that are due all citizens. This denial was ordered by the Governor of Puerto Rico.<sup>687</sup>

The report further found that policies prohibiting University of Puerto Rico teachers from participating in political activities was also intended to curtail dissent and was an infringement on civil liberties.<sup>688</sup>

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<sup>685</sup> *The New York Herald*, (New York: May 16, 1937).

<sup>686</sup> *New York Times*, (New York: May 29, 1937).

<sup>687</sup> "Hayes Report" cited in *Diario la Prensa* (New York: May 27, 1937).

Following the publication of the Hayes report and the transfer of Albizu Campos and the other nationalists to the federal penitentiary in Atlanta in June of 1937, nationalist activity once again flared up. On June 9<sup>th</sup>, men attempted to assassinate Judge Robert Cooper, the federal judge who had presided over the nationalists' trial and had sentenced Albizu Campos and the others to federal prison. Despite the spray of bullets that was lobbed at the judge's car, nevertheless Judge Cooper escaped the fray without injury.<sup>689</sup> A year later on July 25, 1938, on the 40<sup>th</sup> anniversary of the United States' landing in Guanica Bay, a parade and celebration were held in Ponce to commemorate the date. Leaders of the various military and police organizations of the island, including the National Guard, the Insular Police and the 65th Infantry of the U.S. Army, attended the festivities. At 11:00 a.m. as he rode in a car through the parade route, nationalist party members attempted to assassinate Governor Blanton Winship.<sup>690</sup> The Governor was not injured in the tumult, but a National Guard officer was mortally wounded and one of the nationalists involved was immediately killed. Overall 36 people were injured in the events of that day. Twenty nationalists, including my great uncle, Tomás López de Victoria, were arrested and charged with first-degree murder and attempted murder for their involvement in the plot to kill Governor Winship.<sup>691</sup>

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<sup>688</sup> Ibid.

<sup>689</sup> *Washington Herald* (Washington, DC: June 9, 1937).

<sup>690</sup> NARA, RG 165, Records of the War Department General and Specific Staffs, Military Intelligence Division, Correspondence 1917-1941, File No. 10110-2662/306, "Monthly Summary of Subversive Activities – Puerto Rico Area," dated July 27, 1938.

<sup>691</sup> Ibid.

The brazen and notorious attempt to assassinate Governor Winship did much to turn public opinion against the Nationalist Party at the end of the 1930's and as a result nationalist activity on the island quieted down for the remainder of the decade. However, the Party did not dissolve or disappear, it continued its meetings and political activities in New York and on a less visible scale on the island. But the fervor and energy of the 1930's dissipated with the arrest and incarceration of the Party leadership and the Party's loss of public support following the attempted assassinations of Winship. Nevertheless, the Military Intelligence Division, the F.B.I and the U.S. government continued to surveil and monitor the party both on the island and the mainland.

Events in the 1940's and 1950's saw a resurgence of the Party's radical activities as Luis Muñoz Marín and the PPD won popular votes on the island and began to push liberal economic development of the island with ever-closer ties between the island and the mainland. However, as the popular tide turned toward the possibility of the *Estado Libre Asociado* or Commonwealth, a category that would allow the island greater local sovereignty in association with the United States, the possibility of independence for the island began to fade and nationalism became an ever more marginalized idea. However, the pardon and release in 1946 of the five nationalist leaders convicted for the attempted assassination of Winship and the early release of Pedro Albizu Campos in 1947 did much to reinvigorate the party. Moreover, political developments under the leadership of Luis Muñoz Marín and the PPD further motivated the party to engage in political activism and radical protests.

The Nationalist Party held their last stand in 1950 when they staged an uprising in several towns of the island and on the mainland in Washington D.C. This uprising was the Party's last-ditch protest to the passing of Public Law 600, which allowed for an island Constitution and eventually the creation of the Commonwealth.<sup>692</sup> On October 31<sup>st</sup> nationalists revolted in the cities of Jayuya, Arecibo, Utuado, Ponce, and Peñuelas. Another attack was planned and executed in San Juan in an attempt to kill then Governor Luis Muñoz Marín.<sup>693</sup> The Governor mobilized the National Guard as well as the 65<sup>th</sup> Infantry of the U.S. Army alongside the Insular Police. The combined military and police force quickly subdued the insurrection. As a result of those events police rounded up over 400 nationalists, communists and pro-independence activists, including Pedro Albizu Campos, who had been released from federal prison in 1947, and who was arrested after a two day stand with police at his home in San Juan.<sup>694</sup> In addition to Albizu Campos, the majority of the Party leadership and over 200 other Party members were rounded up and arrested, including my great-uncle Tomás López de Victoria.

## CONCLUSION

This chapter has demonstrated the extent of island residents' dissatisfaction with U.S. colonial rule and the measures islanders took to protest that rule. In response to islanders' frustrations and displays of protest, the U.S. used its repressive instruments – the police, the Army and the National Guard – to silence protest and dissent. As a result,

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<sup>692</sup> Trias Monge, 110.

<sup>693</sup> *Washington Post*, (Washington, D.C.: November 1, 1950).

