The Ambiguous Status of the U.S. Insular Territories

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The author surveys the anachronistic constitutional status of the diverse U.S. insular "territories" and finds that these vary widely, many of them having been granted extra-Constitutional privileges superior to those possessed by the states of the Union.

Key Words: U.S. Territories, U.S. Constitution, U.S. Nationality, International Treaties

Historically, a U.S. territory was a land with a population too small and scattered to govern itself as a state and therefore was administered by the federal government. But most importantly, a U.S. territory was considered to be, above all else, a temporary status. Based upon the principles of the Northwest Ordinance of 1787 – principles implemented by the federal administrations of George Washington, John Adams, Thomas Jefferson and James Madison – States were to be carved out of existing territories and admitted to the Union on the basis of equality with existing states. This was the case with the Old Northwest Territory, the Old Southwest Territory, Louisiana Territory, Oregon Territory, and Mexican Cession.

Since a territorial status was temporary, territories which did not become States either became independent countries – Cuba in 1903 and the Philippines in 1946 – or were transferred, in whole or in part, to a foreign power. For example, the northwest portion of the Louisiana Territory (1818),[2] the northeast portion of the State of Maine (1842),[3] the northern half of the Oregon Territory (1846),[4] and one-third of the Alaskan panhandle (1903)[5] were transferred to the United Kingdom; Okinawa (1972) was transferred to Japan,[6] and

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[1] Mr. Fallon is the author of *Deconstructing the United States*, published in 1998 as Monograph Number 27 in the *Journal of Social, Political and Economic Studies Monograph Series.*

[2] Convention of October 20, 1818.

[3] The Webster-Ashburn Treaty of August 9, 1842.

[4] The Buchanan-Pakenham Treaty of June 15, 1846.

[5] The Alaska Bonndary Tribunal Award of October 20, 1903.

[6] U.S.-Japan Treaty of May 15, 1972.

TABLE ONE

Final Status of Territories Not Achieving Statehood

Name of territorial possession	Date U.S. relinquished its claim	Party with whom U.S. negotiated	Final Political Status
Northwest portion of Louisiana Territory	Convention of October 20, 1818	United Kingdom	Ceded territory north of the 49th parallel in exchange for land south of that parallel in the Red River Basin.
Northeast portion of State of Maine	The Webster-Ashburton Treaty of August 9, 1842	United Kingdom	Approximately half disputed territory ceded to the British colony of New Brunswick
Oregon Territory	The Buchanan-Pakenham Treaty of June15, 1846	United Kingdom	Half disputed territory ceded to British North America
Cuba	Treaty of May 22, 1903	Cuban nationalists	Independence
Alaska pan-handle	Alaska Boundary Tribunal Award of October 20, 1903	United Kingdom	One-third of disputed land awarded to the British North American colony of British Columbia

Philippines	The Tydings-McDuffies Act took effect on July 4, 1948	Filipino nationalists	Independence
Bonin Islands, Volcano Islands, (Iwo Jima), and Marcos Islands	June 26, 1968	Japan	Part of Japan
Swann Islands	November 22, 1971	Honduras	Part of Honduras
Okinawa, Ryuku Islands, and Daito Islands	May 15, 1972	Japan	Part of Japan
Panama Canal and Canal Zone Territory	April 18, 1978 to be implemented by 1999	Panama	To become part of Panama
25 Islands in South Pacific	Treaty of February 7, 1979, ratified August 1983	Tuvalu	Some islands became part of Tuvalu
	Treaty of September 20, 1979, ratified August 1983	Kiribati	Some islands became part of Kiribati
	Treaty of December 2, 1980, ratified August 1983	New Zealand and the Cook Islands on behalf of Tokelau	Some islands became part of Tokelau
Quita Sueno Bank, Rocador, and Serrano	Treaty of September 17, 1981	Colombia	Part of Colombia

the Panama Canal and the Canal Zone Territory (1978) were transferred to Panama.[7] (See Table 1, "Final Status of Territories Not Achieving Statehood.") However, these historical principles have not been applied to the present-day U.S. territories.

