

# PROFITING OFF PARADISE: UNPACKING PUERTO RICO'S TAX INCENTIVE IMPACT ON THE LOCAL POPULATION

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|                                                                                      |     |
|--------------------------------------------------------------------------------------|-----|
| INTRODUCTION .....                                                                   | 110 |
| II. HISTORY AND DEVELOPMENT OF PUERTO RICO AND U.S.                                  |     |
| RELATIONS .....                                                                      | 112 |
| A. <i>U.S. Acquisition of Puerto Rico</i> .....                                      | 112 |
| B. <i>The Cost of Puerto Rican Citizenship</i> .....                                 | 114 |
| C. <i>Economic Dependence</i> .....                                                  | 115 |
| III. ANALYSIS .....                                                                  | 119 |
| A. <i>U.S. Tax Imperialism and Puerto Rico's Current Debt</i><br><i>Crisis</i> ..... | 119 |
| B. <i>Act 20, Act 22, and Act 60</i> .....                                           | 121 |
| C. <i>Economic Impact</i> .....                                                      | 122 |
| 1. Who is Moving to Puerto Rico?.....                                                | 122 |
| 2. Real Estate .....                                                                 | 123 |
| D. <i>Political Impact</i> .....                                                     | 126 |
| E. <i>Social Impact</i> .....                                                        | 128 |

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|                                                            |     |
|------------------------------------------------------------|-----|
| <i>F. Human Rights &amp; International Relations</i> ..... | 132 |
| IV. CONCLUSION .....                                       | 134 |

## INTRODUCTION

The fate of Puerto Rico has always seemed to lay in the hands of an imperial power, whether it be Spain then or the United States now.<sup>1</sup> Since Puerto Rico's acquisition by the United States in 1898, its relationship with the United States has tangibly affected the political, economic, and social lives of the Puerto Rican population.<sup>2</sup> In the same sense, the United States has largely benefitted from the acquisition in the contexts of governance, commerce, and military strategy despite its unfavorable view of the local population.<sup>3</sup> Puerto Rico, however, has accumulated a burden of overwhelming debt over time as a result of its dependence on U.S. capital, as well as continuing changes to tax policy.<sup>4</sup> The Puerto Rican government created tax incentives, and the United States federal government implemented a debt restructuring oversight board in an attempt to mitigate the financial crisis the island faces.<sup>5</sup> In 2012, the Puerto Rican government implemented Act 20 and Act 22 for the purpose of creating jobs and increasing revenue during the

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1. Ediberto Román, *Empire Forgotten: The United States's Colonization of Puerto Rico*, 42 VILL. L. REV. 1119, 1139 (1997) (describing when Spain ceded Puerto Rico to the United States after its defeat in the Spanish-American War).

2. *Id.* at 1138 (arguing that the United States exerts control over Puerto Rico's affairs and rights).

3. Eamon J.P. Riley et.al., "Yo Soy Boricua": *Tapping into the Strength of the Puerto Rican Community to Reclaim Control Over Its Political, Social, and Economic Future*, 87 REV. JUR. U.P.R. 972, 977 (2018) (illustrating how the United States strategically and economically benefitted from the island's critical political and economic assets, but the people were regarded as incapable of self-rule).

4. See Tom C.W. Lin, *Americans, Almost and Forgotten*, 107 CALIF. L. REV. 1249, 1268 (2019) [hereinafter *Almost and Forgotten*] (showing how the United States's tax policy changes and Puerto Rico's dependence on United States capital have contributed to Puerto Rico's economic decline and accumulation of debt over time).

5. *Id.* at 1268–69.

island's recession as a means of attracting capital from investors.<sup>6</sup> In 2019, Act 20 and Act 22 were consolidated under Act 60.<sup>7</sup> While the Acts are meant to be a benefit to Puerto Rico, they adversely impact the local Puerto Rican population by causing both displacement and social pushback in the form of protests and movements against the tax incentives.<sup>8</sup> In the absence of official data, Puerto Rican residents and the local press have highlighted the increasing instances of displacement as investors continue to purchase and resell residential property at high rates, forcing out those who can no longer afford to live there.<sup>9</sup>

This article will explore how and whether the implementation of tax incentives has adversely impacted Puerto Rico's local population through economic, political, and social lenses. In Part II, I will outline the history and development of the relationship between the United States and Puerto Rico, discussing the power imbalance therein and how it has developed today. In Part III, I will consider the trajectory of the United States engaging in tax imperialism with Puerto Rico, then move to analyze how Acts 20, 22, and 60 adversely impact the local population in economic, political, and social lenses, explaining how displacement has resulted from such acts. I will also analyze whether the relationship between the United States and Puerto Rico gives rise to a human rights issue in the eyes of international relations. I will ultimately conclude that the implementation of Act 20, Act 22, and Act 60 has led to alarming displacement rates of the local population. Puerto Rico's status, in conjunction with its long-standing economic dependence on the United States' capital, has not allowed Puerto Ricans themselves to benefit from the tax incentives and has instead created an economic disparity. I will also conclude that the United Nations' call for the United States to recognize Puerto Rico's right to self-determination and possible

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6. See Nicole Acevedo, *Do Puerto Rico Tax Breaks Displace Locals to Benefit the Wealthy? Here are Five Things to Know*, NBC NEWS (Sept. 13, 2023, 7:02 PM), <https://www.nbcnews.com/news/latino/tax-breaks-puerto-rico-wealthy-displacement-five-things-to-know-rcna104683>.

7. *Id.*

8. *Id.* (highlighting the existence of social protests with the hashtag: #NotYourTaxHaven).

9. *Id.*

road to independence raises significant human rights concerns for the future.

## II. HISTORY AND DEVELOPMENT OF PUERTO RICO AND U.S. RELATIONS

### A. U.S. Acquisition of Puerto Rico

Puerto Rico underwent Spanish rule beginning in 1493, becoming a military outpost and an exporter of tobacco, coffee, and sugarcane.<sup>10</sup> After nearly four hundred years of Spanish Rule, Spain ceded Puerto Rico to the United States, which invaded the island during the Spanish–American War in 1898.<sup>11</sup> Puerto Rico was a particularly valuable acquisition due to its abundance of resources, such as sugarcane, and it also provided an opportunity for a future naval site.<sup>12</sup> At the time, the United States had been importing sugar from foreign countries, an expensive practice, whereas access to Puerto Rico’s sugar allowed for lower-cost, tariff-free sugar.<sup>13</sup>

Because the U.S. Constitution gives the United States the power to oversee any “Territory or other Property belonging to the United States,” Congress immediately assumed control.<sup>14</sup> In 1899, promptly after the acquisition, the United States sent Special Commissioner Henry K. Carroll to assess the system of taxation in place on the island under Spanish rule.<sup>15</sup> In turn, Carroll, among others, critiqued the Spanish system and characterized it as oppressive.<sup>16</sup>

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10. Amelia Cheatham & Diana Roy, *Puerto Rico: A U.S. Territory in Crisis*, COUNCIL ON FOREIGN RELS., <https://www.cfr.org/background/puerto-rico-us-territory-crisis> (last updated Sept. 29, 2022, 11:40 AM).

11. *Id.*

12. Diane Lourdes Dick, *U.S. Tax Imperialism in Puerto Rico*, 65 AM. U. L. REV. 1, 16-17 (2015).

13. *Id.*

14. *Id.* at 18 (quoting U.S. CONST. art. IV, § 3, cl. 2).