<sup>694</sup> *Ibid*, November 3, 1950.

labor strikes and student and political protests often involved the threat of violence or the outright use of it. Moreover, although the struggle between the U.S. government and the Nationalist Party never reached the level of a civil war, the government openly used violence and police repression to keep the nationalist movement in check and to intimidate those members of the public who were sympathetic with the cause.

In Puerto Rico, the 1930's brought island frustration and ire to a boil and it often manifested in the form of violence. Likewise, the government responded with violence in an attempt to maintain the status quo. Such violence was prevalent and easily accessed because of Puerto Rico's status as a colonial state of exception. Nationalism and dissent posed so great a threat to the U.S. government's hegemony, that extralegal violence and the threat of it were the solution to the slow simmering agitation. While this violent repression did much to quiet dissent temporarily, protests continued to flare up throughout the decade forcing the U.S. government to contend with the island's demands for a change of status.

## Conclusion

Puerto Rico, the U.S.' colony par excellence, provides us with a unique locus to evaluate the colonial state of exception. Here is an island and a population that have been held in bondage for over five hundred years, over one hundred of those years under U.S. domination. The United States' treatment of non-white others provided the legal and policy precedents that would later be perfected and exported to the island. Furthermore, the U.S. Supreme Court's decisions did the work of creating a legal framework in which the island was excluded from the established legal order. The justices of the Court argued that the U.S. Constitution was made for and created by the *people* of the United States. As inhabitants of a territory, an unincorporated one at that, Puerto Ricans were not *people* of the United States and as such that document was not made for them and did not apply to them. As a result, they were not owed the rights, duties, and privileges that were owed to the *people* and states of the Union. Instead they were owed only fundamental rights owed to all men. With these legal arguments, the Court created a new and exceptional category for the island, one that left it open to the vagaries of Congressional power. In this way, the court created a state of exception on the island.

This dissertation has sought to explain how these legal precedents worked to establish a colonial state of exception in Puerto Rico. It has endeavored to explore the contours of that status and how it shaped island residents' existence. In the case of Puerto Rico, the Court's decision left the island's residents exposed to extralegal violence and open to experimentations of law, of politics, of economics, of social policy. Thus to

echo Achille Mbembe, Puerto Rico became the space, par excellence, where the controls and guarantees of judicial order could be suspended – the zone where the violence of the state of exception was deemed to operate in the service of the United States’ civilizing mission. That violence was disproportionately meted out against individuals whose loud clamors for change and independence threatened the United States’ colonial project on the island.

The events of the first few decades of United States rule bear this out. Experimentation in the areas of social hygiene, education, labor, agriculture, economics and politics left islanders exposed and vulnerable. Furthermore, the government’s use of surveillance and violent repression to quell dissent and protest further imperiled island residents. As I have tried to demonstrate, the zenith of this violence arrived in the decade of the 1930s when great unrest and economic and political turmoil led to widespread protests and strikes. Moreover, the growth of nationalism seemed to crystalize the government’s violence around the person of Pedro Albizu Campos and the Nationalist Party. Thus nationalism became the mythological threat that had to be quashed with the government’s apparatus of violence if necessary.

When Justice White declared Puerto Rico to be foreign to the United States in a domestic sense, he set the island on a course that it remains on to this day. While island residents received citizenship in 1917 and in 1952 the *Estado Libre Asociado* (ELA) or Commonwealth of Puerto Rico was established, the island’s unincorporated status remains, as does Congress’ plenary power. Likewise, its unique form of second-class

citizenship also remains firmly in place. In 1901, the justices of the Supreme Court created new and often convoluted categories for the island in order to find that while it was definitely under U.S. sovereignty it was not a part of the United States. Despite the passage of over one hundred years, this status remains.

When *Downes* was decided, no one could have anticipated the radical shifts that the first few decades of the 20<sup>th</sup> century would bring. The world was a drastically different place at the turn of the century than thirty years later. Thus, when the U.S. entered the imperial game by obtaining its very own overseas territories, it seemed that the status quo of colonial domination over certain sectors of the world would continue and that the great powers of Europe and the U.S. would continue to benefit from these relationships. However, shifts in the world economy as well as the global rise of nationalist resistance to colonialism meant that on the eve of World War II, the global game of colonialism was no longer as stable a proposition.

For Puerto Rico, the events of the 1930's left island residents reeling and looking for a workable resolution to the continued failure of its colonial relationship with the United States. Into this vacuum stepped Luis Muñoz Marín and the PPD. After the global devastation of World War II, the concepts of sovereignty and self-determination were at the forefront of political debates, especially, at they pertained to the question of colonialism. The formation of the United Nations in 1948 and its focus on human rights brought the issues of self-determination and the plight of colonized peoples to the

forefront of international debates. It was against this backdrop that the discussions about a change in the island's status took place.

