

Comprehending the Crisis: A Survey of Puerto Rico's History and Fiscal Situation, and Paths Forward

Hon. Enrique S. Lamoutte, Moderator

U.S. Bankruptcy Court (D. P.R.); San Juan

Zachary H. Smith, Co-Moderator

Moore & Van Allen PLLC; Charlotte, N.C.

Carmen D. Conde-Torres

C. Conde & Associates; San Juan, P.R.

Ingrid Bagby

Cadwalader, Wickersham & Taft LLP; New York

Martha E.M. Kopacz

Phoenix Management Services; Boston

**Sequence of Events Leading to Puerto Rico's Present Economic
Condition**

Carmen D. Conde Torres, Esq.

C. Conde & Assoc., San Juan, Puerto Rico

I. Introduction

A. This presentation will look at the events that took place from the moment Puerto Rico became a territory of the United States of America until the present day to understand the events that lead to the current economic crisis that Puerto Rico is facing.

II. 1898-1920

A. 1898-Economy based mostly around sugar cane industry and other agricultural products.¹

B. 1900-US Congress enacts the Organic Act of 1900, also known as the Foraker Act establishing a limited popular government. The Governor was appointed by the President of the United States and the House of Representatives was elected by the Island.²

C. 1917-The Jones Act was enacted by the US Congress. Granting US citizenship to all Puerto Ricans, establishing the existing political structure. Authorizing triple tax exemptions for bonds issued by PR government.³

D. 1920-Enactment of the Merchant Marines Act (the Jones Act/ Leyes de Cabotage) wherefore all traffic of goods in US waters has to be done via the United States Merchant Marines or other US approved trading vessels. It is important to note that the US has one of the highest costs of marine transportation.⁴

¹ Jose L. Bolivar Fresneda, *La Economía de Puerto Rico Durante la Segunda Guerra Mundial: ¿Capitalismo Estatal o Economía Militar?*, (http://joselbolivar.com/archives/2009_09_11_la_economia_de_pr.pdf)

² Presidential Task Force, *Report by the President's Task Force on Puerto Rico's Status* (March 2011) (https://www.whitehouse.gov/sites/default/files/uploads/Puerto_Rico_Task_Force_Report.pdf).

³ Id.

⁴ Id.

III. 1939-1947

A. 1939-Approval of Military Base construction in Aguadilla and Isla Verde. Injecting a large cash surplus in to the island of Puerto Rico and its labor force.⁵

B. 1940-Economic reform transforming from agricultural industry to an industrialized one. Specifically, manufacturing of textile goods and other products.⁶

C. 1947-Operation Bootstraps-giving private firms a 10 year exemption from Puerto Rico's tax (CRIM, INCOME and other).⁷

1. -The industrialization process under Operation Bootstrap took place in two stages.

a. The first lasted from 1947 to 1960 and was characterized by the attraction of companies that were highly labor intensive and came to Puerto Rico for the wages that were low in comparison with the United States. In 1950, for example, the daily wage in Puerto Rico was 28 percent of that of the United States. The sectors that experienced the greatest investment during the first stage were textiles, clothing and leather goods.

b. 1960 characterized by the attraction of companies that were highly capitalized which can provide high salaries

IV. 1948

A. Luis Muñoz Marín is elected governor of Puerto Rico by democratic vote of the Island.⁸

⁵ Jose L. Bolivar Fresneda, *La Economía de Puerto Rico Durante la Segunda Guerra Mundial: ¿Capitalismo Estatal o Economía Militar?*, (http://joselbolivar.com/archives/2009_09_11_la_economia_de_pr.pdf)

⁶ Presidential Task Force, *Report by the President's Task Force on Puerto Rico's Status* (March 2011) (https://www.whitehouse.gov/sites/default/files/uploads/Puerto_Rico_Task_Force_Report.pdf).

⁷ Id.

⁸ Id.

V. 1950-1952

A. US congress enacts the Puerto Rico Federal Relations Act (P.L. 81-600) authorizing Puerto Rico to draft its own constitution on matters of purely local concerns.

1. Puerto Rico drafted and approved its own constitution. Was subsequently approved by President Truman and Congress subject to certain condition on July 3, 1952.⁹

2. On July 25, 1952, the constitutional convention approved the Constitution as amended by the US Congress and president Truman.¹⁰

B. 1952-Creation of the Commonwealth of Puerto Rico.¹¹

VI. 1960

A. At the beginning of the 1960s, the second stage of Operation Bootstrap industrial development began, this one based on attracting companies that were highly capital intensive. The new strategy was based on the premise that capital intensive industries would provide higher salaries and would stimulate the creation of secondary industries.