Today's Insular Territories

As a result of the Spanish-American War of 1898, the United States acquired territories, such as Cuba and the Philippines, which were deemed unlikely to become States because they were geographically remote and/or their cultures differed significantly from that of the United States. To determine the administrative status of such possessions, the U.S. Supreme Court promulgated the "doctrine of incorporation" in a series of rulings between 1901 and 1922 known as the "Insular Cases." According to these court decisions, the U.S. Constitution does not fully apply to a U.S. territory until it has been "incorporated" into the Union. However, the Court never precisiely defined when "incorporation" might be deemed to have occurred. While the "doctrine of incorporation" granted Congress vast powers to administer U.S. territories, it did not alter the temporary nature of a territorial status, and did not recognize any permanent political status other than Statehood.

All this changed when Congress radically altered the political structure of the United States, first with Puerto Rico in 1952, then with the creation of the United Nations Strategic Trust Territory of the Pacific Islands in 1986. Claiming the power, under the "doctrine of incorporation" and Article IV, Section 3 (2) of the U.S. Constitution, "to dispose of and make all needful Rules and Regulations respecting the Territory or other Property belonging to the United States", Congress replaced the well-defined Union of States – by which each State, regardless of territorial size, population, or date of admission, possessed equal powers – with a ambiguous political system. The "Union" now consists of a political collation of entities of *unequal* power, comprising the 50 States and a hierarchy of eight territories. This is illustrated in Chart 1, "The General Legal Categories Constituting the Hierarchical Political Structure of the USA."

[7] U.S.-Panama Treaty of April 18, 1978, to be implemented by 1999.

The Political Hierarchy within the U.S. Territories

The U.S. territories consist of (in descending order of political power): three "free associations", the Federated States of Micronesia, the Marshall Islands and Palau, whose inhabitants are citizens of their respective republics, not the United States; two "commonwealths", Puerto Rico and the Northern Marianas, whose inhabitants are U.S. citizens but who in the latter case enjoy local control over immigration and land ownership; two "unincorporated and organized" territories, Guam and the U.S. Virgin Islands, whose inhabitants are U.S. citizens, and one "unincorporated and unorganized" territory, American Samoa, whose inhabitants are legally U.S. nationals but who enjoy the same rights over immigration and land as Northern Marianas islanders – rights legally denied U.S. citizens of the 50 States. There are, in turn, additional hierarchies within these "free associations" and "commonwealths." These are listed in Table 2, "Hierarchy of Insular Territories".

"Free Associations"

"Free association" is recognized by the United Nations as an alternative to independence for a former trust territory. It enables the local population to enjoy a maximum degree of self-government – including representation in international organizations and the right to negotiate and sign treaties – while ensuring that the former administrating power will continue to finance and defend that territory.

Prior to World War II, the Federated States of Micronesia, the Marshall Islands, the Northern Marianas and Palau belonged to Japan. The U.S. government seized these islands in 1944, and assumed legal responsibility for their administration in 1947 as the United Nations Strategic Trust Territory of the Pacific Islands.

The trusteeship system of the United Nations was planned as a transitional administration for a limited number of territories which, it was assumed, would terminate in independence. Under the provisions which established the United Nations Strategic Trust Territory of the Pacific Islands, Washington was to administer the islands that constitute the Federated States of Micronesia, Marshall Islands, Northern Marianas, and Palau as a single political entity.

Although most islanders favored independence, as the "Cold War" developed, the U.S. government desired to retain control of

TABLE TWO

Hierarchy of Insular Territories

Eight Insular Territories	Political Status	Legislative System	Status in Washington	U.S. Legal Status of Islanders
Federated States of Micronesia	"Free Association" Security provisions last 15 years	unicameral	Ambassador	None
Marshall Islands	"Free Association" Security provisions last for 15 years; but at Kwajalein for 30 years	bicameral lower House functions as a parliament; upper House composed of tribal chiefs	Ambassador	None
Palau	"Free Association" Security provisions last for 50 years	bicameral	Ambassador	None
Northern Marianas	"Commonwealth" (greater autonomy over land and immigration), unincorporated organized.	bicameral	Opted not to have a delegate to Congress. Has elected lobbyist instead.	citizens