In the late 1940's Luis Muñoz Marín and other island politicians proposed Public Law 600, which would create a constitution for Puerto Rico and set the island on the road to a change in status. The hope was that the U.S. government would approve a status change for the island that would grant it a greater measure of sovereignty in lieu of independence, which the U.S. was unwilling to grant at the time. Public Law 600 as first proposed provided for a much larger degree of self-determination and sovereignty than that which was actually adopted in 1950.<sup>695</sup>

Initially the main elements of the law included provisions that would set up a Constitution and local government for Puerto Rico and once those were in place would have caused the United States to give up full sovereignty over the island. Instead, the U.S. would have retained property rights over military bases on the island and other federal installations; however, Puerto Rico would have held sovereignty over its own political and foreign affairs. The proposed legislation also provided for reciprocal, but not common citizenship. In other words, Puerto Ricans and U.S. citizens would have had the ability to travel back and forth freely, but Puerto Ricans would have retained their own citizenship and would have enacted their own immigration laws. The common market between the two states would have continued to exist and federal assistance laws would

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<sup>695</sup> See generally, Pedro Malavet, *America's Colony*. (New York: NYU Press, 2004); Juan Torruella, *The Supreme Court and Puerto Rico: The Doctrine of Separate and Unequal*. (Rio Piedras: Editorial de la Universidad de Puerto Rico, 1985); José Trías Monge, *Historia Constitucional de Puerto Rico*. (Rio Piedras: Editorial Universitaria, 1980); José Trías Monge, *Puerto Rico, the Trails of the Oldest Colony in the World*, (New Haven: Yale Press, 1997).

have continued to apply. Additionally, Puerto Rico would have been able to enter into treaties with other nations, excepting treaties of a military nature; in military affairs, the United States laws and declarations would have continued to bind Puerto Rico.<sup>696</sup>

Though in retrospect, the initial proposed legislation seems naively liberal in its provisions, nonetheless it demonstrates the desires of Muñoz Marín and the other drafters. Puerto Rican political leaders clearly sought a far greater measure of self-determination and sovereignty that would have allowed them not only to decide issues of a local character, but also to play a role in the island's international affairs. Furthermore, the law's provisions with respect to citizenship also demonstrated a clear belief on the part of the drafters that islanders were not "Americans," but were instead Puerto Ricans. Despite several decades of U.S. attempts to "Americanize" the island, residents and political leaders believed themselves to be first and foremost Puerto Ricans.

The initial versions of Public Law 600 failed to impress the United States Congress. As a result, after numerous debates and discussions, its provisions were eroded and watered down. Puerto Rican politicians understood that Congress was unwilling to make such drastic changes to the relationship between the island and the U.S. With this in mind, Muñoz Marín and other prominent politicians opted to draft a simpler version of Public Law 600. They believed they were creating a short-term solution to resolve the island's very pressing problems.

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<sup>696</sup> Ibid.

At the time Muñoz Marín believed that the adoption of the Public Law 600, which made way for the creation of the *Estado Libre Asociado*, would not foreclose the possibility of a change to the island's status, one that would be more permanent and just. As a result of these considerations, little remained of the initial proposals in the final version of Public Law 600, which contained none of the robust provisions granting sovereignty to Puerto Rico. What remained was a watered down measure of self-determination that allowed Puerto Rico control over its internal affairs by allowing it to set up and elect its own local government, while ultimately leaving all other decisions in the hands of the federal government. While at the time many island residents believed the ELA was creating a change in the island's status, with time it has become clear that it did no such thing. Thus, though the desire of the people of the island was an end to the island's colonial status, what they got was colonialism by another name.

So the question remains, if the island's continues to be an unincorporated territory, under Congress' plenary power, where the Constitution continues to only apply in part, is the island still living under a colonial state of exception? Though, for the sake of manageability and clarity, I have limited my discussion to the first four decades of United States rule, I by no means rule out the possibility that a state of exception exists today. The United State's actions in the decades after the 1930's demonstrate that where Puerto Rico is concerned the U.S. was and is willing to exert necropolitical force. Though the government admitted to its program of *carpeteo* in the 1990s, nevertheless federal agents have continued to surveil and monitor individuals with radical political leanings

on the island. Such was the case with nationalist leader Filiberto Ojeda Rios who was killed by F.B.I. agents on September 23, 2005. Ojeda Rios had been a leader of the *Macheteros*, a later-day iteration of Pedro Albizu Campos' Nationalist Party that has been listed as a terrorist group by the U.S. government since the 1970's. The F.B.I. had Ojeda Rios and other *Macheteros* under surveillance for years and in 2005 in a purported attempt to arrest him at his home, he was killed.

Furthermore, the United States' various health and sanitation policies throughout the 20<sup>th</sup> century, from the forced arrests and imprisonment of accused prostitutes during World War I, to the forced or coerced sterilizations of poor Puerto Rican women, to the many birth control experiments performed on the women of the island are but a few examples of the sorts of biopolitical experimentation the U.S. government has engaged in over the years.<sup>697</sup> These policies served to decide who should and should not reproduce and thus whose children should and should not exist. Additionally, U.S. policies of testing harmful chemicals agents in heavily forested areas of the island, and, until the late 1990s, using island beaches to test munitions and bombs all constitute this type of exercise of power. These are the sorts of pseudo and extra-legal policies that do exist in a place where the normal legal and juridical system is present, but which thrive in the

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<sup>697</sup> For a discussion on forced and coerced sterilization in Puerto Rico see Yamila Azize-Vargas and Luis A. Aviles. "Abortion in Puerto Rico: the Limits of Colonial Legality." *Reproductive Health Matters*, 5:9 (May 1997), 56-65; Bonnie Mass. "Puerto Rico: A case study of population control." *Latin American Perspectives*. 4:4 (1977) 66-81.

colony. For, as Mbembe explains, the colony is the perfect testing ground for such legally suspect and questionable policies.<sup>698</sup>

As the island faces one of the worst economic and social crises it has seen since the 1930s, it is important to consider how the frameworks established for it over one hundred years ago continue to limit its possibilities and to allow for its oppression. This discussion has sought to raise questions that may be pertinent in a discussion of the island's political possibilities moving forward. Since the creation of the ELA, over fifty years ago, the island has existed in a sort of political amber where slight vibrations can exist within the proscribed frame, but where major change is impossible without applying a blow of extreme force that might shatter the frame entirely.

