

PUERTO RICO STATUS ARCHIVES PROJECT: AN OVERVIEW OF STATUS LEGISLATION FOR PUERTO RICO

Puerto Rican Studies Initiative for Civic Engagement and Public Policy
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ABOUT THIS REPORT

The Puerto Rico Status Archives Project (PRSAP) is a repository of materials documenting the history of congressional legislation addressing Puerto Rico's political status. The PRSAP collects legislative materials related to Puerto Rico's political status within the United States between the 56th Congress (1899-1901) and the 118th Congress (2023-2025). In addition, all federal legislation has been organized in an interactive dashboard that enables researchers to compare and contrast some dimensions of this history. This report provides an introductory overview of the federal status legislation for Puerto Rico.

DEFINING PUERTO RICO'S POLITICAL STATUS

Between 1898 and 1901, the United States invented a new territorial law and policy to rule Puerto Rico. The United States annexed Puerto Rico amidst the Spanish-American War and under the terms of the *Treaty of Paris 1898*. Unlike prior US treaties of territorial annexation, the *Treaty of Paris* did not provide for the collective naturalization of the inhabitants of Puerto Rico, nor did it promise to do so in the future. The treaty established that Congress would be responsible for the extension of civil and political rights to the inhabitants of Puerto Rico. In 1900, Congress enacted an organic or territorial legislation to govern Puerto Rico under the terms of the *Foraker Act*. Central to the *Foraker Act* was a clause that treated Puerto Rico as a foreign territorial possession for trade and tariff purposes. A year later, the Supreme Court, in a series of rulings generally known as the *Insular Cases*, affirmed the power of Congress to selectively rule Puerto Rico as an unincorporated territory constitutional purpose.

The ensuing territorial doctrine, also known as the doctrine of "territorial incorporation" or the doctrine of "separate and unequal," departed from prior colonialist and imperialist territorial law and policy. To be sure, whereas colonial territories were annexed, settled, and organized with the intent of creating new states that could be admitted into the Union, the doctrine of separate and unequal established that unincorporated territories were not in the path conducting to statehood. Likewise, whereas the imperialist tradition established that occupied territories were located outside of the United States for constitutional purposes, the new doctrine enabled the federal government to selectively determine when Puerto Rico could be treated as a part of the United States for the purposes of extending or withholding the application of constitutional provisions to Puerto Rico. Simply put, the new territorial doctrine allowed the federal government to discriminate against Puerto Rico and its residents. In 1922, the Supreme Court further established in *Balzac v. People of Porto Rico* that Puerto Rico would remain an unincorporated territory until Congress enacted legislation that explicitly incorporated the Puerto Rican islands. Congress has not enacted legislation incorporating or changing Puerto Rico's territorial status.

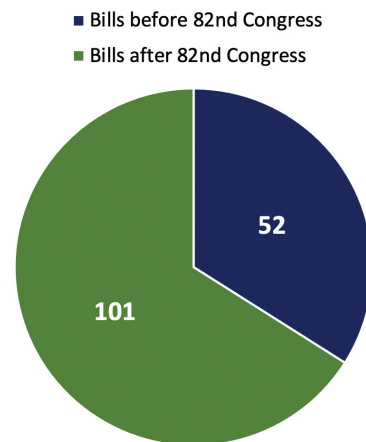
Since 1901, Congress has enacted various amendments to the *Foraker Act*, as well as other territorial legislation for Puerto Rico, without changing its territorial status. For example, in 1917, Congress enacted the *Jones Act*, which amended the *Foraker Act* various ways, including the extension of a bill of rights, the collective naturalization of the residents of Puerto Rico, and provided for an elective Senate. *The Elective*

Governor Act of 1947 further enabled local voters to elect a local governor. In addition, in 1952 (82nd Congress), Congress enacted legislation authorizing the residents of Puerto Rico to gain more autonomic or administrative control over its local government, However, Congress has never enacted legislation explicitly incorporating or changing Puerto Rico’s territorial status. Puerto Rico has remained an unincorporated territory since 1900.

