



Article

# Perspectives on Economic Freedom in Puerto Rico

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### Takeaways

Federal welfare programs institutionalized the problem of passive dependence on U.S. economic aid instead of fostering locally driven solutions in Puerto Rico.

Puerto Rico suffers from the evil of a large, interventionist government that fosters both individual and corporate dependence on government assistance.

The expectation that the Island would converge with the wealthiest U.S. jurisdictions never materialized; on the contrary, the economic gap has widened—even in comparison with the poorest U.S. states.

Removing the burdens of central planning, paternalism, and protectionism is essential for Puerto Rico's residents to become the driving force behind the Island's economic future.

Puerto Rico is a Hispanic American nation under the sovereignty of the United States of America;<sup>1</sup> this fact makes it a particular case when discussing economic freedom in the Americas. Puerto Rico was ceded to the United States as a result of the Spanish-American War and the Treaty of Paris (1898).<sup>2</sup> Since then, this economic and political relationship has been shaped by various actions, decisions, and organic charters.<sup>3</sup> It is relevant to begin with a brief historiographical note to frame to the current state of economic freedom on the Island.

### The Institutionalization of Colonialism and Dependency Under the United States

Between 1901 and 1905, a series of U.S. Supreme Court decisions<sup>4</sup> began to define Puerto Rico's legal status as an unincorporated territory under the plenary powers of Congress.<sup>5</sup> In *Downes v. Bidwell* (1901), the Court held that Puerto Rico *belongs to but is not a part of* the United States—legal language that remains in effect. In 1917, Congress approved an organic charter for Puerto Rico, known as the Jones-Shafroth Act, which provided a Bill of Rights and granted U.S. citizenship to the citizens of Puerto Rico.

By the early 1930s, the Island faced extreme poverty, high unemployment, widespread illiteracy, food insecurity, undernutrition, and high infant and adult mortality. In 1933, the U.S. Government established the Puerto Rico Emergency Relief Administration, an agency that provided emergency employment to thousands of people; built and repaired aqueducts, roads, schools, and hospitals; and improved sanitary conditions. It also distributed free food to those in greatest need, which led to it becoming known as *el mantengo* (a term implying living off public assistance).

Federal welfare programs such as Puerto Rico Emergency Relief Administration (until 1936) and, later, the Puerto Rico Reconstruction Administration (until 1941, when Congress eliminated its funding) alleviated some of these hardships but institutionalized two major problems: (1) a passive dependence on U.S. economic aid rather than the pursuit of self-sustaining solutions, and (2) the rise of a large, interventionist government that fosters both individual and corporate dependence on government assistance.

<sup>1</sup> Puerto Rican nationality is a subject of debate and opposing opinions due to ideological reasons, and it is often confused with the term *nation-state*. The term *nation-state* describes a political entity with sovereignty over a territory and its inhabitants; in everyday terms, these are commonly known as countries (Flint, 2016). On the other hand, a *nation* refers to a group of people united by common elements such as ancestry, language, beliefs, culture, customs, history, or territory. Nations are not naturally occurring entities but are formed through collective social processes and shared identities (Kundra, 2019).

<sup>2</sup> Some elements of the opening paragraphs of this article are drawn from a previous work (Carrión-Tavárez, 2021) on the political, legal, and economic situation of Puerto Rico between 1899 and 1946.

<sup>3</sup> The first of these was the Organic Act of 1900, commonly known as the Foraker Act. After approximately 20 months of military rule, the Foraker Act established a civilian government on the Island. Executive power was exercised by a governor and a cabinet appointed by the president of the United States. The Foraker Act provided for the election of a non-voting resident commissioner to Congress, a figure who remains today the Island's only representative in the U.S. legislative branch. It also designated the inhabitants of the Island as citizens of Puerto Rico, replaced the provincial currency with the dollar, regulated Puerto Rico's commercial relations with the United States, applied U.S. laws to Puerto Rico—except for internal revenue laws—and established a federal district court on the Island.

<sup>4</sup> These decisions of the Supreme Court of the United States are known as the *insular cases*. Torruella (2013) offers a perspective on these decisions and their scope.

<sup>5</sup> Later, in cases such as *Califano v. Torres* (1978), *Harris v. Rosario* (1980), and *Puerto Rico v. Sánchez Valle* (2016), the U.S. Supreme Court also reaffirmed Congress's plenary powers over Puerto Rico under the territorial clause of the United States Constitution and confirmed that the enactment of the Constitution of the Estado Libre Asociado de Puerto Rico did not alter the Island's economic and political relationship with the United States.

Through the Puerto Rico Federal Relations Act of 1950, Congress granted Puerto Rico the right to draft its own constitution—subject to that of the United States. A constituent assembly on the Island drafted the Constitution of the Estado Libre Asociado [Associated Free State] of Puerto Rico,<sup>6</sup> which was approved by the people on March 3rd, 1952. This law did not alter the sovereign powers acquired by the United States over Puerto Rico under the Treaty of Paris (1898), nor did it change the economic and political relations between the two.<sup>7</sup>

### **The State of Economic Freedom in Puerto Rico**

The fundamental principles of liberalism have manifested in Puerto Rico for centuries. They appear in primary sources such as the book *Puerto Rico en la Feria-Exposición de Ponce en 1882* [Puerto Rico at the Ponce Fair-Exposition in 1882] and *Revista de Agricultura, Industria y Comercio* [Journal of Agriculture, Industry, and Commerce], published in the 19th century, as well as in the *Memorial de la Cámara de Comercio de Ponce* [Brief of the Ponce Chamber of Commerce], from the early 20th century;<sup>8</sup> however, the study of issues such as economic freedom and the free market on the Island and their implications is a relatively new and underexplored area of research.