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<sup>698</sup> Mbembe, "Necropolitics," 23.

## Bibliography

### MANUSCRIPT SOURCES

#### *Puerto Rico*

- Archivo General de Puerto Rico; San Juan, Puerto Rico
  - Fondo: Departamento de Justicia – Serie Nacionalista
  - Fondo: Oficina del Gobernador (La Fortaleza)
  
- Archivo Histórico Municipal del Municipio Autónomo de Ponce, Puerto Rico; Ponce, Puerto Rico
  
- Fundación Luis Muñoz Marín; San Juan, Puerto Rico
  - Fondo: Correspondencia
  - Fondo: Artículos, Editoriales, Manifiestos
  - Fondo: Gobierno Federal, Correspondencia

#### Washington, D.C.

- National Archives and Record Administration
  - Record Group 126: Department of the Interior, Office of the Territories, Classified Files, 1907-1951
  - Record Group 165: Records of the WFGS, Military Intelligence Division, Correspondence 1917-1941
  - Record Group 350: Records of Bureau of Insular Affairs, General Records Relating to More than One Island Possession, General Classified Files, 1898-1945

#### New York, NY

- Hunter College, Centro de Estudios Puertorriqueños

- Declassified F.B.I. Files: Puerto Rican Nationalists

#### PUBLISHED SOURCES

Albizu Campos, Pedro. *Pedro Albizu Campos: Obras Escogidas*. San Juan: Editorial Jelofe, 1975.

American Civil Liberties Union, “Island of Impunity: Puerto Rico’s Outlaw Police Force,” (New York: June 2012) available at [https://www.aclu.org/files/assets/islandofimpunity\\_20120619.pdf](https://www.aclu.org/files/assets/islandofimpunity_20120619.pdf).

Ashford, Bailey K. *A Soldier in Science; the Autobiography of Bailey K. Ashford*. New York: W. Morrow and company, 1934.

Vasconcelos, José. *Indología; Una Interpretación de La Cultura Ibero-Americana*. Segunda edición. Barcelona: Agencia mundial de librería, 1923.

#### GOVERNMENT DOCUMENTS

*Congressional Record*.

*Constitution of the United States*.

*The Insular Cases: Comprising the Records, Briefs, and Arguments of Counsel in the Insular Cases of the October Term, 1900, in the Supreme Court of the United States*. Washington: Government Printing Office, 1901.

*The Official U.S. Bulletin*. Washington: Government Print Office, 1918.

*Report on Civil Affairs of Porto Rico, 1899*. Washington: Government Print Office, 1900.

*Report of the Commissioner of Education for Porto Rico for 1907*. Washington: Government Print Office, 1908.

*Report of the Commissioner of Education for Porto Rico for 1913*. Washington: Government Print Office, 1914.

*Report of the Commissioner of Education for Porto Rico for 1915*. Washington: Government Print Office, 1916.

Stein, Judith. “Statement in Support of House Resolution No. 84, Submitted to the Sub-

Committee on Criminal Justice of the Committee on the Judiciary, July 28, 1987,” Presented at United States Cong. House. Mail Fraud Charges Against Marcus Garvey. Subcommittee on Criminal Justice of the Committee on the Judiciary. *Hearing expressing the sense of the Congress that mail fraud charges brought against Marcus Garvey by the Federal Government were not substantiated and that his conviction on those charges was unjust and unwarranted.* 100th Congress, 1st Session. Washington: Government Printing Office, 1987.

*U.S. Employment Service Bulletin.* Washington, Government Print Office, 1918.

*U.S. Military Intelligence Reports: Surveillance of Radicals in the United States, 1917-1941.* Frederick, MD: University Publications of America, 1984.

*United States Guano Islands Act.*

#### LEGAL DECISIONS

*Balzac v. Porto Rico*, 258 U.S. 298, 306 (1922)

*Cherokee Nation v. Georgia*, 30 U.S. 1 (1831)

*Downes v. Bidwell*, 182 U.S. 244 (1901)

*Dorr v. United States*, 195 U.S. 138 (1904)

*Dred Scott v. Sanford*, 60 U.S. 393 (1856)

*El Pueblo de Puerto Rico v. Balzac*, 28 D.P.R. 150 (1920)

*El Pueblo de Puerto Rico, demandante y apelado v. Tomás López de Victoria, Ricardo Díaz Díaz, Juan Jaca Hernández, Ricardo Díaz, Jr., Ismael Díaz Matos, Leónides Díaz Díaz y Monserrate Del Vallé, acusados y apelantes*, 77 D.P.R. 953; 1955 PR Sup. LEXIS 158 (1955)