15. *Id.* at 21.

16. *Id.* at 22–23 (highlighting how Jacob Hollander from Johns Hopkins described the Spanish administration’s system as economic exploitation. Dr. Jose Celso Barbosa, a

The United States used its military to occupy the island for two years before the Foraker Act of 1900 passed, specifying Puerto Rico's status as a territory and establishing a civilian government.<sup>17</sup> The Foraker Act was Congress' first major legislative act in relation to the island.<sup>18</sup> Politically, the Foraker Act allowed the island to have a governor appointed by the United States and a non-voting representative in Congress, but no citizenship for the local population.<sup>19</sup> The Act did not establish a bill of rights, nor did it state whether residents were allowed to travel freely between the island and the United States.<sup>20</sup>

Economically, the Foraker Act established that the U.S. internal revenue laws should not have an effect on the island; as a result, the U.S. raised revenue through excise taxes put on various goods such as alcohol, playing cards, stamp duties, and more.<sup>21</sup> Notably, while the U.S. Constitution provides that "all Duties, Imposts, and Excises be uniform throughout the United States," the Supreme Court ruled that Congress still retained the authority to impose non-uniform laws for Puerto Rico, allowing the island to be treated as foreign in a domestic sense with taxation.<sup>22</sup> Therefore, the primary beneficiaries of the Foraker Act were large American corporations that could obtain raw materials from the island while avoiding U.S. taxes and tariffs.<sup>23</sup>

Residents of Puerto Rico were granted U.S. citizenship under the Jones-Shafroth Act in 1917.<sup>24</sup> The United States' colonial interest in Puerto Rico was both economically and militarily

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Puerto Rican physician and statehood activist noted the burden the system imposed on the lower classes. Rosa Carrasquillo, a historian, described the Spanish system as manipulative and discriminatory of lower classes as well).

17. See Cheatham & Roy, *supra* note 10.

18. See Lourdes Dick, *supra* note 12, at 28.

19. See Cheatham & Roy, *supra* note 10.

20. See Guy-Uriel Charles & Luis Fuentes-Rohwer, *No Voice, No Exit, But Loyalty? Puerto Rico and Constitutional Obligation*, 26 MICH. J. RACE & L. 133, 138 (2021).

21. See Lourdes Dick, *supra* note 12, at 33.

22. *Id.* at 33–34, 33 n.185 (citing U.S. CONST. art. I, §8).

23. *Id.* at 33–34 (explaining that large corporations benefited from the Foraker Act through relief from many U.S. taxes and tariffs on imports and exports from Puerto Rico).

24. See *Almost and Forgotten*, *supra* note 4, at 1255.

driven.<sup>25</sup> Congress authorized the island to draft its own constitution, establishing the Commonwealth of Puerto Rico, which was approved by the Puerto Rican people and Congress.<sup>26</sup> The granting of citizenship had historically indicated a step towards incorporation in other U.S territories; however, it was soon apparent that the granting of citizenship to Puerto Ricans did not follow a similar trajectory.<sup>27</sup>

## B. The Cost of Puerto Rican Citizenship

Despite granting citizenship, the United States highest court's attitude towards Puerto Ricans remained unwelcoming, referring to the island's inhabitants as "aliens" in subsequent cases.<sup>28</sup> <sup>29</sup> It is apparent that despite the stated values of the United States, not all citizenship is equal. Living in Puerto Rico changes both one's rights and one's federal privileges.<sup>30</sup> The Supreme Court has posed the argument that Puerto Ricans greatly benefit from Puerto Rico's relationship with the United States.<sup>31</sup> In reality, residents are left with no real voice.<sup>32</sup>

25. See Román, *supra* note 1, at 1149.

26. See *Almost and Forgotten*, *supra* note 4, at 1255.

27. See Charles & Fuentes-Rohwer, *supra* note 20, at 139 (indicating that, given Alaska and Hawaii's incorporation process, citizenship seemed to signal the United States' intentions to incorporate a territory—however, this did not occur.).

28. See *Downes v. Bidwell*, 182 U.S. 244, 287 (1901); see also *id.* at 380 ("The idea that this country may acquire territories anywhere upon the earth, by conquest or treaty, and hold them as mere colonies or provinces—the people inhabiting them to enjoy only such rights as Congress chooses to accord them—is wholly inconsistent with the spirit and genius as well as with the words of the Constitution.") (Harlan, J., dissenting); See Tom C.W. Lin, *Americans, Beyond States and Territories*, 107 MIN. L. REV 1183, 1185–86 (2023) [hereinafter *Beyond States and Territories*](explaining that the Supreme Court has characterized Americans living in the territories as "alien races," "utterly unfit for American citizenship," and "foreign to the US in a domestic sense").

29. See *id.*

30. *Id.* at 1185–86 (explaining that residents of United States territories cannot vote in the Presidential election and have no voice in the passage of laws and regulations of which they are governed by).

31. See Charles & Fuentes-Rohwer, *supra* note 20, at 144–45, nn. 85–86 (citing *Balzac v. Porto Rico*, 258 U.S. 298, 311 (1922)).

32. *Beyond States and Territories*, *supra* note 28 at 1185–86 ("[Americans living in territories] are subject to federal taxes, laws, and regulations but have no real voice in their passage, enactment, or enforcement").

Residents of Puerto Rico can vote in party primaries but not in presidential elections.<sup>33</sup> While there is a resident commissioner representing Puerto Rico in the House of Representatives in Congress, they ultimately cannot vote on any final legislation.<sup>34</sup> Additionally, the Puerto Rican Constitution forbids wiretapping and the death penalty, but federal law authorizes both; therefore, they are both legal on the island.<sup>35</sup>

Arguments can be made about who benefits from whom more. However, as Judge Jose Cabranes of the Second Circuits put it, “Puerto Rico has paid a very steep price for its relationship with the United States: ‘political subordination and a deep, abiding sense of dependency and powerlessness.’”<sup>36</sup> All things considered, Puerto Rico has yet to retain sole control over its own domestic affairs, which impacts economic development across the island.<sup>37</sup>

### C. Economic Dependence

Puerto Rico lacks sovereignty in several economic dependent areas, including “monetary policy, food production and consumption, and power in international affairs.”<sup>38</sup> This economic dependence thereby hinders its ability to progress in the way needed to overcome the current financial crisis.<sup>39</sup> Due to its status, Puerto Rico has had to navigate alternative ways to bring revenue and develop economically. Since the industrialization period of the 1940s, tax incentives have been implemented in various sectors to attract foreign capital for the purpose of

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33. *Almost and Forgotten*, *supra* note 4, at 1255.

34. *Id.* at 1255-56 (explaining that the resident commissioner can only serve on House Committees, speak, introduce bills, and offer amendments).

35. See Charles & Fuentes-Rohwer, *supra* note 20, at 143.

36. *Id.* at 145-46, 146 n.94 (quoting José A. Cabranes, U.S. Dist. Judge, at the First Circuit Judicial Conference (Nov. 1985)).

37. *Id.* at 134 (explaining that lack of control over domestic affairs has contributed to the financial crisis in Puerto Rico).

