

PRF Ep.13: PUERTO RICO IS NOT A “COMMONWEALTH”

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Being able to look through the dense fog of outlandish news and horrible events that pollutes our daily lives is a skill that is far harder to hone than one can imagine. One needs grit and might in order to overcome the seduction of pessimism and acquiescence that at times proves far too comfortable to resist; but resist we must.

As you all know, I live in Puerto Rico, a beautiful archipelago blessed with sunshine and seashores. But as this podcast has highlighted again and again in the past, a heavy burden rests upon this otherwise enchanting place: colonialism. Now, this word, “colonialism” I mean, is as easy to say as it is hard to understand. After all, not many places on earth carry this economic and political disease. As a result, it is not surprising that when confronted with the term “colonialism”, many people believe it describes some long overcome condition, only discussed in dusty text books and amongst white-haired scholars. However, nothing could be further from the truth. Colonialism is real. Colonialism is present. Colonialism persists, even to this day. And if you’ve ever worked up a conversation about politics with a group of Puerto Ricans, you’ll quickly realize that we do not shy away from this word, but rather use it quite often to describe our political and legal reality.

But how do we approach this word from a purely conceptual space? How can we avoid blurring its meaning with the experiences of a certain country or people? The late Professor Ronald J. Horvath attempted to do just this when, over forty years ago he wrote an article, appropriately titled: *A Definition of Colonialism*. Published in the journal of Current Anthropology, the piece tries to offer a definition of the concept that is logically consistent. The discussion begins by stating the following broad point: “It seems generally, if not universally, agreed that colonialism is a form of domination -the control by individuals or groups over the territory and or behavior of other individuals or groups. [...] The idea of domination is closely related to the concept of power.”¹ Although this statement might seem simple enough, I find that this point escapes most people that live in the continental USA. If you mention colonialism, most often you’ll get many reactions that are based mostly on the fact that it’s an unfair and backwards political condition. But the concepts of domination and control, within the subject of colonialism, are not often contemplated, but rather ignored by most people, be it a conscious act or not.

Merriam-Webster defines the word *domination* as the “exercise of preponderant, governing, or controlling influence”.² It also defines the word *control* as “to exercise restraining or directing influence over: REGULATE”.³ These are not the traits of a passive form of supervision that simply interferes sporadically, but rather an active form of management that does not allow decisions that are contrary to its interests. As we can observe, colonialism is

1 Ronald J. Horvath, *A Definition of Colonialism*, 13 Current Anthropology 45, 46 (1972)

2 Merriam-Webster, <https://www.merriam-webster.com/dictionary/domination> (last visited Nov. 10, 2018)

3 Merriam-Webster, <https://www.merriam-webster.com/dictionary/control> (last visited Nov. 10, 2018)

not characterized by a passive hand, but rather by an asserted fist. That settled, Professor Horvath provides the following assertion.

Widespread accord also exists that colonialism refers to *group* domination and not to social relations and processes among sets of individuals at the family or sub-clan level. Two basic types of group domination can be distinguished: intergroup and intragroup domination. The criterion employed to differentiate the two is cultural homogeneity or heterogeneity. Intergroup domination refers to the domination process in a culturally heterogeneous society and intragroup domination to that in a culturally homogeneous society.⁴

Here we observe that a bright-line rule is generated, clearly establishing that a relationship between individuals, even one characterized by “control” and “domination”, cannot be identified as colonial within this sense of the word. Professor Horvath’s words also give plenty of relevance to the cultural differences between the dominating and dominated groups. If the two groups are culturally heterogeneous, meaning that they are diverse in character, the uneven power dynamic between the two could be classified as an *intergroup domination*. However, if the two groups are culturally homogeneous, meaning that they are alike in character, the uneven power dynamic between the two could be classified as an *intragroup domination*. According to Horvath, intragroup domination is not considered a form of colonialism.⁵ Therefore, it is intergroup domination which will be the object of our analysis.