B. Unemployment stood at 12%

VII. 1970-1983

A. 1970-Global recession and an energy crisis stalled out the islands economy.¹²

B. 1976-Section 936 of the Internal Revenue Code enacted. As a response to the stagnant economic growth on the island.¹³

C. 1980-Unemployment stood at 23%.¹⁴

⁹ Id.

¹⁰ Id.

¹¹ Id.

¹² Id.

¹³ Id.

¹⁴ Id.

AMERICAN BANKRUPTCY INSTITUTE

D. 1983-Federal Minimum wage was implemented in Puerto Rico

VIII. 1993-1997

A. 1993-Section 936 was limited¹⁵

B. 1996-Began the Phase out of section 936.¹⁶

C. New indebtedness during 1996 and 1997, seven design-build contracts were awarded for different segments of the Tren Urbano Phase 1 system.¹⁷

IX. 2000

A. \$24,241,000,000.00 in public Debt.¹⁸

X. 2001

A. \$27,038,000,000.00 in public Debt.¹⁹

XI. 2002

A. \$29,291,000,000.00 in public Debt.²⁰

XII. 2003

A. \$32,316,000,000.00 in public Debt.²¹

XIII. 2004

A. \$35,950,000,000.00 in public Debt.²²

XIV. 2005

A. -Tren Urbano was officially opened. The project cost around \$2.25 Billion. The amount of daily passengers has yet to reach to expected amounts.²³

¹⁵ Id.

¹⁶ Id.

¹⁷ Federal Transit Administration Office of Planning and Environment, *The Predicted and Actual Impacts of New Starts Projects 2007*(April 2008).

¹⁸ Juan Carlos Batlle; Juan Carlos Pavía; Jesús F. Méndez, *Puerto Rico: Restoring Growth Through Fiscal Responsibility* (2012)(<http://www.bgfpr.com/PRCC2012/documents/PRFiscalUpdatePanelPRCC2012-5-10.pdf>)

¹⁹ Id.

²⁰ Id.

²¹ Id.

²² Id.

CARIBBEAN INSOLVENCY SYMPOSIUM 2016

- B. -\$38,904,000,000.00 in public Debt.²⁴
 - C. -End of section 936 tax incentive²⁵
- XV. 2006
- A. \$42,541,000,000.00 in public Debt as reported by the 2012 Puerto Rico Credit Conference.²⁶
 - B. \$43,500,000,000.00 in public Debt as reported by the 2015 Puerto Rico Working Group Conference.²⁷
 - C. Puerto Rico economy began to slow
- XVI. 2007
- A. \$42,818,000,000.00 in public Debt as reported by the 2012 Puerto Rico Credit Conference²⁸
 - B. \$46,200,000,000.00 in public Debt as reported by the 2015 Puerto Rico Working Group Conference.²⁹
 - C. IVU was enacted

²³ Federal Transit Administration Office of Planning and Environment, *The Predicted and Actual Impacts of New Starts Projects 2007*(April 2008).

²⁴ Presidential Task Force, *Report by the President's Task Force on Puerto Rico's Status* (March 2011) (https://www.whitehouse.gov/sites/default/files/uploads/Puerto_Rico_Task_Force_Report.pdf).

²⁵ Id.

²⁶ Juan Carlos Batlle; Juan Carlos Pavia; Jesus F. Mendez, *Puerto Rico: Restoring Growth Through Fiscal Responsibility* (2012)(<http://www.bgfpr.com/PRCC2012/documents/PRFiscalUpdatePanelPRCC2012-5-10.pdf>)

²⁷ Working Group for the Fiscal and Economic Recovery of Puerto Rico, *Puerto Rico Fiscal and Economic Growth Plan* (September 9, 2015) (<http://www.bgfpr.com/documents/PuertoRicoFiscalandEconomicGrowthPlan9.9.15.pdf>)

²⁸ Juan Carlos Batlle; Juan Carlos Pavia; Jesus F. Mendez, *Puerto Rico: Restoring Growth Through Fiscal Responsibility* (2012)(<http://www.bgfpr.com/PRCC2012/documents/PRFiscalUpdatePanelPRCC2012-5-10.pdf>)

²⁹ Working Group for the Fiscal and Economic Recovery of Puerto Rico, *Puerto Rico Fiscal and Economic Growth Plan* (September 9, 2015) (<http://www.bgfpr.com/documents/PuertoRicoFiscalandEconomicGrowthPlan9.9.15.pdf>)