38. Argeo T. Quiñones Pérez & Ian J. Seda-Irizarry, *The Political Economy of Contemporary Puerto Rico*, (POST-)COLONIAL ARCHIPELAGOS: COMPARING THE LEGACIES OF SPANISH COLONIALISM IN CUBA, P.R., & THE PHIL. 113 (Hans-Jürgen Burchardt & Johanna Leinius, eds., U. Mich. Press 2022).

39. *Id.*

assisting in economic development.<sup>40</sup> Operation Bootstrap, a new economic program, was implemented in the 1940s by Puerto Rico's legislature with the endorsement of the United States.<sup>41</sup> Under this new program, the Puerto Rican legislature used Section 262 of the Revenue Act of 1921.<sup>42</sup> Section 262 allowed United States citizens or corporations who met the requirements to "qualif[y] for a tax exclusion on their foreign and possession source income."<sup>43</sup> The purpose of providing a tax exclusion of this magnitude was to attract private U.S. investors that Puerto Rico would not otherwise be able to attract due to the island's own taxes.<sup>44</sup>

Puerto Rico then passed the Industrial Incentives Act, which provided an exemption from insular income taxes for a specific period of time to continue the creation of new industries.<sup>45</sup> The overarching goal was to subsidize capital investment that would eventually allow for an increase in employment rates, standard of living, and reinvestment overall.<sup>46</sup> While these efforts did have some limited success, they ultimately resulted in the creation of Puerto Rico's perpetual economic dependence on the United States and its investors, beginning with the repeal of Section 936.<sup>47</sup>

Economic dependency refers to when a country has its "economy conditioned by the development and expansion of another economy, to which the former is subject."<sup>48</sup> This economic

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40. *Id.* at 114 (explaining that almost all companies involved in industrialization from the late 1940s until the early 2000s in Puerto Rico utilized tax incentives as a strategy to achieve capital accumulation and economic development").

41. *See* Román, *supra* note 1, at 1190–91.

42. *Id.* at 1990.

43. *Id.* at 1190 (quoting Revenue Act of 1921, ch. 136, § 262, 42 Stat. 227, 271).

44. *Id.* at 1191.

45. *Id.*

46. *Id.* at 1192.

47. *See* Román, *supra* note 1, at 1202–03 (explaining that the repeal is part of a broader pattern of U.S. exploitation of Puerto Rico, depicting the territory's economic struggles as a consequence of decisions made at the federal level).

48. *Id.* at 1193 (explaining the dependency relationship between two economies, where the success and stability of one economy (Economy A) is primarily determined by the economic health and decisions of another (Economy B). This can often lead to vulnerabilities, as the dependent economy is susceptible to external factors and changes in the dominant economy).

dependency was reflected in the economic stagnation that persisted through the 1970's.<sup>49</sup> During this time, U.S. policymakers began to form Puerto Rico's current state of tax policy, focusing on moving U.S. corporate wealth from the island back to the U.S.<sup>50</sup> This dynamic has caused a conflict of interest between Puerto Rico's desire for capital to stay within the island and the U.S. desire to have the capital for itself.<sup>51</sup> To achieve the goal of returning U.S. corporate wealth from the island to the mainland, U.S. Congress enacted Section 936 of the Internal Revenue Code, which repealed Section 931 and modified the tax incentives to allow U.S. subsidiaries operating in Puerto Rico to send profits to parent corporations without paying federal corporate income tax.<sup>52</sup> However, Section 936 only exacerbated this economic dependence, as its initial economic growth was not long-lasting,<sup>53</sup> and the rates of productive investment did not continue to increase with time.<sup>54</sup>

In addition to Section 936, U.S. Congress also modified the U.S. Tax Code so that parent companies could claim a 100% dividends-received deduction of income earned in a U.S. possession.<sup>55</sup> These modifications risked companies wanting to keep their capital in the mainland; therefore, a Puerto Rican tax was established to incentivize such companies to keep capital on

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49. See Quiñones Pérez & Seda-Irizarry, *supra* note 38, at 116 (explaining Puerto Rico's economic stagnation since the 1970s, attributing it to structural dependence on U.S. capital and external market forces).

50. See Lourdes Dick, *supra* note 12, at 16; see also Joseph Thorndike, *Tax History: Tax Imperialism, American Style*, FORBES (Aug. 30, 2021), <https://www.forbes.com/sites/taxnotes/2021/08/30/tax-history-tax-imperialism-american-style/?sh=407416fa582b>.

51. See Lourdes Dick, *supra* note 12, at 68.

52. See Román, *supra* note 1, at 1196-97 (highlighting when Congress passed Section 936 to offer tax incentives to U.S. companies with subsidiaries in Puerto Rico, allowing them to send profits back to the U.S. without paying federal taxes. The idea was to encourage these companies to reinvest their earnings in Puerto Rico and other U.S. territories, thus fostering economic growth in those regions).

53. See Quiñones Pérez & Seda-Irizarry, *supra* note 38, at 121.

54. See Román, *supra* note 1, at 1199 (showing that the rate of productive investment rose 14.5% in 1976 and only 7% in 1980. Additionally, some indicators suggest the gross fixed investment as a percentage of GNP was higher 20 years prior than it was after the implementation of section 936).

55. See Lourdes Dick, *supra* note 12, at 70-71.

the island.<sup>56</sup> The U.S. Treasury revealed that the Puerto Rican tax was the likely reason as to why billions of dollars were remaining on the island rather than going back to the mainland.<sup>57</sup> Today, Puerto Rico makes and retains most of its capital from the manufacturing industry, as it makes up 43% of its GDP.<sup>58</sup>

Consequently, Congress eliminated Section 936 in 1996 with a transitional ten-year phase-out period due to political pressures regarding lost tax revenues to the mainland. Since its elimination, Puerto Rico's economy has embarked on a decline as a result of its economic dependence on the United States. The ten-year phase out period consisted of a process of deindustrialization, causing industrial employment to decrease and debt to accumulate within the government and corporations.<sup>59</sup> In 2006, the transitional period ended while an economic depression started that has yet to end.<sup>60</sup>

While Puerto Rico is economically dependent, the United States and its corporate investors see the island as a prized opportunity for profit because of the tax incentives.<sup>61</sup> However, this is not to say the local government has had no role in perpetuating this economic model. Some argue that the local government's role focuses on creating advantages for capital intensive industries, not taking into account the lost revenue for industries on the island owned by Puerto Ricans.<sup>62</sup> The U.S. and Puerto Rico have a colonial relationship, reflected by an economic model "where gains are privatized and costs are socialized for the benefit of local and foreign extractive elites."<sup>63</sup> The colonial

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56. *Id.* at 71-72 (explaining Puerto Rico's tollgate tax, an attempt to "incentivize firms to leave their money in Puerto Rico").

57. *Id.* at 73.

58. *The Foundation for Puerto Rico's Economy*, FIN. OVERSIGHT & MGMT. BD. FOR P.R. (Oct. 18, 2023), <https://oversightboard.pr.gov/the-foundation-for-puerto-ricos-economy>.

59. See Quiñones Pérez & Seda-Irizarry, *supra* note 38, at 118.

60. *Id.* at 118.

61. See Román, *supra* note 1, at 1196.

62. Andrew E. Gerow, *Shooting for the Stars (and Stripes): How Decades of Failed Corporate Tax Policy Contributed to Puerto Rico's Historic Vote in Favor of Statehood*, 88 TUL. L. REV. 627, 647 (2014).