It seems appropriate at this time to acknowledge another concept that often intermingles with colonialism: imperialism. Once again, Merriam-Webster helps us with the word’s definition: “*the policy, practice, or advocacy of extending the power and dominion of a nation especially by direct territorial acquisitions or by gaining indirect control over the political or economic life of other areas.*”⁶ It’s not hard to see why most people might think that imperialism is a broad concept that can be used *in lieu* of colonialism. However, this would be misleading and erroneous. Horvath makes a point of differentiating between the two.

The important difference between colonialism and imperialism appears to be the presence or absence of significant numbers of permanent settlers in the colony from the colonizing power. [...] Therefore, colonialism refers to that form of intergroup domination in which settlers and significant numbers migrate permanently to the colony from the colonizing power. Imperialism is a form of intergroup domination wherein few, if any, permanent settlers from the Imperial Homeland migrate to The Colony.⁷

By establishing a clear difference between the two forms of political and economic imposition, we can avoid being part of arguments against colonialism and imperialism that unfortunately treat them as the same. For example, one important issue related to colonialism in particular

4 Horvath, *supra* note 1.

5 *Id.* at 47

6 Merriam-Webster, <https://www.merriam-webster.com/dictionary/imperialism>

7 Horvath, *supra* note 1, at 47.

is how differently people are treated depending on whether or not they live within the territorial limits of the colonial possession. This is no small thing. Establishing a defined territory as a colony has a very tangible effect on the daily lives of the people that live there. By living in a place that has been labeled “a colony”, a population can be treated differently and unjustly. Horvath again speaks the truth:

At least since the rise of the nation-state in Europe, the political status of people in question has been seen as relevant to the morality of domination. What is appropriate treatment for cultural minorities within the confines of a territorial state is *not* so for groups outside the borders of the state.⁸

This statement cannot be emphasized enough. The real-world consequences of living in a colonial territory are direct and tangible. One current example of this is the case *United States of America v. Vaello-Madero*⁹. Filed in the Puerto Rico District Court, the defendant of this case attacks the constitutionality of denying *supplemental security income benefits*, commonly known as “SSI benefits”, to residents of Puerto Rico. In plain English, this is open and sanctioned discrimination; and what makes this possible is Puerto Rico’s condition as a colonial territory together with two prior US Supreme Court cases that serve as precedent: *Califano v. Torres* and *Harris v. Rosario*. Actually, a recently issued opinion and order in the *Vaello-Madero* case provides a succinct summary of the holding that can be extracted from both cases: “The rational basis for discrimination identified by the Court in *Califano* and *Harris* was that: ‘Puerto Rican residents do not contribute to the federal treasury; the cost of treating Puerto Rico as a State under the statute would be high; and greater benefits could disrupt the Puerto Rican economy.’”¹⁰ (quoting *Harris v. Rosario*, 446 U.S. 651, 652 (1980)) That said, Judge Gelpí, the US District Judge seeing the *Vaello-Madero* case, was quick to set the record straight;

Recent developments concerning Puerto Rico, for example, increased awareness of its plight in the mainland after Hurricane María as well as national and local consensus against such disparate treatment, could further encourage the courts to revisit Califano and Harris. For starters, the proposition stated in *Harris* that “Puerto Rican residents do not contribute to the federal treasury” is erroneous. True, “Puerto Rico residents generally are exempt from federal taxes on income from Puerto Rico sources.” But as the Government Accountability Office states: “Puerto Rico’s residents have access to many federal programs *and are subject to certain federal tax laws*.” For example, residents of Puerto Rico pay federal payroll taxes to finance Social Security and Medicare, equally to their stateside brethren. Regardless, “for some federal programs, Puerto Rico or its residents are subject to different requirements or funding rules than are the

8 *Id.* at 48

9 *United States of America v. Vaello-Madero*, No. 17-2133 (D. PR filed Aug. 25, 2017)

10 Opinion and Order at 5, *United States of America v. Vaello-Madero*, No. 17-2133 (D. PR filed Aug. 25, 2017)

states or their residents.” Such is the case with SSI.¹¹ (alteration in original)
(citation omitted)

The Vaello-Madero case serves as a bitter reminder to us living in Puerto Rico, that our rights are directly limited by the fact that we live in a colonial territory. But I digress.