AMERICAN BANKRUPTCY INSTITUTE

XVII. 2008

- A. \$52,915,000,000.00 in public Debt as reported by the 2012 Puerto Rico Credit Conference³⁰
- B. \$53,400,000,000.00 in public Debt as reported by the 2015 Puerto Rico Working Group Conference.³¹

XVIII. 2009

- A. \$58,915,000,000.00 in public Debt as reported by the 2012 Puerto Rico Credit Conference³²
- B. \$58,400,000,000.00 in public Debt as reported by the 2015 Puerto Rico Working Group Conference.³³

XIX. 2010

- A. \$61,474,000,000.00 in public Debt as reported by the 2012 Puerto Rico Credit Conference³⁴
- B. \$62,200,000,000.00 in public Debt as reported by the 2015 Puerto Rico Working Group Conference.³⁵
- C. Unemployment stands at 15.8%

³⁰ Juan Carlos Batlle; Juan Carlos Pavia; Jesus F. Mendez, *Puerto Rico: Restoring Growth Through Fiscal Responsibility* (2012)(<http://www.bgfpr.com/PRCC2012/documents/PRFiscalUpdatePanelPRCC2012-5-10.pdf>)

³¹ Working Group for the Fiscal and Economic Recovery of Puerto Rico, *Puerto Rico Fiscal and Economic Growth Plan* (September 9, 2015) (<http://www.bgfpr.com/documents/PuertoRicoFiscalandEconomicGrowthPlan9.9.15.pdf>)

³² Juan Carlos Batlle; Juan Carlos Pavia; Jesus F. Mendez, *Puerto Rico: Restoring Growth Through Fiscal Responsibility* (2012)(<http://www.bgfpr.com/PRCC2012/documents/PRFiscalUpdatePanelPRCC2012-5-10.pdf>)

³³ Working Group for the Fiscal and Economic Recovery of Puerto Rico, *Puerto Rico Fiscal and Economic Growth Plan* (September 9, 2015) (<http://www.bgfpr.com/documents/PuertoRicoFiscalandEconomicGrowthPlan9.9.15.pdf>)

³⁴ Juan Carlos Batlle; Juan Carlos Pavia; Jesus F. Mendez, *Puerto Rico: Restoring Growth Through Fiscal Responsibility* (2012)(<http://www.bgfpr.com/PRCC2012/documents/PRFiscalUpdatePanelPRCC2012-5-10.pdf>)

³⁵ Working Group for the Fiscal and Economic Recovery of Puerto Rico, *Puerto Rico Fiscal and Economic Growth Plan* (September 9, 2015) (<http://www.bgfpr.com/documents/PuertoRicoFiscalandEconomicGrowthPlan9.9.15.pdf>)

- XX. 2011
- A. \$65,175,000,000.00 in public Debt as reported by the 2012 Puerto Rico Credit Conference³⁶
 - B. \$64,300,000,000.00 in public Debt as reported by the 2015 Puerto Rico Working Group Conference.³⁷
 - C. Unemployment stood at 41%
- XXI. 2012
- A. \$69,900,000,000.00 in public Debt as reported by the 2015 Puerto Rico Working Group Conference.³⁸
 - B. Government Revenue \$12 Billion³⁹
 - C. Government Expenditures \$34.4 Billion⁴⁰
- XXII. 2013
- A. Transfer of Luis Muñoz Marin Airport to Aerostar Airport Holdings under a 40 year rental agreement.
 - B. \$70 Billion in public Debt as reported by the 2015 Puerto Rico Working Group Conference.⁴¹

³⁶ Juan Carlos Batlle; Juan Carlos Pavia; Jesus F. Mendez, *Puerto Rico: Restoring Growth Through Fiscal Responsibility* (2012)(<http://www.bgfpr.com/PRCC2012/documents/PRFiscalUpdatePanelPRCC2012-5-10.pdf>)

³⁷ Working Group for the Fiscal and Economic Recovery of Puerto Rico, *Puerto Rico Fiscal and Economic Growth Plan* (September 9, 2015) (<http://www.bgfpr.com/documents/PuertoRicoFiscalandEconomicGrowthPlan9.9.15.pdf>)

³⁸ Working Group for the Fiscal and Economic Recovery of Puerto Rico, *Puerto Rico Fiscal and Economic Growth Plan* (September 9, 2015) (<http://www.bgfpr.com/documents/PuertoRicoFiscalandEconomicGrowthPlan9.9.15.pdf>)

³⁹ Federal Reserve Bank of New York, *An Update on the Competitiveness of Puerto Rico's Economy* (July 31, 2014) (<https://www.newyorkfed.org/medialibrary/media/outreach-and-education/puerto-rico/2014/Puerto-Rico-Report-2014.pdf>)