63. Quiñones Pérez & Seda-Irizarry, *supra* note 38, at 123.

relationship that exists can be attributed to the imperialism carried out over time by the United States.

### III. ANALYSIS

#### A. U.S. Tax Imperialism and Puerto Rico's Current Debt Crisis

Imperialism is defined as “an ongoing process of aggressive state action to exert control over another nation.”<sup>64</sup> It does not always come in the shape of military action and can look like control over another country's resources or intervention, resulting in dependencies.<sup>65</sup> While some argue that Puerto Rico's current struggles are self-imposed, history has depicted how the United States has continuously abused the island for its own benefit by implementing tax laws that benefit U.S. interests.<sup>66</sup> The United States has not always acted deliberately in implementing such policies to benefit the mainland; it has also acted with indifference toward the effects on the island's economic growth.<sup>67</sup>

The development of economic dependence, in connection with the repeal of Section 936, was detrimental as Puerto Rico became accustomed to the influx of capital coming into the island.<sup>68</sup> American parent companies and manufacturers who established bases in Puerto Rico began to leave, causing a ripple effect of lost investment capital and the registering of double-digit unemployment in the early 2000s.<sup>69</sup> Since then, the island has been unable to recover from the repeal of Section 936 and the modification to the tax advantages aimed at the sources of capital coming into the island. In its failure to bring back business and capital, Puerto Rico has had to borrow funds, exacerbating the

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64. See Lourdes Dick, *supra* note 12, at 12.

65. See *id.* at 12–13.

66. See *id.* at 9 (explaining the US-Puerto Rico relationship and how Puerto Ricans have United States citizenship but are not fully represented in Congress).

67. *Id.* at 9–10.

68. *Id.* at 74 (explaining how (1) Section 936 helped with Puerto Rican banks' liquidity and (2) the shared struggles of mainland investors and Puerto Rico's government, as both had difficulty retaining direct investments from the United States and tax incentives from the federal government).

69. *Id.* at 77.

accumulation of debt over the years.<sup>70</sup> To put the current crisis into perspective, Puerto Rico's debt encompasses almost 70% of the island's GDP.<sup>71</sup>

In addition to tax advantage modifications that have exacerbated the island's debt, other factors have also contributed to the crisis. Puerto Rico's population has been declining since 2005 as locals continue to seek better opportunities on the mainland.<sup>72</sup> Additionally, half of Puerto Ricans receive government assistance, but Puerto Rico does not receive federal funds in the same amount as U.S. states despite needing it.<sup>73</sup> Moreover, Hurricane Maria, a Category 4 storm, directly hit the island in 2017, causing massive destruction and significantly lowering the island's bond value.<sup>74</sup> Conversely, in 2018, the U.S. Government Accountability Office attributed its own three factors to Puerto Rico's debt crisis: (1) inadequate financial management by the Puerto Rican government; (2) policy decisions by the Puerto Rican government; and (3) Puerto Rico's prolonged economic contraction.<sup>75</sup>

In an attempt to mitigate the debt crisis, the Puerto Rican government has implemented various solutions within the tax policy over the years. In 2006, the Puerto Rican government enacted a sales tax which resulted in an increase in revenue by

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70. *Id.* at 9, 78; *see also id.* n. 281 (explaining how "the island's plight" comes from a "vicious borrowing cycle").

71. Greg Depersio, *The Origins of the Puerto Rican Debt Crisis*, INVESTOPEDIA (January 31, 2022), <https://www.investopedia.com/articles/investing/090915/origins-puerto-rican-debt-crisis.asp>; *see also* KOBRE & KIM LLP, THE FINANCIAL OVERSIGHT & MANAGEMENT BOARD FOR PUERTO RICO SPECIAL INVESTIGATION COMMITTEE INDEPENDENT INVESTIGATOR'S FINAL INVESTIGATIVE REPORT 44 (2018).

72. Depersio, *supra* note 71; *see also* Jaison R. Abel & Richard Deitz, *The Causes and Consequences of Puerto Rico's Declining Population*, 20 CURRENT ISSUES IN ECON. & FIN. 4 (2014).

73. Depersio, *supra* note 71; *see Quality of Care in Puerto Rico*, MEDICAID.GOV, <https://www.medicaid.gov/state-overviews/puerto-rico.html> (last visited Sept. 15, 2024) ("Approximately half of Puerto Rico's 3.5 million residents have low incomes and depend upon the public health system for their medical care".)

74. Depersio, *supra* note 71.

75. U.S. GOV'T ACCOUNTABILITY OFF., GAO-18-387, PUERTO RICO: FACTORS CONTRIBUTING TO THE DEBT CRISIS AND POTENTIAL FEDERAL ACTIONS TO ADDRESS THEM (2018).

6.5% annually through May 2014.<sup>76</sup> In 2010, Act 154 was passed, putting excise tax on products manufactured in Puerto Rico by companies headquartered outside of the island.<sup>77</sup> Act 154's tax increased to its highest rate from 2013 to 2017 and received criticism from the mainland as well as from professionals on the island who worked for large corporations.<sup>78</sup> In 2016, the island's government abandoned the sales tax enacted in 2006 and implemented a new tax regime despite objections by the local population.<sup>79</sup> Both the enactment of Act 154 and the 2006 sales tax decision demonstrated a sense of autonomy that the island typically lacked, indicating that Puerto Rico could establish its own forms of taxation rather than conforming to the mainland's methods and interests.<sup>80</sup> While Puerto Rican residents are exempt from federal taxes, the Puerto Rican government is still able to make its own local tax law.<sup>81</sup> An amendment to the Jones Act allowed the island to levy its own income tax, and the Puerto Rico Federal Relations Act of 1950 granted the island authority over internal taxation through the constitution.<sup>82</sup> However, in an effort to mitigate this crisis and bring capital back to Puerto Rico, the enactments of Act 20 and Act 22 have caused detrimental impacts to the local population.

#### B. Act 20, Act 22, and Act 60

Act 20, enacted in 2012 and known as the "Export Services Act," offers tax credits and exemptions for businesses engaged in the exportation of services to non-residents and/or foreign

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76. See Lourdes Dick, *supra* note 12, at 78.

77. *Id.* at 80.

78. *Id.*

79. *Id.* at 78–80 (explaining how Puerto Ricans viewed the new tax regime as difficult to implement).

80. *Id.* at 79.

81. See Mariah Espada, *Influencers, Developers, Crypto Currency Tycoons: How Puerto Ricans are Fighting Back Against the Outsiders Using the Island as a Tax Haven*, TIME (Apr. 16, 2021), <https://time.com/5955629/puerto-rico-tax-haven-opposition/>; see generally Meg Matthias, *Why is Puerto Rico's Political Status so Complicated?*, BRITANNICA (Aug. 25, 2021), <https://www.britannica.com/story/why-is-puerto-ricos-political-status-so-complicated>.