*González v. Williams*, 192 U.S. 1 (1904)

*Jones v. United States*, 37 U.S. 202, (1890)

*Johnson v. McIntosh*, 21 U.S. 543, 572 (1823)

*Strader v. Graham*, 10 U.S. 82 (1850)

*Worcester v. Georgia, 31 U.S. 515 (1832)*

NEWSPAPERS AND PERIODICALS

Spanish:

*El Día*  
*El Diario la Prensa*  
*El Mundo*  
*El Nacionalista de Ponce*  
*La Correspondencia*  
*La Democracia*  
*La Educación Moderna*  
*La Palabra*  
*Pica Pica*  
*Revista de Derecho Puertorriqueño*

English:

*Atlantic Monthly*  
*Harvard Crimson*  
*The Nation*  
*The New York Herald*  
*The New York Times*  
*Porto Rico Progress*  
*San Juan News*  
*Social Hygiene*  
*The State: Columbia, S.C*  
*Washington Post*  
*Washington Herald*

## SECONDARY SOURCES

- Acosta Cruz, María. *Dream Nation: Puerto Rican Culture and the Fictions of Independence*. New Brunswick: Rutgers University Press, 2014.
- Agamben, Giorgio. *Homo Sacer: Sovereign Power and Bare Life*. Stanford: Stanford University Press, 1998.
- . *State of Exception*. Chicago: University of Chicago Press, 2005.
- Aleinikoff, Thomas Alexander. *Semblances of Sovereignty: The Constitution, the State, and American Citizenship*. Cambridge: Harvard University Press, 2002.
- Anderson, Benedict R. O’G, and American Council of Learned Societies. *Imagined Communities Reflections on the Origin and Spread of Nationalism*. New York: Verso, 2006.
- Arce de Vázquez, Margot, ed. *Pedro Albizu Campos: Reflexiones Sobre Su Vida Y Su Obra*. 1. ed. Río Piedras, P.R: Editorial Marién, 1991.
- Arroyo, Jossianna. *Writing Secrecy in Caribbean Freemasonry*. New York: Palgrave Macmillan, 2013.
- Ayala, César J. *American Sugar Kingdom: The Plantation Economy of the Spanish Caribbean, 1898-1934*. Chapel Hill: University of North Carolina Press, 1999.
- . *Puerto Rico in the American Century: A History since 1898*. Chapel Hill: University of North Carolina Press, 2007.
- Barreto, Amílcar Antonio. *The Politics of Language in Puerto Rico*. Gainesville, University of Florida Press, 2001.
- Basaran, Tugba. “Security, Law, Borders: Spaces of Exclusion,” *International Political Sociology*, 2, 339–354 (2008).
- Beisner, Robert L. *Twelve against Empire: The Anti-Imperialists, 1898-1900: With a New Preface*. Chicago: University of Chicago Press, 1985.
- Benítez Nazario, Jorge, Astrid Santiago Orria, and Idsa Alegría Ortega, eds. *Ciudadanía y Exclusion en Puerto Rico*. San Juan: Tal Cual, 2010.
- Bhabha, Homi K. *Nation and Narration*. Hoboken: Taylor and Francis, 2013.

- Bhuta, Nehal. "A Global State of Exception? The United States and World Order," *Constellations*, 10: 3 (2003).
- Bosque Pérez, Ramón and José Javier Colón Morera, eds. *Las Carpetas: Persecución política y derechos civiles en Puerto Rico*. Rio Piedras: CIPDC, 1997.
- — —. *Puerto Rico under Colonial Rule: Political Persecution and the Quest for Human Rights*. Albany: State University of New York Press, 2006.
- Briggs, Laura. *Reproducing Empire: Race, Sex, Science, and U.S. Imperialism in Puerto Rico*. Berkeley: University of California Press, 2002.
- Burnett, Christina Duffy. "The Edges of Empire and the Limits of Sovereignty: American Guano Islands," *American Quarterly*, 57: 3 (2005), 780.
- Burnett, Christina Duffy and Burke Marshall, eds. *Foreign in a Domestic Sense: Puerto Rico, American Expansion, and the Constitution*. Durham: Duke University Press, 2001.
- Cabán, Pedro A. *Constructing a Colonial People: Puerto Rico and the United States, 1898-1932*. Boulder: Westview Press, 1999.
- Cabranes, José A. *Citizenship and the American Empire: Notes on the Legislative History of the United States Citizenship of Puerto Ricans*. New Haven: Yale University Press, 1979.
- Capozzola, Christopher. "The United States Empire," in Robert Gerwarth and Erez Manela, eds. *Empires at War: 1911-1923*. New York: Oxford University Press, 2014.
- Carrion, Juan Manuel. "Two Variants of Caribbean Nationalism: Marcus Garvey and Pedro Albizu Campos." *Centro: Journal of the Center for Puerto Rican Studies* 17, no. 1 (2005): 27–45.
- Carrion, Juan Manuel, Teresa C. Garcia Ruiz, and Carlos Rodriguez Fraticelli, eds. *La Nacion Puertorriquena: Ensayos En Torno a Pedro Albizu Campos*. San Juan, P.R: Editorial de la Universidad de Puerto Rico, 1993.
- Clampitt-Dunlap, Sharon. "Nationalism and Native-Language Maintenance in Puerto Rico." *International Journal of the Sociology of Language* 2000, no. 142 (January 1, 2000): 25–34.