If we consider the usual definition of colonialism, and compare it to an in depth description of the phenomena, we become aware of just how shallow the conversation surrounding this issue has become. For example, Merriam-Webster defines colonialism as “control by one power over a dependent area or people.”¹² Although correct, this definition is insufficient for the purpose of understanding colonialism. Professor Horvath provides a far more accurate definition. “Colonialism is that form of intergroup domination in which settlers in significant numbers migrate permanently to the Colony from the colonizing power.”¹³ Now, what we must ask ourselves is whether or not Puerto Rico’s current political subjugation fits Horvath’s description of colonialism.

As we have already pointed out, the immigration of permanent settlers is a fundamental distinction between colonialism and imperialism. As a result, if Puerto Rico is a colony, then we should see a spike in immigration emanating from the colonial possessor, in this case the US, towards to archipelago. One example of said movement occurred between 1940 to 1970, when 134,437 people emigrated from the US to Puerto Rico.¹⁴ More recently Dr. Luz E. León López, professor of demography at the University of Puerto Rico Medical Sciences Campus, has stated that 62.6 percent of all immigrants arriving to Puerto Rican shores are of US origin.¹⁵ It’s easy to observe that Puerto Rico, as a matter of fact, is a full fledged colony, and has been one for over five hundred years, one hundred and twenty of which have been endured under the US.

This reality has been widely accepted by most people that take a serious look at the Puerto Rico issue. As I mentioned before, to the majority of Puerto Ricans, the word colony is the preferred term to describe Puerto Rico’s legal reality. This marks a stark contrast with another term that has been used to describe the territory’s political status: commonwealth. This word really has no place in the Puerto Rico issue, especially when one considers its etymology.

In an article titled *Commonwealth: The Social, Cultural, and Conceptual Contexts of an Early Modern Keyword*,¹⁶ the Early Modern Research Group¹⁷ dives deep into a discussion that

11 *Id.* at 5-6

12 Merriam-Webster, https://www.merriam-webster.com/dictionary/colonialism?utm_campaign=sd&utm_medium=serp&utm_source=jsonld (last visited Nov. 7, 2018)

13 Horvath, *supra* note 1, at 50.

14 Enciclopedia de Puerto Rico, <https://enciclopediapr.org/encyclopedia/extranjeros-en-puerto-rico-1940-70/> (last visited Nov. 7, 2018)

15 Conference Report, La Población Inmigrante en Puerto Rico (November 15, 2013) <http://www.estadisticas.gobierno.pr/iepr/LinkClick.aspx?fileticket=3OJ8yIPDQEU%3D>.

16 Early Modern Research Group, *Commonwealth: The Social, Cultural, and Conceptual Contexts of an Early Modern Keyword*, 54 *The Historical Journal* 659, (2011) [Hereinafter *Research Group*]

17 The Early Modern Research Group seems to hold the characteristics of an ad hoc group. The following is a self-description of said group: [...] [A] group of researchers who met regularly, with the aid of a British Academy research grant, for discussions facilitated by a virtual research environment (VRE). [...] The article was drafted by Glenn

goes hundreds of years into the past and provides an ample discussion that paints a clear picture of the origins and ideas that give the term *commonwealth* its meaning. As it is widely known, the word itself finds its origins to be closely tied to England and the development of its early political ideas. The article's main discussion affirms this by stating the following:

The origins of 'Commonwealth' in the fifteenth-century help to explain multiple uses of the term. The sixteenth-century usage 'Commonwealth' represents the transference of a prominent term denoting one concept—the common good—to cover another: the polity. [...] The lexical basis for the sixteenth-century word 'Commonwealth' is the mid-fifteenth century neologism 'common weal': a term for common good which gained rapid currency in the 1450s as the catch-phrase of critics of Henry VI's government[...]. [...] Hence 'common weal' was merely the latest coinage in a succession of terms denoting the ethical and social purposes of government, its duty to provide for security, social order, justice, peace, and prosperity.¹⁸ (citation omitted)

As we can observe, at the early stages of its emergence, the term was malleable enough to express general ideals that were valued at the time. Nevertheless, the word's pliability would prove to be a hindrance to any attempt to establish an unequivocal definition. Ironically, the term's instability became apparent once it arrived to England's American colonies.

Problems in using 'commonwealth' were also exposed in the colonial context. In England's early American colonies different meanings of commonwealth had generated varied polities. In 1610, Virginia's promoters advertised for 'men of most use and necessity, to the foundation of a 'commonwealth', seeking to establish a colony that would protect and benefit the inhabitants who worked in the interests of the Virginia Company and the English state.¹⁹

This idealistic description of a "common—wealth" did not last very long in American soil. The Early Modern Research Group once again provides a concise explanation, this time while discussing the term's use in *The Federalist Papers*.

By 1787, the individual representative qualities that had given the American colonies the strength and confidence to win independence were deemed by some to be an obstruction to the establishment of a strong central state. In the *Federalist* (1789-8), those in favor of a strong national government rejected 'little jealous, clashing tumultuous commonwealths', which were now described as 'the wretched nurseries of unceasing discord and the miserable

Burgess and Mark Knights, summarizing discussions involving Mike Braddick, Trevor Burnard, Justin Champion, Mark Greengrass, Steve Hindle, Simon Hudson, Anne Hughes, Howell Lloyd, Simon Middleton, Mark Philp, Charles Prior, Jod Raymond, Jennifer Richards, Cathy Shrank, John Walter, John Watts, and Phil Whithington, many of whom also contributed to the draft. The group would like to thank a number of other speakers who contributed to the discussions: Jackie Eales, Michael Hunter, Malcolm Jones, Anne McLaren, Mary Morrissey, and Michael Winship. Id. at 659.

¹⁸ Research Group, *supra* note 15 at 663-664.

¹⁹ *Id.* at 683.

objects of universal pity or contempt'. Having essentially abandoned commonwealth as a term of art [...] and having turned their backs on monarchy, the Federalists needed to define what type of government they were proposing and why it was distinctive. 'Democracy' was not an option, partly because of the size of America, but also because of fears about popular tumults. Republic was useful because it could stress a representative form of democracy that could ensure the public good: 'in a democracy, the people meet and exercise the government in person: in a republic, they assemble and administer it by their representatives and agents'. Consent through representation could best be expressed, it was felt, in a positive invocation of the term republic. Importantly, therefore, the 1780s and 1790s witnessed an interconnected debate in Britain, France, and America about the *res publica* and common good. In all three arenas 'republic' rather than 'commonwealth' had become the contested keyword. (citations omitted)²⁰

As an expression, *commonwealth* could really be a great many things, none of which are necessarily related. To this very day, deciding how to define it is more a matter of discretion than anything else. If you decide to venture into a dictionary in search of the aforementioned term, what you'll find resembles less an objective definition and more a menu of options. Merriam-Webster does its best at trying to untangle the clutter. It offers such variants as: "...a nation, state, or other political unit [...]; a state of the US [...]; a federal union of constituent states [...]; an association of self-governing autonomous states more or less loosely associated in a common allegiance [...]; a political unit having local autonomy but voluntarily united with the U.S. [...]."²¹