82. See Gerow, *supra* note 62, at 637.

entities.<sup>83</sup> Act 22, also enacted in 2012, serves the purpose of attracting new residents in real estate and service industries by offering a 100% tax exemption from Puerto Rico taxes on all dividend and interest income.<sup>84</sup> All capital gains from becoming a new resident would be 100% exempt from taxation as well.<sup>85</sup> To become a new resident, individuals must have a physical presence on the island for 183 days of the year.<sup>86</sup> Finally, Act 60 was enacted in 2019 and is known as the “Code of Incentives,” consolidating both Acts 20 and 22 of 2012 under one act to measure return of investment with a minimal change of provisions.<sup>87</sup> Each of these tax incentives has increasingly been advertised in the media over time, portraying Puerto Rico as a tax haven for the wealthy.<sup>88</sup>

### C. Economic Impact

#### 1. Who is Moving to Puerto Rico?

With the media’s outward encouragement for the wealthy to move to Puerto Rico, more and more affluent individuals have made the decision to move to the island.<sup>89</sup> As the New York Post frames the situation, “[o]bviously, it’s a popular idea, when people learn about it,” detailing how applications for the exemptions had tripled in 2022.<sup>90</sup> Some of those who have made the move to the island include YouTuber Logan Paul, crypto billionaire Brock Pierce, investors, and other individuals who previously ran their

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83. See Lourdes Dick, *supra* note 12, at 81; see Act 20, THE 20/22 ACT SOCIETY, <https://www.the2022actsociety.org/tax-incentives/act-20/> (last visited Jan. 18, 2024).

84. *Id.*

85. *Id.*

86. See Lourdes Dick, *supra* note 12, at 81.

87. Act 60, THE 20/22 ACT SOCIETY, <https://www.the2022actsociety.org/tax-incentives/act-20/> (last visited Jan. 18, 2024).

88. See Lourdes Dick, *supra* note 12, at 82.

89. John Stossel, *How Tax Freedom is Enticing Americans like Logan Paul to Move to Puerto Rico*, N.Y. POST, <https://nypost.com/2022/08/04/how-tax-freedom-is-enticing-americans-like-logan-paul-to-move-to-puerto-rico/>.

90. *Id.*

businesses in the U.S.<sup>91</sup> The New York Post quoted Melissa DaSilva, a woman who brought her business to the island for the tax advantages, acknowledging the fear Puerto Ricans have that “people from the state side are going to come down and take over everything” and how the fear is justified because of the history of colonization with Spain and the United States.<sup>92</sup> Forbes has also framed Puerto Rico and its tax advantages similarly, describing it as an “island of tropical breezes, and (for new arrivals only) a 0% tax rate on certain dividends, interest and capital gains.”<sup>93</sup> While Puerto Rico serves as a tax haven for the wealthy, it is important to assess how the influx of affluent individuals affects the local population, considering that at least forty-three percent of locals live under the federal poverty level.<sup>94</sup>

## 2. Real Estate

As new investors arrive on the island with the intent of becoming new residents, they must acquire property to be able to qualify for Puerto Rico’s residence requirement of 183 days (about 6 months).<sup>95</sup> In turn, the increasing number of investors has led to the increase in real estate prices and the inevitable displacement of the local population, as they are unable to afford to continue living in their homes.<sup>96</sup> The process of displacement has been felt in the capital, San Juan, along with other towns such as Rincón and Dorado, which have been increasingly popular locations to settle among new arrivals.<sup>97</sup> Investors are buying real

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91. *Id.* (discussing Youtube Star Logan Paul moving his show from California to Puerto Rico to take advantage of the tax deal, and billionaire Brock Pierce relocating to Puerto Rico while running the Toys for Tots charity).

92. *Id.*

93. Philip DeMuth & Lauren Gensler, *Treasure Island: Puerto Rico Bids To Become New Age Tax Haven*, FORBES (Feb. 11, 2015), <https://www.forbes.com/sites/laurengensler/2015/02/11/puerto-rico-new-age-tax-haven/?sh=5741e91b57c9>.

94. See Coral Murphy Marcos & Patricia Mazzei, *The Rush for a Slice of Paradise in Puerto Rico*, THE N.Y. TIMES (Jan. 31, 2022), <https://www.nytimes.com/2022/01/31/us/puerto-rico-gentrification.html>.

95. See DeMuth & Gensler, *supra* note 93.

96. See Marcos & Mazzei, *supra* note 94.

97. See *id.*; see Damaris Suárez, et al., *Puertorriqueños Conseguir Hogar, Mientras Otros Acaparan Propiedades*, CENTRO DE PERIODISMO INVESTIGATIVO (Dec. 19, 2022),

estate and reselling it at much higher rates or using it for profit as vacation rentals.<sup>98</sup> For example, a 45-year-old man, his wife, and two children have fallen in the middle of this situation in Rincón, where the Californian owner of their house decided to sell the house at a price the family could not afford.<sup>99</sup> The man told the *New York Times* he simply could no longer find a single place to live in Rincón within his budget.<sup>100</sup> A coordinator for Rincón's Section 8 program has also voiced his concerns about displacement, as he has not been able to find homes in the price range the vouchers allow for families.<sup>101</sup> Investors, not content with just homes, are also using their crypto funds to buy buildings on the island. These buildings are not just residences but also serve as working spaces for their businesses, further influencing the local economy.<sup>102</sup> These situations demonstrate the disparity that has risen between the growing number of wealthy arrivals and the local population's standard of living.

Heriberto Martinez Otero, the executive director of the Ways and Means Committee in Puerto Rico's House of Representatives and Professor of Economics at the University of Puerto Rico, recognized an inequality in taxpayer responsibility in connection to the tax advantages. Martinez Otero noted how renters who are being displaced from the coast may be able to find housing in cheaper inland towns, but ultimately, they retain the burdens of commuting costs.<sup>103</sup> Martinez Otero also highlighted how

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<https://periodismoinvestigativo.com/2022/12/una-pesadilla-para-los-puertorriquenos-conseguir-hogar-mientras-otros-acaparan-propiedades/>.

98. See Marcos & Mazzei, *supra* note 94 (noting that many investors are moving to Puerto Rico to buy properties for resale or conversion into short-term rentals, transforming neighborhoods into Airbnb hotspots and reducing housing availability for locals).

99. *Id.* (emphasizing that Israel Matos, a resident of Rincón, must vacate his home by March after the property owner's option expired).

100. *Id.* (recognizing the difficulties of finding an affordable home due to financial pressure and a lack of savings).

101. *Id.* (highlighting that Mr. Sánchez, a Rincón homeowner who coordinates the town's federal Section 8 program and provides \$450 vouchers to low-income families, struggles to find homes at that price and fears the displacement of native Puerto Ricans).

102. See Zahra Tayeb, *Puerto Rico's Generous Tax Breaks and Stunning Beaches are Attracting an Influx of Crypto Entrepreneurs: Report*, BUS. INSIDER (Jan. 16, 2022), <https://www.businessinsider.com/puerto-rico-tax-breaks-haven-crypto-bitcoin-entrepreneurs-2022>.