In 2022, we began working to incorporate Puerto Rico into the *Economic Freedom of North America* (EFNA) report. Our research has provided valuable insight into the state of economic freedom on the Island and a benchmark for comparison with other jurisdictions. Puerto Rico is the least free jurisdiction in the United States. The Island ranks 51st overall in the most recent EFNA report—for the third consecutive year—with a score of 2.13. For comparison, the next lowest-ranked jurisdiction, New York, has a score of 4.25—nearly double that of Puerto Rico (Stansel et al., 2024).

When considered alongside Canada, the United States, and Mexico, Puerto Rico ranks 61st, below all 50 U.S. states and the 10 Canadian provinces, with a score of 6.57. The lowest-scoring Canadian jurisdiction, Newfoundland and Labrador, has 7.58. On the other hand, Baja California, the highest-scoring Mexican state, ranks 62nd with 6.54. In other words, Puerto Rico aligns more closely with Mexico than with the

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<sup>6</sup> The Estado Libre Asociado de Puerto Rico is often called the “Commonwealth of Puerto Rico” in English; nevertheless, the accurate translation is “Associated Free State of Puerto Rico.” The Estado Libre Asociado is a problematic name because Puerto Rico is neither a federal nor national “state,” since it is an unincorporated territory of the United States; it is not “free,” as it lacks the sovereignty to act according to its interests; and it is not “associated” because, lacking sovereignty, it does not have the power to form associations with other nation-states. It is, therefore, a euphemism that disguises the reality that the Island continued to be a colony, with a delegated government subordinated to the plenary powers of Congress.

<sup>7</sup> As a matter of fact, Congress exercised its faculties over Puerto Rico by introducing amendments to the constitution approved by the vote of the people, in various sections; one such amendment was to Article VII, to ensure that no future amendment to the Island’s constitution could alter the fundamental structure defining the relationship between Puerto Rico and the United States. The amended constitution was approved by Congress through Public Law 447 (1952) and signed by President Harry S. Truman on July 3, 1952. Congress has continued to exercise its authority over Puerto Rico, such as when it decided not to return to the Departamento de Hacienda [Puerto Rico Treasury] the surplus taxes on rum produced on the Island, in 1984, in contravention of Section 9 of the Federal Relations Act of 1950.

<sup>8</sup> For example, the aforementioned book states that “the prevailing system, centralizing and absorptive by its very nature, exerts its pernicious influence to the point of stifling the nerve of production, which can only be sustained by individual activity, guaranteed by expansive and liberal laws” (Abad, 1885: 46). Similarly, the *Revista* praises the government’s restraint in matters beyond its specific domain, offering the guarantees for business to take place and avoiding unnecessary interventions (Álvarez Curbelo, 2001). The authors of the *Memorial*, in turn, assert that “as a general principle, we openly oppose government intervention in public enterprises, such as port operations. In these, even less, we believe in government effectiveness or action, and we see it rather as a delay in the face of the increasingly pressing needs of business life” (Armstrong, 1906: Día 6).

United States and Canada. This low level of economic freedom is not simply the result of the Island's colonial status or isolated economic events but rather of public policies that restrict economic freedom.

Between 2013 and 2022, Puerto Rico faced a series of major economic and natural crises. The Government of Puerto Rico declared itself unable to pay its debt; the U.S. Government established an oversight board to manage the fiscal crisis; the Island filed for bankruptcy; and Puerto Rico was struck by two hurricanes, a series of earthquakes, and the COVID-19 pandemic. Despite these events, Puerto Rico's overall EFNA score was 2.13 at both the beginning and the end of this 10-year period. This suggests that the Island's low level of economic freedom is primarily tied to its public policies and regulatory framework rather than the net effect of these economic events.

### **The Burdens of State Control on the Path to Economic Freedom and Prosperity**

Limited economic freedom lies at the core of Puerto Rico's most pressing socioeconomic challenges. For the last 73 years, the Island has experienced weaker economic growth than the United States, and the gap between Puerto Rico and the U.S. states has widened. The expectation of the framers of Puerto Rico's constitution that the Island would converge with the wealthiest U.S. jurisdictions never materialized; on the contrary, the economic gap has widened—even in comparison with the poorest U.S. states.

From 2011 to 2020, Puerto Rico experienced significant outbound migration, with an estimated 550,421 individuals relocating to the U.S. states (Universidad de Puerto Rico, 2021). This is a striking figure, considering that Puerto Rico's population in 2022 was 3,221,789 (U.S. Census Bureau, 2022). This migration pattern aligns with research findings that show a strong correlation between economic freedom and migration. The departure of a highly educated and productive workforce has profound economic and social consequences for Puerto Rico.

A recent report published by the Institute for Economic Liberty highlights more than 50 laws and regulations that constrain economic freedom and hinder the development of a free market in Puerto Rico (Carrión-Tavárez, 2024). These government-imposed barriers restrict individuals' ability to participate fully in the economy and contribute to the Island's prosperity. Removing these obstacles—rooted in centrally planned, paternalistic, and protectionist policies—is essential for Puerto Rico's residents to become the driving force behind the Island's economic future.

As a final thought, Puerto Rico's economic trajectory has been shaped by U.S. industrial policy and federal incentives for too long, rather than by an independent, sustainable development strategy beyond the shifting tides of federal policymaking. Implementing reforms that promote economic freedom is a concrete action policymakers in Puerto Rico can take to foster economic growth, retain local talent, attract Puerto Ricans to return to the Island, and generate opportunities for prosperity free from undue government interference.

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