It seems hard to believe, given everything we know to be true about the blatantly colonial relationship between the US and Puerto Rico that anyone would consider the latter a "commonwealth"; and yet, that is the official term used by Congress to describe the archipelago's political status. As a matter of fact, the US Department of the Interior's Office of Insular Affairs, provides the following explanation when defining the term "commonwealth": "An organized United States insular area, which has established with the Federal Government, a more highly developed relationship, usually embodied in a written mutual agreement. Currently, two United States insular areas are *commonwealths*, the Northern Mariana Islands and Puerto Rico."²² When we take into account its history and origins, it's easy to understand why the word *commonwealth* is an ill fit to describe Puerto Rico's political reality. Its presence in the Puerto Rico debate actually may do more harm than good given its multiple meanings, none of which reflect Puerto Rico's colonial condition accurately. It is expected that when presented with a term with an unclear meaning, an individual might avoid discussing it due to a lack of certainty and a fear of humiliation. What's more, its effect is far worse when a person **believes** they know the meaning of the term, leading to false sense security.

20 *Id.* at 686.

21 Merriam-Webster, <https://www.merriam-webster.com/dictionary/commonwealth> (last visited Nov. 9, 2018)

22 U.S. Department of the Interior, <https://www.doi.gov/oia/islands/politicatypes> (last visited Nov. 9, 2018)

Calling Puerto Rico a *commonwealth* **even after** knowing the term's cooling effect on the status debate is being complicit in the perpetuation of an oppressive colonial regime that has persisted for well over a century. Call Puerto Rico what it is: a **colony of the US**. Don't circle around it or avoid it. Be bold, be brave, and be honest. Expose the archipelago's undemocratic status with the assurance that you're right in using a term that describes its political reality bluntly and clearly. And most important of all, don't shy away from people that assert that Puerto Rico is a commonwealth. Correct them and engage them with coherent and fact based arguments. Here's six points you can use in your favor:

1. "Commonwealth" is a confusing term that lacks precision. The states of Virginia, Massachusetts, and Pennsylvania all currently describe themselves as commonwealths. Puerto Rico is not a state, and yet it also carries the term.
2. Most dictionaries offer conflicting definitions of the word "commonwealth", defining it as a state, while also indicating that it could refer to a federation of states, while at other times using it to describe an independent country.
3. Although the majority of dictionaries and encyclopedias might assert that Puerto Rico is a "commonwealth", this is not the result of their objective criteria. They are simply repeating the erroneous definition provided by the US Government through the US Department of the Interior.
4. **Colony** is the proper term to describe Puerto Rico's legal reality since colonialism is practiced there at the hands of the US.
5. Merriam-Webster defines colonialism as "...control by one power over a dependent area or people..."²³ Puerto Rico is subject to Congress' plenary powers through the US Constitution's Territorial Clause.
6. A fundamental characteristic of colonialism is a flow of settlers from the colonizing group into the colony. Over 60% of people that move to Puerto Rico are from the US.

In conclusion, using the word **colony** to describe Puerto Rico is a powerful way to bring the Puerto Rico issue front-and-center. Unapologetically describing Puerto Rico as a US colony might offend and even enrage some people due to all the implications that run contrary to the values most people believe the US stands for: democracy, freedom, and the pursuit of happiness. Asserting that the US is a colonizing power is to expose a darkness that lies in plain sight. This can be painful and distressing to some, but its necessary. One cannot heal a wound without acknowledging it first. One needs to accept that a problem exists before we can attempt to solve it. In this process words matter. Saying that Puerto Rico is a "commonwealth" is act of misdirection and oppression because it clouds the debate. This word cannot be a part of our vocabulary when it comes to talking about the Puerto Rico issue. It must be left out. There is no such thing as "The Commonwealth of Puerto Rico"; there is only **The Colony of Puerto Rico**; a reality we must accept before we can change.

23 Merriam-Webster, <https://www.merriam-webster.com/dictionary/colonialism> (last visited Nov. 9, 2018)