103. See Marcos & Mazzei, *supra* note 94.

investors who buy residential properties are not representative of the local population's actions in the context of consumption.<sup>104</sup> To put this into perspective, Rincón's average annual income is just under \$20,000; however, a home that has doubled in price in the last 4 years could cost \$420,000 in the same town.<sup>105</sup> While the investors and new arrivals meet in Rincón's beach clubs and San Juan's "nice" hotels and restaurants to talk about updates in the current market, Puerto Rican people are having to uproot their lives and lose their homes.<sup>106</sup>

Similarly, Dorado has been a primary settling town for new arrivals. Dorado Beach's website presents the town as luxury island living, with estates of up to 9 bedrooms being sold for millions of dollars.<sup>107</sup> It even features a page on Tax Incentives with descriptions of Acts 60, 20, and 22 for the convenience of the wealthy.<sup>108</sup> The website is completely in English, featuring facts about Puerto Rico, including the availability of cable TV, major couriers, electricity, U.S. healthcare, English-speaking schools, postal services as reliable as the mainland, the use of the U.S. dollar, and more.<sup>109</sup> While the increase in home prices and displacements has been primarily rooted in the luxurious towns of San Juan, Rincón, and Dorado, neighboring towns have started to feel similar effects.<sup>110</sup> For example, Trujillo Alto, a town outside

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104. *Id.*

105. *Id.*

106. *Id.*; see Mackenzie Sigalos, *Bitcoin Millionaires are Moving to Puerto Rico for Lower Taxes and Island Living*, CNBC (Jun. 16, 2022), <https://www.cnbc.com/2022/01/16/puerto-rico-low-taxes-island-life-make-it-hot-for-bitcoin-fans.html>.

107. See *Real Estate Listing*, DORADO BEACH, <https://www.doradobeach.com> (last visited Oct. 12, 2024) (click "Real Estate" section; then click "View All Listings"; then use "Filter"; then select "Bedrooms" and click "9 Bedrooms"; then click "Apply Filters").

108. See *Tax Incentives for Owning Real Estate and Residing in Puerto Rico*, DORADO BEACH, <https://www.doradobeach.com> (last visited Oct. 12, 2024) (click "Real Estate" section; then click "Tax Incentives" page).

109. See *Quality of Life*, DORADO BEACH, <https://www.doradobeach.com/real-estate-puerto-rico/quality-of-life> (last visited Sept. 29, 2024).

110. See Damaris Suárez, et al., *Una Pesadilla Para Los Puertorriqueños: Conseguir Hogar, Mientras Otros Acaparan Propiedades* [A Nightmare for Puerto Ricans: Getting a Home While Others Hoard Properties], CENTRO DE PERIODISMO INVESTIGATIVO (Dec. 19, 2022), <https://periodismoinvestigativo.com/2022/12/una-pesadilla-para-los-puertorriquenos-conseguir-hogar-mientras-otros-acaparan-propiedades/>.

of San Juan, has been experiencing rent increases of up to 25% in homes.<sup>111</sup>

The Center for Investigative Journalism in Puerto Rico suggests that the most affected areas are along the coast and partially attributes the 63% increase in home prices between 2012 and 2021 to the influx of foreign capital and the promotion of Puerto Rico as a tax haven for the wealthy.<sup>112</sup> Displacement of locals is being accelerated by the continuous increase of prices in real estate and the decrease in available, affordable housing for the majority of the population.<sup>113</sup> Therefore, the concern falls on how the current market, including those who take advantage of the tax incentives, does not align with the financial abilities of the local population.<sup>114</sup>

#### D. Political Impact

Those who are in positions of power have differing views and overall perspectives of the tax advantages offered to investors. Proponents of the advantages view the tax incentives as opportunities for the growth of the Puerto Rican economy and the creation of jobs.<sup>115</sup> Critics, however, argue that the new arrivals have been increasing the cost of living and, in turn, gentrifying places like San Juan and Dorado.<sup>116</sup> U.S. Representatives such as Nydia Velasquez, Alexandria Ocasio-Cortez, Ritchie Torres, and Raul Grijalva have asked the Government Accountability Office to reevaluate Act 60 and the incentives they offer investors.<sup>117</sup> In response to requests to review the tax incentives, a GAO spokesperson told the media they would begin to review Act 60

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111. *Id.*

112. *Id.*

113. *Id.*

114. *Id.*

115. See, e.g., Johnathan Levin, *Puerto Rico is Being Far Too Generous with Rich Investors*, BLOOMBERG (Sept. 22, 2023), <https://www.bloomberg.com/opinion/articles/2023-09-22/puerto-rico-is-being-far-too-generous-with-rich-investors> (“One pre-Maria study from Jose Caraballo-Cueto, a University of Puerto Rico at Rio Piedras economist, found that the trio of 2012 tax incentives may have created about 34,740 more jobs than would have been the case without [the new arrivals] – about 3.3% of total employment in base year 2012.”).

116. *Id.*

117. *Id.*

but lacked a timeline for the return of an official report.<sup>118</sup> Former Governor of Puerto Rico, Pedro Pierluisi, proposed extending Act 22 to all Puerto Ricans; however, the probability of this passing through the “fiscal babysitters Congress installed” are low.<sup>119</sup> Yet, the passing of the proposal would only eliminate the written inequality in the tax code between the local population and the new arrivals because many people in the local population do not possess similar investment patterns.<sup>120</sup> In addition to differing views on the tax incentives, Puerto Ricans themselves have voiced their concerns as well, causing a former governor to step down.<sup>121</sup>

In 2019, Puerto Ricans protested in the streets of San Juan outside of former Governor Ricardo Roselló’s official residence in response to<sup>122</sup> gross financial mismanagement by the government, the government’s subpar response to Hurricane Maria, and for instances of corruption within the government.<sup>123</sup> Roselló’s successor was supposed to be Secretary of Justice Wanda Vásquez; however, Puerto Ricans had the view that she would embody Roselló once again and continued protesting.<sup>124</sup> Because she was also being investigated for corruption, Vásquez announced she did not want to assume the position of governor.<sup>125</sup> Yet, Puerto Ricans had already expressed a need for solid change, including the consideration for future statehood, before reaching the point where the ousting of a governor was demanded.

The proposition of statehood has repeatedly been introduced into the political sphere as a possible solution to Puerto Rico’s

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118. See Acevedo, *supra* note 6 (quoting Chuck Young’s email to NBC News saying a tax incentive review with start “as soon as staff become[s] available.”)

119. See Levin, *supra* note 115.

120. *Id.*

121. See Patricia Mazzei & Frances Robles, *Ricardo Roselló, Puerto Rico’s Governor, Resigns After Protests*, N.Y. TIMES (July 24, 2019), <https://www.nytimes.com/2019/07/24/us/rossello-puerto-rico-governor-resigns>.

122. *Id.*

123. *Id.* (explaining that Puerto Ricans were outraged by diversion of government funds, tone-deaf text messages between officials, and the government’s downplaying of the death toll following Hurricane Maria).

124. John Bacon, *Puerto Rico Chaos: Governor-apparent Wanda Vásquez Doesn’t Want the Job*, USA TODAY (July 28, 2019), <https://www.usatoday.com/story/news/nation/2019/07/28/puerto-rico-chaos-governor-apparent-wanda-vazquez-doesnt-want-job>.

125. *Id.*

economic status of dependence.<sup>126</sup> In 2012, Puerto Rican residents voted in favor of statehood in lieu of the economic struggles present on the island.<sup>127</sup> The appeal of statehood lies in the potential economic boost in certain industries, specifically the service sector, which consists of locally owned small businesses that would benefit from an increase in revenue as the number of visitors increases.<sup>128</sup> The tourism industry also would likely receive another boost, similar to Hawaii, as Hawaii's journey to statehood also propelled its tourism and hospitality industries.<sup>129</sup> Nonetheless, the economic status of Puerto Rico has continued to be a burden and hindrance to the development of the island, and both politicians and Puerto Ricans have continued to voice their concerns regarding the government.