- Cleveland, Sarah H. "Powers Inherent in Sovereignty: Indians, Aliens, Territories, and the Nineteenth Century Origins of Plenary Power over Foreign Affairs." *Texas Law Review* 81:1, (2002-2003).
- Corretjer, Juan Antonio. *Albizu Campos*. Colección Libros de Bolsillo. Montevideo: Siglo Ilustrado, 1969.
- Cruz García, Ricardo Arturo. *El Impacto Del Poder Político de Los Estados Unidos En Los principales Partidos Políticos de Puerto Rico Aspirantes Ala Independencia, 1898-1952: Un Análisis Político de Laideología de Los Partidos Unión de Puerto Rico, Partido Liberal Puertorriqueño Y Partido Popular Democrático Y La Influencia de La Americanización Política En Estos Partidos*. Puerto Rico: R.A. Cruz García, 2009.
- Dávila, Arlene M. *Sponsored Identities: Cultural Politics in Puerto Rico*. Philadelphia: Temple University Press, 1997.
- De Barros, Juanita, Steven Paul Palmer, and David Wright, eds. *Health and Medicine in the Circum-Caribbean, 1800-1968*. New York: Routledge, 2009.
- Dietz, James L. *Economic History of Puerto Rico: Institutional Change and Capitalist Development*, Princeton: Princeton University Press, 1986.
- Duany, Jorge. *The Puerto Rican Nation on the Move: Identities on the Island & In the United States*. Chapel Hill: University of North Carolina Press, 2002.
- Fanon, Frantz. *The Wretched of the Earth*. 1st ed. New York: Grove Press, 2004.
- Fernandez, Ronald. *The Disenchanted Island: Puerto Rico and the United States in the Twentieth Century*. New York: Praeger, 1992.
- Ferrao, Luis Angel. *Pedro Albizu Campos Y El Nacionalismo Puertorriqueño*. San Juan: Editorial Cultural, 1990.
- Findlay, Eileen. *Imposing Decency: The Politics of Sexuality and Race in Puerto Rico, 1870-1920*. Durham: Duke University Press, 1999.
- Finkelman, Paul. *Dred Scott v. Sandford: A Brief History with Documents*. Boston: Bedford/St. Martin's, 1997.
- Flores, Juan. *Divided Borders: Essays on Puerto Rican Identity*. Houston: Arte Público

- Press, 1993.
- Foucault, Michel. *Society Must Be Defended: Lectures at the Collège de France, 1975-76*. New York: Picador, 2003.
- Frye, Charles E. "Carl Schmitt's Concept of the Political." *The Journal of Politics* 28, no. 4 (November 1, 1966): 818–30.
- Gatell, Frank Otto. "Independence Rejected: Puerto Rico and the Tydings Bill of 1936," *The Hispanic American Historical Review*, Vol. 38, No. 1 (Feb., 1958).
- Genel, Katia. "The Question of Biopower: Foucault and Agamben." *Rethinking Marxism* 18, no. 1 (2006): 43–62.
- Go, Julian. *American Empire and the Politics of Meaning: Elite Political Cultures in the Philippines and Puerto Rico during U.S. Colonialism*. Durham: Duke University Press, 2008.
- Godreau, Isar P. *Scripts of Blackness: Race, Cultural Nationalism, and U.S. Colonialism in Puerto Rico*. Urbana: University of Illinois Press, 2015.
- González, José Luis. *Puerto Rico: The Four-Storeyed Country and Other Essays*. Princeton: M. Wiener Pub, 1993.
- Gott, Richard. *Cuba: A New History*, New Haven: Yale University Press, 2006.
- Graber, Mark. *Dred Scott and the Problem of Constitutional Evil*. New York: Cambridge, 2006.
- Greene, Theodore. *American Imperialism in 1898*. Boston: Heath, 1955.
- Gutiérrez, Edith Algren de. *The Movement against Teaching English in Schools of Puerto Rico*. Lanham, MD: University Press of America, 1987.
- Hernández-Díaz, Arleen. *Labor-Management Relations in Puerto Rico During the Twentieth Century*. Gainesville: University Press of Florida, 2006.
- Hill, Robert A., Barbara Bair, and Marcus Garvey, eds. *Marcus Garvey: Life and Lessons: A Centennial Companion to The Marcus Garvey and Universal Negro Improvement Association Papers*. Berkeley: University of California Press, 1987.
- Jensen, Joan M. *Army Surveillance in America, 1775-1980*. New Haven: Yale University