Puerto Rico	"Commonwealth" (lesser autonomy only territory within U.S. Customs Zone), unincorporated, organized	bicameral	Resident Commissioner can vote in the sub-committees, full committees, and caucuses of U.S. House of Representatives	citizens
Guam	unincorporated organized	unicameral	Delegate can vote in sub-committees, full committees, and caucuses of U.S. House of Representatives	citizens
U.S. Virgin Islands	unincorporated organized	unicameral	Delegate can vote in the sub-committees, full committees, and caucuses of U.S. House of Representatives	citizens
American Samoa	unincorporated unorganized	bicameral elected lower House and a Senate of tribal chiefs	Delegate can vote in the sub-committees, full committees, and caucuses of U.S. House of Representatives	nationals

strategic portions of this widely spread Pacific territory. As a result, Washington permitted – if it did not actually orchestrate – the fragmentation of the U.N. Strategic Trust Territory of the Pacific Islands into four separate entities. It retained permanent possession of the most strategic island group, the Northern Marianas, under a "commonwealth" covenant, and offered the other three, the Federated States of Micronesia, the Marshall Islands and Palau, compacts of"free association" with the United States.

This "free association" consists of two parts: political and defense/security. The Federated States of Micronesia, Marshall Islands and Palau may unilaterally vote to end their political status of "free association" at any time, but if they do exercise their right to independence this act will not affect, alter or abolish the defense and security provisions which would remain in full force.

However, within this group of three a hierarchy exists as each entity is treated differently by these defense and security provisions. For the Federated States of Micronesia, the provisions last only 15 years.[8] For the Marshall Islands, they last 15 years for the archipelago as a whole, but 30 years for the Kwajalein military facilities located within these islands.[9] After these provisions expire, the Federated States of Micronesia and the Marshall Islands have agreed to *permanently* deny their lands and facilities to any third power.[10] In the case of Palau, however, the defense and security provisions last for 50 years, and then remain in force for perpetuity unless terminated or altered by mutual consent.[11]

As long as the Federated States of Micronesia, the Marshall Islands and Palau remain in "free association" with the United States, Washington, in addition to guaranteeing these islands substantial economic assistance and certain technical services for a specified period, provides "at no cost to the respective governments, airline and airport safety services, economic regulation of commercial air service, weather prediction, public health services, legal aid services, assistance from the Farmers Home Administration and assistance in the event

[8] Title Four, Section 453 of the Compacts of Free Association.
[9] Title Four, Section 453, and the Status of Forces Agreement (SOFA).
[10] Article IV of the supplementary military agreements.
[11] Title Four, Section 453.

of natural disasters."[12] Furthermore, mail delivery continues to be provided by the United States Postal Service.[13]

The Many Meanings of "Commonwealth"

"Commonwealth" status possesses a hierarchy, too, but lacks any precise legal definition. Originally, in U.S. legal usage, the term "commonwealth" applied only to States. Five U.S. States officially identified themselves as "commonwealths" in their respective constitutions – Kentucky, Maryland, Massachusetts, Pennsylvania and Virginia. Their powers are limited by the U.S. Constitution. However, from 1935 to 1946, Congress designated the Philippines, a U.S. possession since 1898, a "commonwealth". Other than its name, the "Commonwealth of the Philippines" bore no legal or political resemblance to the "commonwealths" of Kentucky, Maryland, Massachusetts, Pennsylvania, or Virginia. For the Philippines, the term "commonwealth" designated not a State in the Union, but a transitional administration leading to independence from that Union, and the powers which it exercised were inferior to those exercised by States because they were limited not by the U.S. Constitution but by the whims of Congress.

Yet a third type of "commonwealth" was created by Congress for Puerto Rico in 1952, and for the Northern Marianas in 1986. In these instances, Congress applied the term "commonwealth" not to designate Statehood or transition to independence, but as a verbal camouflage to preserve their territorial links to the United States. That the term "commonwealth" as applied to a U.S. territory is devoid of legal meaning was publicly admitted in 1976 by the U.S. Supreme Court and Congress. While never addressing the constitutionality of Puerto Rico's "commonwealth" status in the case of *Examining Board of Engineers v. Flores de Otero,* the U.S. Supreme Court acknowledged that Puerto Rico "occupies a relationship with the United States that has no parallel in our history."[14] Similarly, in its report on "The Covenant to Establish a Commonwealth of the

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[12] "Status of the Trust Territory of the Pacific Islands -- Provisions of the Compact", United States Department of the Interior, Oct. 1991, p. 3.