#### E. Social Impact

In direct response to the implementation of Act 20, Act 22, and Act 60, social movements highlighting the concerns and anger within Puerto Ricans have spread across the island, even reaching mainland news sources and the press.<sup>130</sup> #AbolishAct60, one of Puerto Rico's most prominent grassroots movements, treats the tax advantages and its effects as "predatory gentrification."<sup>131</sup> #AbolishAct60 is rooted in pushing back against the enactment of Act 60 in 2019, just 2 years after Hurricane Maria ("Maria") destroyed the island.<sup>132</sup> Maria's detrimental impact on the lives of Puerto Ricans and on the island itself caused massive displacement, causing more than 140,000 Puerto Ricans to flee the island in the first year after the storm.<sup>133</sup> As discussed before,

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126. See Gerow, *supra* note 62, at 627–29.

127. *Id.*

128. *Id.* at 647–48.

129. *Id.* at 648 (stating that Hawaii's statehood publicity served as a free advertisement for tourists on the mainland).

130. See Espada, *supra* note 81.

131. *Id.*

132. See Steph Amaya Mora, *Gringo Go Home: Puerto Ricans Push Back Against Wave of Wealthy Gentrifiers*, PULSO (Sept. 21, 2022), <https://projectpulso.org/2022/09/21/solutions-series-housing/> (stating that #AbolishAct60 has called for gentrifiers to leave Puerto Rico and for the government to end tax incentives).

133. See Espada, *supra* note 81.

real estate prices plummeted after Maria, allowing investors to move in, buy real estate, and cause prices to rise.<sup>134</sup> Puerto Ricans, however, cannot afford the new rates, and tax advantages for investors only worsen displacement as more and more property is being bought and sold at higher rates.<sup>135</sup> Puerto Ricans have commented their concern to the press of feeling as though Maria essentially sold the island with the subsequent enactment of Act 60.<sup>136</sup> The movement is ultimately focused on stopping the growing numbers of investors moving in and continuing to gentrify an island where almost half of the population lives below the federal poverty line.<sup>137</sup>

#AbolishAct60 is not the only movement that exists, as movements have started on the U.S. mainland as well, inspired by those in Puerto Rico. Those who were forced to leave the island in the wake of Maria, or even decades ago, have come together to be part of a nonprofit called *Diáspora en Resistencia*, which roughly translates to resistance by or within the diaspora.<sup>138</sup> The nonprofit is focused on being part of the resistance within the island, with the same premise of stopping the investors, the increasing displacement, and the growing disparity between Puerto Ricans who are trying to live their lives and investors who are attempting to make a profit.<sup>139</sup> Through social media, *Diáspora en Resistencia* has mobilized a movement via online petitions.<sup>140</sup> Its online presence was able to help Bianca Graulau, an activist and journalist, start a petition from her TikTok post.<sup>141</sup> Graulau's post featured a "for sale" sign that was put in the 40-acre beach-front plot in front of her childhood home and a luxury real estate developer offering 1.1 million dollars for it soon after.<sup>142</sup> Because of an online petition with over 9,000 signatures

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134. *Id.*

135. *Id.*

136. See Mora, *supra* note 132.

137. *Id.*

138. *Id.* (crediting María Torres-López, the creator of *Diáspora en Resistencia*, who said she "didn't want to leave [Puerto Rico]. [She] wanted more and [her] country wasn't able to give it to [her].").

139. *Id.*

140. *Id.*

141. *Id.*

142. See Mora, *supra* note 132.

calling to stop the sale, former Governor Pierluisi of Puerto Rico eventually declared the over 7,000 surrounding acres of land to be of “nature and agricultural reserves.”<sup>143</sup> The founder of *Diáspora en Resistencia*, María Torres López, stated she is “not okay with” the effects of Act 60 and that the organization wants to “rematriate the country” so “Puerto Rican people that are able to go back [do] not have to go back as martyrs, but [are] able to go back and reattach to what they left behind, or perhaps in many cases to what their parents or grandparents left behind... That’s the Puerto Rico we want for all of us.”<sup>144</sup> Puerto Ricans are continuing to come together and use their voices, social media, and signs all over the island to stop the invasion of their home.

One phrase, “Gringo go home,” has been chanted during protests and is painted on signs and walls across the island. Another phrase that is continuously seen and heard is “Puerto Rico no se vende,” which means that Puerto Rico is not for sale.<sup>145</sup> While the phrases demonstrate both a sense of passion and determination to distribute a message to the island and the mainland, they also reflect feelings of disdain and simply being tired of what is happening and has continued to happen throughout the island’s history. The social impact of these tax incentives has also made its way into the music industry.

Puerto Rican artist Benito Martínez Ocasio, commonly known as Bad Bunny, released a music video for his song “El Apagón” to highlight the realities of what is happening on the island and to visually represent the feelings of Puerto Ricans.<sup>146</sup> “El Apagón” translates to “the blackout.” These blackouts are significant due to the number of power outages that happen on the island because of the privatization of LUMA, the power company on the island. In the music video, Bad Bunny includes a report called *Aquí Vive*

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143. *Id.*

144. Espada, *supra* note 81.

145. Pedro Cabán, *Gringo Go Home! Puerto Rico is Not for Sale!*, THE AM. PROSPECT (Aug. 21, 2023), <https://prospect.org/power/2023-08-21-gringo-go-home-puerto-rico-not-for-sale/>.

146. Bad Bunny, *El Apagón – Aquí Vive Gente (Official Video) | Un Verano Sin Ti [The Blackout – People Live Here (Official Video) | A Summer Without You]*, YOUTUBE (Sep. 16, 2022), [https://youtu.be/1TCX\\_Aqzoo4?si=VKPyLC7DIEzC313G](https://youtu.be/1TCX_Aqzoo4?si=VKPyLC7DIEzC313G) (providing interviews with locals who voiced their frustration with the gentrification occurring in Puerto Rico).

Gente (“People Live Here”) led by previously mentioned activist and journalist Bianca Graulau and is centered on the current displacement happening on the island as a direct result of the tax incentives.<sup>147</sup> The reportage begins by showcasing what is happening in Santurce, a town close to San Juan. Graulau sits down with a 68-year-old woman who is a 26-year resident of an apartment building that was given the “famous” 30-day notice of eviction letter after the building was purchased by a wealthy investor.<sup>148</sup> In demonstrating that the resident was paying roughly \$600 a month in rent, Graulau takes the opportunity to show that the average monthly income of a Puerto Rican household is less than \$1,800 a month.<sup>149</sup> The building would later be resold at \$1.5 million dollars, in a cash-offer-only advertisement with the bonus that the current tenants, local Puerto Ricans, do not have contracts and would be able to move out in 30 days.<sup>150</sup> This is a clear demonstration of the deliberate pattern occurring across the island that is directly impacting Puerto Rican livelihoods.

The reportage by Graulau also highlights the story of Puerta de Tierra, located just outside of the famous Old San Juan and right in front of the Bay of San Juan.<sup>151</sup> The specific location of Puerta de Tierra is of major significance in terms of its attractiveness to the beneficiaries of Act 22, as it provides an ocean-front view and is one of the hubs of tourism on the island.<sup>152</sup> Puerta de Tierra was once a place where freed slaves lived and where public housing projects were developed for decades and eventually torn down. It is now a place where eight Act 22

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147. *Id.* at 6:03 (referencing the report led by Bianca Graulau throughout the video which examines how the tax incentives have affected the locals).