FEDERAL STATUS LEGISLATION FOR PUERTO RICO

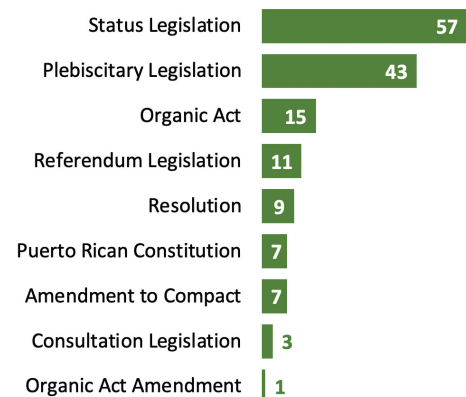
- Since the United States annexed Puerto Rico (56th Congress), Congress has debated upwards of 153 bills, resolutions, laws, and other measures that contain a provision addressing Puerto Rico’s political status (see Figure 1).
- Two-thirds (101) of these legislations were debated between the 56th and 82nd Congress.
- One-third (52) of these legislations were debated after the enactment of the so-called Commonwealth Act of 1952 (82nd Congress).

Figure 1. Total Number of Bills



- A little more than two-thirds (111) of all legislation debated in Congress explicitly addressed a change in Puerto Rico’s territorial status either by way of a change in Puerto Rico’s status (57), through a status plebiscite (43) or as part of a referendum on a question affirming a status (9).
- Other legislation contained measures that primarily modified Puerto Rico’s political status or contained provisions that suggesting a need to change the Puerto Rican islands’ territorial status.

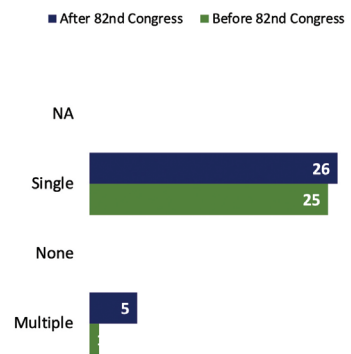
Figure 2. Total Number of Bills by Type



- Status bills are legislation that ascribe or grant a single status option. In some cases, bills may ascribe one of multiple options, but what distinguishes this type of legislation is the imposition of a particular status option.

- As Figure 3 suggests, the use of this type of legislation was consistent before and after the 82nd Congress.

Figure 3. Status Legislation

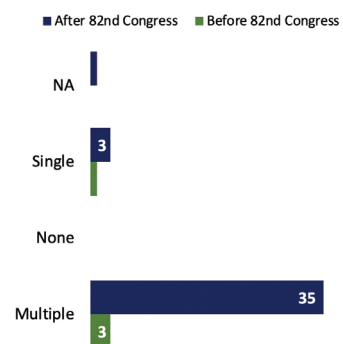


- Plebiscitary bills are legislation that give electors an opportunity to choose among multiple status options. There are various ways or methods to conduct a plebiscite.

- As Figure 4 demonstrates, the reliance of plebiscites to solve Puerto Rico’s territorial status was fairly rare prior to 1952 or the enactment of the Puerto Rican Constitution.

- In contrast, following the 82nd Congress, plebiscites were the most popular legislative approach to change Puerto Rico’s political status.

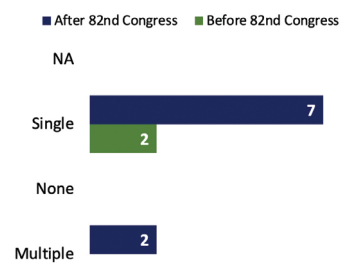
Figure 4. Plebiscitary Legislation



- Referendum bills are legislation that ask electors to affirm a particular political status with a yes or no vote. The use of referendums is the least popular legislative approach to change Puerto Rico’s political status.

- Most referendum bills were introduced after 1952.

Figure 5. Referendum Legislation



Despite all of these debates, Congress has never enacted legislation granting Puerto Ricans the ability to choose among one or more status options. Congress has also never enacted legislation incorporating or changing Puerto Rico’s territorial status.

The enactment of PROMESA legislation in 2016, a bipartisan legislation, substantially reducing the levels of self-government in financial matters, have renewed the domestic and international interest in the topic of Puerto Rico’s political status.

ABOUT THE AUTHORS

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WHERE DID WE GET THIS INFORMATION FROM?

Data for this report is collected in the Puerto Rico Status Archives Project. All data has been organized in the Puerto Rico Status Archives Dashboard, an interactive tool designed to compare and contrast different dimensions of the federal history of status legislation for Puerto Rico.

HOW TO CITE THIS ARCHIVAL BRIEF?

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The Puerto Rican Studies Initiative for Community Engagement and Public Policy (PRSI) is a research initiative that can help document and support the Puerto Ricans' vital economic, intellectual, and cultural contributions to Connecticut and provide research-based support for the development of public policies addressing the needs of Puerto Ricans in the State of Connecticut.

This initiative is part of a collaboration between El Instituto (CLAS, UConn Storrs), the Puerto Rican and Latin@ Studies Project (School of Social Work, UConn Hartford), and the Hispanic Health Council.

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