[13] Ibid., p.3.

[14] "Examing Board of Engineers v. Flores de Otero", 426 U.S. 572, 596 (1976).

Northern Mariana Islands", the Senate bluntly stated:

> the term 'commonwealth' is not a word describing any single kind of political relationship or status. . . The choice of the term 'commonwealth' for the Northern Mariana Islands therefore does not denote any specific status, in particular it does not connote identity with the title held by the Commonwealth of Puerto Rico.[15]

The Difference Between "Organized" and "Unorganized" Territories

Guam and the U.S. Virgin Islands are "unincorporated and organized" territories. They are "unincorporated" because the provisions of the U.S. Constitution do not apply in full to these islands. They are "organized" because Congress established the governments for both of these territories through legislation called an "organic act."

American Samoa, alone, is both an "unincorporated and unorganized" territory. It is "unincorporated" because, like Guam and the U.S. Virgin Islands, the provisions of the U.S. Constitution do not apply in full to this territory. It is "unorganized" because, unlike Guam and the U.S. Virgin Islands, the government of American Samoa was not established by Congress though an "organic act" but by local legislation.

Special Privileges Enjoyed by the U.S. Territories

Territorial Power Over Immigration

Today's U.S. territories actually enjoy many benefits not permitted by the U.S. constitutions to persons resident in the U.S. States. In the new, hierarchical political structure created by Congress since 1952, these eight U.S. territories – in violation of the U.S. Constitution – actually possess greater powers than the States of the Union. The most important power which Congress has awarded the territories is control over immigration, a power which has been denied to the States since 1875, when the federal government established direct regulation over immigration.[16] Recognizing the negative impact immigration can have on the demographics of a land, Congress has given American Samoa, the Federated States of Micronesia, the Marshall Islands, the Northern

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[15] "The Covenant to Establish a Commonwealth of the Northern Mariana Islands", Senate Report No. 433, 94th Cong., 1St Session (1976), p. 65.

[16] Act of March 3, 1875 (18 Statutes-at-Large 477).

Marianas and Palau the right to control immigration into their territories so that the islanders can preserve their respective ethnic, racial, and cultural identities. For this reason, Guam has been lobbying Congress for years for this same power.

Territorial Power over Land Ownership

Congress has also permitted American Samoa,[17] the Federated States of Micronesia,[18] Marshall Islands,[19] the Northern Marianas,[20] and Palau[21] to enact land alienation laws – i.e., to place restrictions on ownership of land based upon racial or ethnic identity. In order to own land in the Federated States of Micronesia, the Marshall Islands, or Palau, one must be a citizen of that particular "republic" which, in effect, means one must belong to a specific ethnic group. One must meet a prescribed definition of island "descent" to own any land in the Northern Marianas, or most land in American Samoa. Guam has been lobbying Congress for this power as well. Such racial restrictions on land ownership violate the equal protection clause and the privileges and immunities clause of the 14th Amendment, as well as the just compensation clause of the 5th Amendment.

Separate Citizenship

Congress has granted the Federated States of Micronesia, the Marshall Islands and Palau their own separate citizenship, although it is questionable whether Congress has the constitutional right to "terminate" a territorial status – in this case the United Nations Strategic Trust Territory of the Pacific Islands – in such a way that the former territory continues to be legally "associated" with the United States and a benefactor of federal programs, after its inhabitants become citizens of a foreign country. It has been argued that this violates Article I, Section 8 of the U.S. Constitution which requires Congress "To establish an uniform Rule of Naturalization".

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[17] Article 1, Section 3 of the Constitution of American Samoa.

[18] Article XIII, Section 4 of the Constitution of the Federated States of Micronesia.

[19] Article X, Section 1 and 2 of the Constitution of the Republic of the Marshall Islands.