- Press, 1991.
- Johnson, Violet Showers. *The Other Black Bostonians: West Indians in Boston, 1900-1950*. Bloomington: Indiana University Press, 2006.
- Kerr, James Edward. *The Insular Cases: The Role of the Judiciary in American Expansionism*. Port Washington, N.Y: Kennikat Press, 1982.
- Kennedy, David M., *Over Here: The First World War and American Society*. New York: Oxford University Press, 2004.
- Kettner, James H. *The Development of American Citizenship*. Chapel Hill: University of North Carolina, 2005.
- Kramer, Paul A. *The Blood of Government: Race, Empire, the United States, and the Philippines*. Chapel Hill: The University of North Carolina Press, 2006.
- Krenn, Michael L., ed. *Race and U.S. Foreign Policy in the Ages of Territorial and Market Expansion, 1840 to 1900*. New York: Garland Pub, 1998.
- Antonia Lauria-Perricelli, "Puerto Rico in the 1930's," in Constance R. Sutton, ed. *Revisiting Caribbean Labour: Essays in Honour of O. Nigel Bolland*. Kingston: Ian Randle Press, 2005.
- Levison, Julie H. "Beyond Quarantine: A History of Leprosy in Puerto Rico, 1898-1930s." *História, Ciências, Saúde--Manguinhos* 10, no. Suppl 1 (2003): 225.
- Lewis, Gordon K. *Puerto Rico: Colonialismo y Revolución: Ensayos Sobre la Dominación Norteamericana y la Resistencia Caribeña*. México: Ediciones Era, 1977.
- . *Puerto Rico: Freedom and Power in the Caribbean*. Kingston, Jamaica: Ian Randle, 2004.
- Maltz, Earl M. *Dred Scott and the Politics of Slavery*. Lawrence: University Press of Kansas, 2007.
- Martin, Tony. *Race First: The Ideological and Organizational Struggles of Marcus Garvey and the Universal Negro Improvement Association*. Westport: Greenwood Press, 1976.
- Martínez Valentín, José E. *La presencia de la policia en la historia de Puerto Rico*:

- 1898-1995. San Juan: J.E. Martínez Valentín, 1995.
- Mathews, Thomas. *Puerto Rican Politics and the New Deal*, Gainesville: University of Florida Press, 1960.
- Matos Rodríguez, Félix V., and Linda C. Delgado, eds. *Puerto Rican Women's History: New Perspectives*. Armonk, N.Y: M.E. Sharpe, 1998.
- Mayo Santana, Raúl, Annette B. Ramírez de Arellano, and José Gabriel Rigau Pérez, eds. *A Sojourn in Tropical Medicine: Francis W. O'Connor's Diary of a Porto Rican Trip, 1927*. San Juan: La Editorial, Universidad de Puerto Rico, 2008.
- Mbembé, J.-A., and Libby Meintjes. "Necropolitics." *Public Culture* 15, no. 1 (2003): 11–40.
- McCoy, Alfred W., and Francisco A. Scarano, eds. *Colonial Crucible: Empire in the Making of the Modern American State*. Madison: University of Wisconsin Press, 2009.
- Moral, Solsiree del. *Negotiating Empire: The Cultural Politics of Schools in Puerto Rico, 1898-1952*. Madison: The University of Wisconsin Press, 2013.
- Moreno, Marisel. "Family Matters: Revisiting La Gran Familia Puertorriqueña in the Works of Rosario Ferre and Judith Ortiz Cofer." *CENTRO: Journal of the Center for Puerto Rican Studies* 22, no. 2 (2010): 74.
- Morgensen, Scott Lauria. "The Biopolitics of Settler Colonialism: Right Here, Right Now." *Settler Colonial Studies* 1, no. 1 (January 1, 2011): 52–76.
- Navarro, José-Manuel. *Creating Tropical Yankees: Social Science Textbooks and U.S. Ideological Control in Puerto Rico, 1898-1908*. New York: Routledge, 2002.
- Negrón de Montilla, Aida. *Americanization in Puerto Rico and the Public-School System, 1900-1930*. Rio Piedras: Editorial Edil, 1970.
- Negrón-Muntaner, Frances, ed. *None of the above: Puerto Ricans in the Global Era*. New York: Palgrave Macmillan, 2007.
- . *Puerto Rican Jam: Rethinking Colonialism and Nationalism*. Minneapolis: University of Minnesota Press, 2008.
- O'Reilly, Kenneth. *Black Americans: The FBI Files*. New York: Carroll & Graf, 1994.

- Pincince, John. "De-centering Carl Schmitt: The Colonial State of Exception and the Criminalization of the Political in British India, 1905-1920," *Politica Comun*, Vol. 5 (2014), available at <http://dx.doi.org/10.3998/pc.12322227.0005.006>.
- Pommersheim, Frank. *Broken Landscape: Indians, Indian Tribes and the Constitution*. New York: Oxford University Press, 2009.
- Ramírez de Arellano, Annette B. *Colonialism, Catholicism, and Contraception: A History of Birth Control in Puerto Rico*. Chapel Hill: University of North Carolina Press, 1983.
- Rivera Ramos, Efrén. *The Legal Construction of Identity: The Judicial and Social Legacy of American Colonialism in Puerto Rico*. Washington, DC: American Psychological Association, 2001.
- Rodriguez-Arroyo, Sandra. "The Never Ending Story of Language Policy in Puerto Rico." *Comunicación, Cultura Y Política*, January 1, 2013, 79–98.
- Rodríguez-Silva, Ileana M. *Silencing Race: Disentangling Blackness, Colonialism, and National Identities in Puerto Rico*, New York: Palgrave Macmillan, 2012.
- Rodríguez Vázquez, José Juan. *El Sueño Que No Cesa: La Nación Deseada En El Debate Intelectual Y Político Puertorriqueño, 1920-1940*. San Juan: Ediciones Callejón, 2004.
- Román, Ediberto. *Citizenship and its Exclusions: A Classical, Constitutional and Critical Race Critique*. New York: New York University Press, 2010.
- . *The Other American Colonies: An International and Constitutional Law Examination of the United States Nineteenth and Twentieth Century Island Conquests*. Durham: Carolina Academic Press, 2006.
- Rosado, Marisa. *Las Llamas de La Aurora: Acercamiento a Una Biografía de Pedro Albizu Campos*. San Juan: Ediciones Puerto, 2006.
- Roy-Fequiere, Magali. *Women, Creole Identity, and Intellectual Life in Early Twentieth-Century Puerto Rico*. Philadelphia: Temple University Press, 2004.
- Santiago-Valles, Kelvin. "'Our Race Today [Is] the Only Hope for the World': An African Spaniard as Chieftain of the Struggle against 'Sugar Slavery' in Puerto Rico, 1926-1934." *Caribbean Studies* 35, no. 1 (January 1, 2007): 107–40.