⁴⁰ *Id.*

⁴¹ Working Group for the Fiscal and Economic Recovery of Puerto Rico, *Puerto Rico Fiscal and Economic Growth Plan* (September 9, 2015) (<http://www.bgfpr.com/documents/PuertoRicoFiscalandEconomicGrowthPlan9.9.15.pdf>)

- C. 71.9 Billion in public Debt⁴²
- D. Breakdown of the Debt as follows as follows⁴³:
 - 1. \$15.8 Billion in GO's
 - 2. \$15.6 Billion in Cofina
 - 3. \$13.2 Billion Municipalities
 - 4. \$1.1 Billion Tax revenue anticipation notes
 - 5. \$26.2 Billion Public Corps.

XXIII. 2014

- A. \$72,300,000,000.00 in public Debt as reported by the 2015 Puerto Rico Working Group Conference.⁴⁴
- B. Unemployment stands at 12.1%
- C. Over 217,000 people have left the island since 2010

XXIV. 2015

- A. \$71,100,000,000.00 in public Debt as reported by the 2015 Puerto Rico Working Group Conference.⁴⁵
- B. \$73 Billion in public Debt as per the testimony of Atty. Melba Acosta, Director BGF.

⁴² Federal Reserve Bank of New York, *An Update on the Competitiveness of Puerto Rico's Economy* (July 31, 2014) (<https://www.newyorkfed.org/medialibrary/media/outreach-and-education/puerto-rico/2014/Puerto-Rico-Report-2014.pdf>)

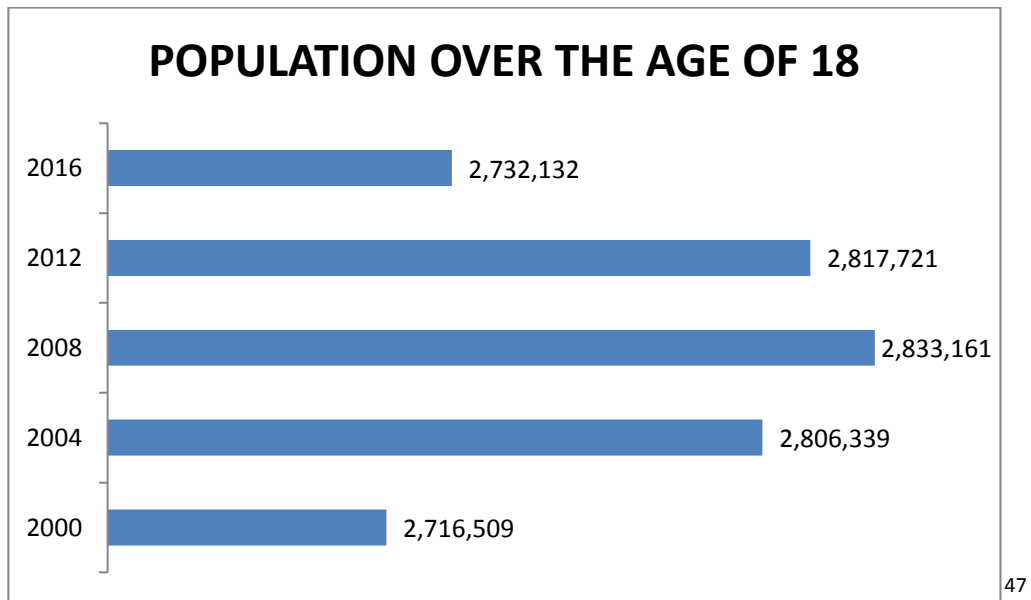
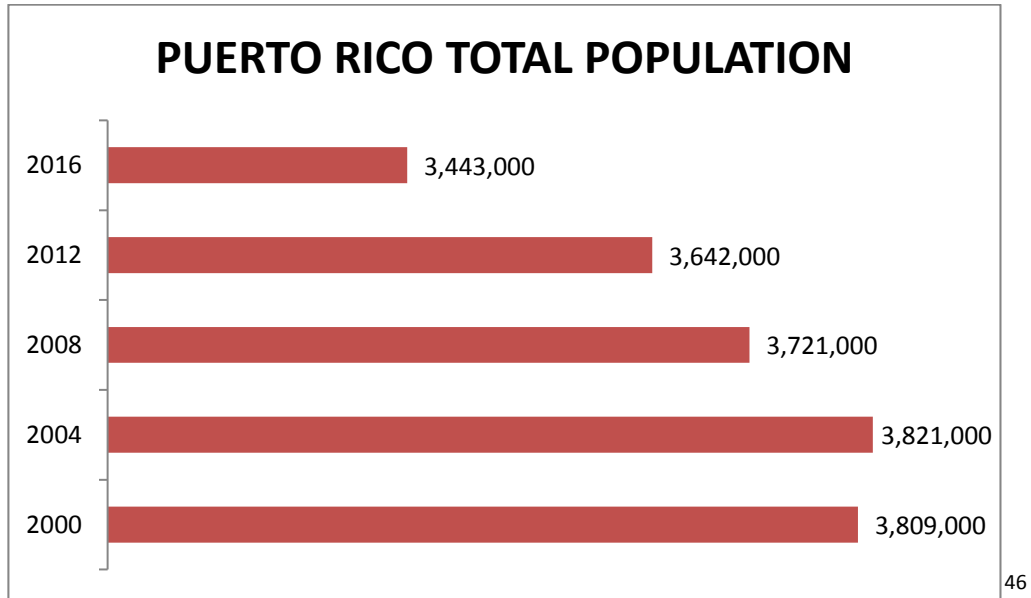
⁴³ Id.