[20] Article XII, Section 1, 4, and 6 of the Constitution of the Commonwealth of the Northern Marianas.

[21] Article III, Section 1, 2, 4, and 5, and Article MII, Section 8 of the Constitution of the Republic of Palau.

TABLE THREE

Membership or Observer Status of U.S. Territories in International and Regional Organizations : A Partial List

American Samoa

Economic and Social Commission for Asia and the Pacific
International Olympic Committee
Pacific Basin Development Council
South Pacific Commission
South Pacific Regional Environmental Program
Western Pacific Fisheries Management Council

Federated States of Micronesia

Asia/Pacific Coconut Community
Asia/Pacific Parliamentarians Union
Asian Development Bank
Economic and Social Commission for Asia and the Pacific
Forum Fisheries Agency
International Civil Aviation Organization
International Telecommunications Satellite Organization
International Telecommunications Union
International Monetary Fund
International Olympic Committee
South Pacific Commission
South Pacific Forum
South Pacific Regional Environmental Program
United Nations
World Bank
World Health Organization

Guam

Asia/Pacific Parliamentarians Union
Asian Pacific Development Center
Asian Pacific Cultural Center
Association of Pacific Islands Legislature
Council of Micronesian Chief Executives
Economic and Social Commission for Asia and the Pacific
Forum Fisheries Agency
International Olympic Committee
Micronesian Games
Pacific Islands Development Program
South Pacific Applied Geoscience Commission
South Pacific Commission
South Pacific Games
South Pacific Regional Environmental Program
Western Pacific Fisheries Management Council

Marshall Islands

Asian Development Bank
Asia/Pacific Parliamentarians Union
Economic and Social Commission for Asia and the Pacific
Forum Fisheries
International Civil Aviation Organization
International Monetary Fund
International Olympic Committee
International Telecommunications Union
South Pacific Commission
South Pacific Forum
South Pacific Regional Environmental Program
United Nations
World Bank
World Health Organization

Northern Marianas

Association of Pacific Island Legislatures
International Olympic Committee
Council of Micronesian Chief Executives
Economic and Social Commission for Asia and the Pacific
Pacific Basin Development Council
South Pacific Commission
South Pacific Regional Environmental Program
Western Pacific Fisheries Management Council
World Health Organization

Palau

Asian/Pacific Parliamentarians Union
Asia Development Bank *
Economic and Social Commission for Asia and the Pacific
Forum Fisheries
International Civil Aviation Organization
International Monetary Fund
International Olympic Committee
South Pacific Commission
South Pacific Forum
South Pacific Regional Environmental Program
United Nations
World Bank

Separate Representation in International Organizations

Congress grants the following eight territories – American Samoa, Guam, the Federated States of Micronesia, the Marshall Islands, the Northern Marianas, Palau, Puerto Rico and the U.S. Virgin Islands – their own representation in international organizations. For instance, all are members of the International Olympic Committee. In addition, the Federated States of Micronesia, Marshall Islands and Palau are members of the United Nations; American Samoa, Guam, and Northern Marianas are members of the South Pacific Commission. Puerto Rico has membership in, and the U.S. Virgin Islands observer status in, the Caribbean Economic Community. For a list of territories enjoying membership in such organizations, see Table 3, "Membership or Observer Status of U.S. Territories in International and Regional Organizations: A Partial List". Such marks of sovereignty are denied to U.S. States by Article 1, Section 10 (1) of the U.S. Constitution, which proclaims that "No State shall enter into any Treaty, Alliance, or Confederation;. . .No State shall. . . enter into any Agreement or Compact...with a foreign Power". If such powers are unconstitutional for a State, it is an interesting question when they became constitutional for a territory.