- — —. *“Subject People” and Colonial Discourses: Economic Transformation and Social Disorder in Puerto Rico, 1898-1947*. Albany: State University of New York Press, 1994.
- Santos Santos, Hector I. “Cabotage Laws: A Colonial Anachronism.” *Revista de Derecho Puertorriquena* 36 (1997): 451.
- Silva Gotay, Samuel. *Catolicismo y Política en Puerto Rico: Bajo España y Estados Unidos, Siglos XIX Y XX*. San Juan: Editorial Universidad de Puerto Rico, 2005.
- Soltero, Carlos R. *Latinos and American Law: Landmark Supreme Court Cases*. Austin: University of Texas, 2006.
- Sparrow, Bartholomew H. *The Insular Cases and the Emergence of American Empire*. Lawrence: University Press of Kansas, 2006.
- Stein, Judith. *The World of Marcus Garvey: Race and Class in Modern Society*. Baton Rouge: Louisiana State University Press, 1991.
- Stevens-Arroyo, Anthony M. “The Catholic Worldview in the Political Philosophy of Pedro Albizu Campos: The Death Knoll of Puerto Rican Insularity.” *U.S. Catholic Historian* 20, no. 4 (October 1, 2002): 53–73.
- — —. *The Political Philosophy of Pedro Albizu Campos: Its Theory and Practice*. Ibero-American Language and Area Center. Occasional Papers 13. New York: New York University, 1974.
- — —. *Catholicism as Civilization: Contemporary Reflections Onthe Political Philosophy of Pedro Albizu Campos*. Working Papers / Caribbean Institute and Study Center for Latin America #50. San Germán, P.R: Inter American University of Puerto Rico, 1992.
- Stoler, Ann Laura. *Race and the Education of Desire: Foucault’s History of Sexuality and the Colonial Order of Things*. Durham: Duke University Press, 1995.
- Svirsky, Marcelo, and Simone Bignall, eds. *Agamben and Colonialism*. Edinburgh: Edinburgh University Press, 2012.
- Taller de Formación Política (Puerto Rico). *Huelga En La Caña!: 1933-34*. Edited by Carmen Rivera Izcoa. Río Piedras: Ediciones Huracán, 1982.

- . *No Estamos Pidiendo El Cielo: Huelga Portuaria de 1938*. Río Piedras: Ediciones Huracán, 1988.
- Thompson, Winfred Lee. *The Introduction of American Law in the Philippines and Puerto Rico, 1898-1905*. Fayetteville: University of Arkansas Press, 1989.
- Torruella, Juan R. *The Supreme Court and Puerto Rico: The Doctrine of Separate and Unequal*. Río Piedras: University of Puerto Rico, 1985.
- Trías Monge, José. *Historia Constitucional de Puerto Rico*. Río Piedras: Editorial Universitaria, 1980.
- . *Puerto Rico: The Trials of the Oldest Colony in the World*. New Haven: Yale University Press, 1997.
- Trujillo-Pagán, Nicole E. *Modern Colonization by Medical Intervention: U.S. Medicine in Puerto Rico*. Boston: Brill, 2013.
- Valdés, Dennis Nodín. *Organized Agriculture and the Labor Movement before the UFW: Puerto Rico, Hawai'i, California*. Austin: University of Texas Press, 2011.
- Van Munster, Rens. "The War on Terrorism: When the Exception Becomes the Rule," *International Journal for the Semiotics of Law*, 17: 141-153 (2004).
- Vaughan-Williams, Nick. "The Generalized Bio-Political Border? Re-Conceptualizing the Limits of Sovereign Power," *Review of International Studies* 35, 729-749 (2009).
- Venator Santiago, Charles R. "From the Insular Cases to Camp X-Ray: Agamben's State of Exception and United States Territorial Law." In *Studies in Law, Politics and Society*, 39:15-55, (2006).
- Weheliye, Alexander G. *Habeas Viscus: Racializing Assemblages, Biopolitics, and Black Feminist Theories of the Human*. Durham: Duke University Press, 2014.
- Welch, Richard E. *Imperialists vs. Anti-Imperialists: The Debate over Expansionism in the 1890's*. Primary Sources in American History. Itasca, Ill.: F.E. Peacock Publishers, 1972.