148. *Id.* at 6:09 (explaining Maricusa Hernandez’s notice to vacate her apartment).

149. *Id.* at 7:20 (stating that the average monthly income of a Puerto Rican household in 2020 was \$ 1,750); *id.* at 7:11 (noting that Hernandez was paying \$600 a month for the apartment but that the subsequent tenant was offering to pay \$2,500 a month).

150. *Id.* at 7:40 (noting that the online advertisement expressly states that the current tenants do not have contracts and could vacate in 30 days).

151. *Id.* at 8:14 (explaining that Puerta de Tierra is the entrance into the Bay of San Juan and where Puerto Rico’s capital is located).

152. El Apagón - Aquí Vive Gente, *supra* note 146, at 8:27 (“It’s a privileged place, it’s a treasure for millionaires and rich people.”).

beneficiaries have purchased at least 28 properties in the neighborhood since 2018 and now operate in a similar fashion to the investor who evicted the longtime resident of the building in Santurce.<sup>153</sup> Residents and Puerto Ricans in general have coined those who conduct these developments, changes, and evictions as colonizers because that is the way in which they act.<sup>154</sup>

The social impact of the tax incentives has evidently been strong and pervasive, with no indication of it diminishing any time soon. Graulau's reportage concludes with the voices of Puerto Ricans saying: "If we do not fight now and come together to fight for our neighborhood, it will happen not only in Puerto de Tierra, but on the entire island. The resistance is going to last until the heart can no longer take it."<sup>155</sup> *El Apagón* also ends with lyrics that roughly translate to "they should leave, this is my beach, this is my sun, this is my land, this is me."<sup>156</sup> Both the end of Graulau's reportage and Bad Bunny's song encapsulate the social impact that the tax incentives have had on Puerto Ricans. Movements will continue to rise as investors and developers arrive for their economic interests in Puerto Rico. In assessing the economic, political, and social impacts of the tax incentives and the history of Puerto Rico, it is beneficial to assess whether a human rights problem is present on the island.

#### F. Human Rights & International Relations

Puerto Rico's status in relation to the U.S. raises some questions as to how far certain treatment of the island can go without consequences. The island has been in crippling debt for decades, has alarmingly high rates of unemployment and poverty, and a growing wealth gap catalyzed by the previously mentioned tax breaks at the expense of Puerto Rican people. In June of 2022, the United Nations hosted a Special Committee on Decolonization

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153. *Id.* at 8:35 (describing the history of Puerta de Tierra compared to the current movement of forcing long-time residents out of their homes to make way for new arrivals).

154. *Id.* at 9:36 ("You can't come here with a colonizer's mentality, thinking that people don't live here or that the people that did can be discarded with an eviction letter thinking they'll just find some other place." *Id.* at 10:26); *see also id.* at 12:02 ("I call them colonizing invaders because they behave as such." *Id.* at 12:19).

155. *Id.* at 21:24.

156. *Id.* at 21:37.

for the purpose of calling on the United States to recognize Puerto Rico's right to self-determination and eventual independence.<sup>157</sup> The committee approved a draft resolution affirming such rights and sought to draw attention to Puerto Rico's "urgent economic and social needs."<sup>158</sup> The reality of the situation is that Puerto Rico is a colonized territory of the U.S.; it lacks full control of decision-making, and its residents remain unable to vote in a presidential election.<sup>159</sup> This call for a humanitarian issue was seriously pushed for in the aftermath of Hurricane Maria because Puerto Rico's status hindered swift action to simply help people and restore electricity and water.<sup>160</sup> In the days following the storm, 60 percent of the island did not have water and 100 percent of the island did not have electricity.<sup>161</sup> Senator Chuck Schumer called Puerto Rico's situation "desperate," which was warranted; considering that San Juan's airfield was damaged and the water waste and treatment plants were running on the limited amount of generators the island had left.<sup>162</sup> While the need for urgency was clear, there was debate in Congress over whether to approve a relief bill or force the island to make a contribution to the federal emergency pot.<sup>163</sup> To reiterate, Puerto Rico does not have voting power in Congress.<sup>164</sup> Edwin Meléndez, director of the Center for Puerto Rican Studies at Hunter College, told the New York Times that Puerto Rican citizenship is that of a "second class."<sup>165</sup> In such a desperate time, Puerto Ricans were forced to wait on the United States to decide how best to approach the situation while death

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157. See Press Release, General Assembly, Special Committee on Decolonization, Approves Resolution Calling upon United States to Promote Process for Puerto Rico's Self-Determination, Eventual Independence, U.N. Press Release GA/COL/3360 (June 20, 2022), <https://press.un.org/en/2022/gacol3360.doc.htm>.

158. *Id.*

159. *Id.*

160. See Frances Robles, et al., *In Battered Puerto Rico, Governor Warns of a Humanitarian Crisis*, N.Y. TIMES (Sept. 25, 2017), <https://www.nytimes.com/2017/09/25/us/puerto-rico-maria-fema-disaster-.html>.

161. *Id.*

162. *Id.*

163. *Id.*

164. *Id.*

165. *Id.*

rates continued to rise in the background.<sup>166</sup> In sum, Hurricane Maria and its aftermath have depicted the importance of Puerto Rico's status in the way it is treated both economically and in the midst of disaster. The United Nations committee recognizes this and is attempting to avoid a human rights violation in the future.

#### IV. CONCLUSION

Puerto Rico remains an unincorporated territory of the United States. It is of the United States, and it lacks sovereignty in more ways than one. Economic interests have been the driver for most, if not all, of the changes and decision-making across the island, from both within the island itself and the mainland. However, it comes down to whose economic interest the decisions are being made for. In assessing the economic impact of the tax incentives it is evident that, for the rich, they provide a great opportunity to become wealthier. For Puerto Ricans, though, almost half of whom live below the poverty line, they simply cannot afford to participate in the benefits of buying and reselling properties at multiplied rates. As a result, displacement is increasing as Puerto Ricans are having to move from their homes to find cheaper housing in towns not yet affected by the influx of investors. This ongoing dynamic is causing a perpetual growth in the disparity between the wealthy investors and developers and the local population.

The tax incentives have caused strain and debate among politicians, representatives, and leaders of both the United States and Puerto Rico. Some believe that the tax incentives create opportunities for Puerto Ricans, while others see this as an economic exploitation. Puerto Rico does not have voting power in Congress, which hinders its ability to have a voice within decision-making on the Hill. The voices of Puerto Ricans within the island are loud and clear.

The social impact the tax incentives have had is extremely powerful. Puerto Rico is seeing a rise in resistance from Puerto Ricans striving to save their homes and their land in the form of protests, online media, and through artistry. Puerto Ricans see the effects of these tax incentives as present-day colonization.

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166. Robles, *supra* note 160.

Therefore, movements both on the island and on the mainland are centered on taking control and getting power back.

Puerto Ricans are tired of the economic decisions being made at the expense of the majority of the population. Official data and reporting from the island will continue to be key in showcasing the detrimental and positive impacts of such decisions. Moreover, the United Nations' role in participating in the call to action highlights the risk of a future human rights issue and the importance of closing the disparity gap, especially in the face of another destructive natural disaster. Therefore, Puerto Ricans will continue to be impacted by these disparities if the economic drivers for change are seen through the lens of the wealthy rather than the people of the island.