Other Privileges Denied by the U.S. Constitution to U.S. States

Indeed, the ambiguous constitutional position of today's U.S. territories is further highlighted by the fact that Congress permits the Northern Marianas to violate proportional representation in the composition of the upper chamber of its legislature.[22] Equal representation is provided the islands of Rota, Tinian, and Saipan although the population of Saipan is six times greater than the other two combined. Therefore, there is one Senator for 4500 residents on Saipan, 400 residents on Rota, and 250 residents on Tinian. This violates the equal protection clause of the 14th and the 15th Amendments. It also violates the decision of the U.S. Supreme Court in "Reynolds v. Sims" (1964) mandating "one person, one vote". The Court ruled that both chambers of any bicameral legislature below the level of the U.S. Congress must be apportioned on the basis of

[22] Article II, Seclion 2 of the Constitution of the Commonwealth of the Northern Marianas.

population, otherwise an individual's vote has been "in a substantial fashion diluted." This decision expressly declared "historical, economic, or other group interests, or area alone, do not justify deviation from the equal-proportion principle."[23]

Congress permits American Samoa to limit membership in the upper chamber of its legislature to village chiefs (*matai*), chosen according to Samoan customs.[24] This violates the privileges and immunities clause of the 14th Amendment by restricting the office of Senator to members of the Samoan nobility; and by granting official recognition to that nobility, the composition of the Senate of American Samoa further violates Article 1, Section 9 of the U. S. Constitution: "No Title of Nobility shall be granted by the United States".

Territorial Representation in the U.S. House of Representatives

Finally, Congress has granted the residents of American Samoa, Guam, Puerto Rico, and the U.S. Virgin Islands the right to send delegates to the U.S. House of Representatives who can vote in the subcommittees, the full committees, and the caucuses of that chamber. This practice dilutes the voting power of the U.S. citizens of the 50 States. Although the delegates from these five "territories" do not vote on bills before the full House, by voting in the sub-committees, the full committees, and the caucuses they can determine what bills actually reach the floor of the full House.

Calls for Further Restructuring of the Union

All the above is of significance in that it indicates a direction in which the United States, as a political construct, is drifting. Some competent advocates of Puerto Rican Statehood have claimed that Puerto Rico can become a State without them having to pay federal taxes, or that federal taxes would be phased in over a number of years. Either scenario would violate Article 12 Section 8 (1) of the U.S. Constitution which mandates that "all duties, imposts, and

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[23] James A. Branch, Jr., "The Constitution of the Northern Mariana Islands: Does A Different Cultural Setting Justify Different Constitutional Standards?", Journal of International Law and Policy, Vol. 9:35, 1980, p. 57.

[24] Article II, Section 3 and 4 of the Constitution of American Samoa.

excises shall be uniform throughout the United States". [25]

The former Governor of Puerto Rico, and currently the Resident Commissioner of Puerto Rico to the U.S. House of Representatives, Carlos Romero-Barcelo, lobbies for Puerto Rican Statehood based on the reasons he gave in his 1978 book, *Statehood is for the Poor*.

> If it were a state, Puerto Rico would be absolutely assured of enormous amounts of federal money – money the island needs in order to come to grips with its many problems. But without statehood, such large quantities of money are going to be increasingly hard to come by.[26]
>
> Puerto Rico's per capita contribution to the federal treasury, were we a state, would come to less than that of any other state in the Union. At the same time, the per capita benefits we'd reap from federal aid programs would be greater than those of any other state in the Union.
>
> On top of all this, we'd also have seven or eight Puerto Ricans serving as full voting members of Congress, working in Washington at all times to help draft and pass new and improved social welfare legislation.[27]

Statehood becomes simply the best available vehicle for obtaining disproportionate profits at the expense of other States, not a commitment to a common patriotism shared by all States. As Carlos Romero-Barcelo maintained then and maintains now: "yes, we want statehood, but neither our language nor our culture is negotiable."[28]

Should Congress enact a bill on Statehood for Puerto Rico, such as the recently introduced H.R. 856, which does not mandate English as the official language of the new state – as was done previously under the terms of the Enabling Act and the Admission Act for the

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[25] Statement by the then Resident Commissioner of Puerto Rico, Jaime B. Fuster, in the Congressional Record, Tuesday, March 7, 1989, E 668.

[26] Carlos Romero-Barcelo, *Statehood is for the Poor*, [San Juan, P.R.]: Romero-Barcelo, (English translation of La estadidad es para los pobres), 1978, p. 79.

[27] Ibid., p. 87.

[28] Ibid., p. 95.