⁴⁴ Working Group for the Fiscal and Economic Recovery of Puerto Rico, *Puerto Rico Fiscal and Economic Growth Plan* (September 9, 2015)

(<http://www.bgfpr.com/documents/PuertoRicoFiscalandEconomicGrowthPlan9.9.15.pdf>)

⁴⁵ Id.

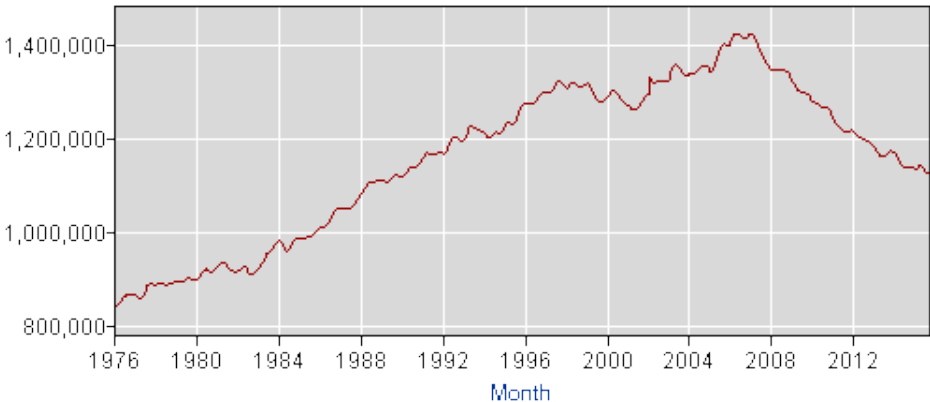
Appendix



⁴⁶ U.S. Census Bureau (<http://www.census.gov/popest/about/terms.html>)

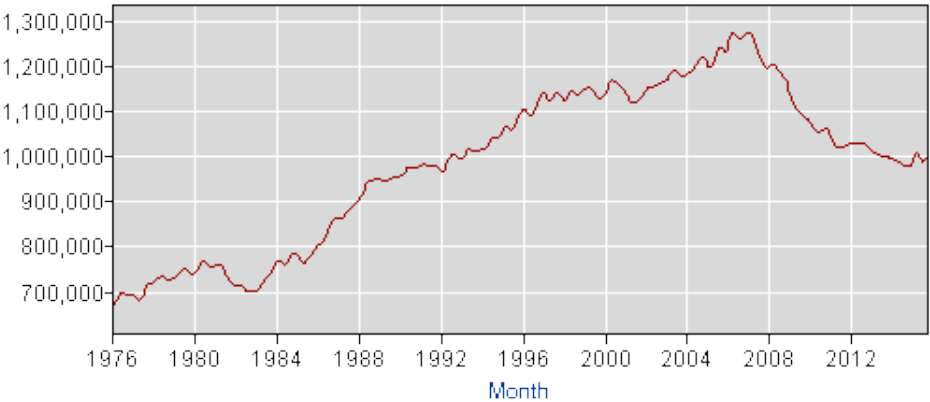
⁴⁷ U.S. Census Bureau (<http://www.census.gov/popest/about/terms.html>)

labor force



48

employment



49

⁴⁸ U.S. Department of Labor, Bureau of Labor Statistics. (<http://data.bls.gov/pdq/SurveyOutputServlet>)

⁴⁹ U.S. Department of Labor, Bureau of Labor Statistics. (<http://data.bls.gov/pdq/SurveyOutputServlet>)