States of Arizona, Louisiana, New Mexico, and Oklahoma[29] – it will not have the legal authority to subsequently require a State of Puerto Rico to conduct any of its government activities in English. As the American Law Division of the Congressional Research Service wrote in October 1997: "Under existing precedents, it seems highly unlikely that Congress could under its legislative powers and acting only through a statute mandate that a State conducts its official affairs using a language of Congress' choosing."[30]

In addition to the issues of language and culture, some proponents of Statehood openly declare that they want the "State" of Puerto Rico to have legal power over immigration and land alienation. Still others proclaim their dedication to restructuring the United States into a federation of "nations". Thus we find Luis R. Davila-Colon prophecying that:

> The future admission of its Overseas territories and the District of Columbia, as equal members of the Union, would lay the groundwork for a stronger Union and, perhaps in time, for the sharing of the American system of government with nations which may want to share our dreams, progress and democratic values.[31]

This may be translated as meaning: the United States should become an international conglomerate, and that in order to facilitate such a transformation the United States should be prepared to abandon its traditional language, culture, citizenship and even its constitution. Thus we find advocates of such drastic change stating:

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[29] Grupo de Investigadores Puertorriquenos, *Breakthrough from Colonialism: An Interdisciplinary Study of Statehood*, 2 Vols., Editorial de la Unversidad de Puerto Rico (San Juan, 1984), vol. 1, pp. 160, 682, 712, 736.

[30] English First Members' Report, December 22, 1997, Volume XII, Number 5, "Can't we solve the problem of Puerto Rico statehood by simply including a strong English requirement for a potential 51st. state of Puerto Rico?", p.1.

[31] Luis R. Davila-Colon, Esquire, "The Supranational Union: An Evolving Model of Statehood for Twenty-First Century America", Proceeding: Conference on the Future Political Status of the United States Virgin Islands at the University of the Virgin Islands St Thomas Campus. U.S. Virgin Islands, February 26 and 17, 1988, (University of the Virgin Islands, 1989), p. 7. Luis R. Davila-Colon is a lawyer and Editor-in-Chief of the two volume advocacy work for Puerto Rican Statehood, *Breakthrongh from Colonialism: An Interdisciplinary Study of Statehood.*

> The notion that we have a living Constitution which adapts to the realities of a changing world, suggests to this writer, that the concept of 'We The People...' may one day include as fully sovereign states, Black, Hispanic, Pacific, poor and not so poor Nations and societies, all willing to share a common Federal government. . . [32]

[32] Ibid., p. 7.

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[32] Ibid., p. 7.

Is Immigration the Answer to a Labor Shortage?

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As a nation reaches the peak of a business cycle, labor shortages inevitably appear and pressure on wage rates increases, especially in the fastest growing industries. Businessmen frequently seek to increase immigration to obtain additional labor. Central banks may be inclined to raise interest rates to curb the possibility of inflation. Both short term fixes interfere with the natural workings of a market economy and can only create severe problems in the long term, including slower productivity growth, greater income inequality, and – ultimately – overpopulation and all of its related problems.

Key Words: GDP, immigration, labor, overpopulation, inflation

Much of current talk about a labor shortage in the U.S. is reminiscent of the concern expressed by slaveowners who argued that if the U.S. abolished slavery there would be no one to pick the cotton. Today we hear that without more immigrants there will be no one to pick lettuce, cut lawns, work in restaurants or perform a million and one other low-skilled tasks. In the high tech industry we hear a variation of the same theme: the software industry argues that there is a shortage of programmers and information technology specialists. Some warn that the specter of labor shortages will result in lower national growth and a decline in real income.

To understand whether there is any truth in the latter argument, we have to review some basic economic and demographics tenets. Too few commentators realize that the only way a nation's *per capita* wealth can increase is through increased productivity (more output using less input). In the absence of productivity growth, individuals can only increase their wealth through reallocation, i.e., the transfer of income from one individual or group to another individual or group.

A nation's *total* wealth or annual output (Gross Domestic Product) can also increase through simple population growth, since there are more hands to produce things, but total wealth is largely irrelevant as a measure of changes in human well-being. China's total output (GDP) is 8 times larger than that of Switzerland, but on a per