THE STATUS OF LANGUAGES IN PUERTO RICO

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ABSTRACT

Following the conquest of Puerto Rico by the United States in 1898, the U.S. embarked on a policy designed to anglicize the island and its institutions. The "Language Law" of 1902 recognized both Spanish and English as official languages and allowed for the use of either language in government transactions in all but the lowest courts.

In the first part of the 20th century an attempt was made to make English the obligatory languages of instruction. Puerto Rican legislators made several unsuccessful attempts to enact legislation to block this; however, it was only in 1947 that Education Commissioner, Mario Villaronga issued a decree ordering that Spanish be the language of instruction for all but the English course. The decree, which has never been given formal legal status is binding only on public schools. Private schools for the élite perpetuate the use of English.

The "English Only" debate in the United States is viewed with concern by Puerto Ricans who fear a revival of attempts to impose English. The increased use of English in the media (originating from the U.S.) makes some fear resistance to English will diminish, even among the younger generation which does not attend private English language schools.

Spanish is the only official language in Puerto Rican courts of law. This does not rise from the 1902 Language Law but, according to a 1965 legal interpretation, from the fact the means of expression of the people is Spanish, a reality which cannot be changed. Some exceptions to the monopoly of Spanish in the Puerto Rican courts do exist, notably the Federal District court which uses English as its official language. It has been argued that this use of English is a violation of due process of law.

[1] The author wishes to acknowledge the contributions Prof. Carmelo DELGADO CINTRON and Alfonso L. GARCIA MARTINEZ have made to the study of language legislation in Puerto Rico. The fact so many of the works cited were written by them is the best evidence of this debt.

Most administrative documents issued by the Federal Government are in Spanish and constitutionally, nothing forces or prevents use of a language other than English.

There is no legislation regarding the use of Spanish in the work place nor on commercial signs or advertisements. English advertisements are common, even in small shops where English is rarely used.

English has made inroads in the liberal professions: doctors, engineers and lawyers, particularly those dealing with topics covered by the federal statutes or where Puerto Rican law is largely a copy of American Statutes.

Historical background

Language became an issue in Puerto Rico following the island's conquest by the United States in 1898. The Spanish defeat meant the end of its four centuries of cultural monopoly over the Caribbean colony. A mere few decades after Christopher Columbus' landing on November 19, 1493, Spanish culture was firmly rooted and remained uncontested until the American invasion of July 25, 1898 and the subsequent cession of the island to the United States in the Treaty of Paris of December 10, 1898[2].

The new metropolis, ignoring the advice of some of its most sophisticated leaders (Secretary of War Elihu ROOT[3], for example) tried to exert not only political and military control over Puerto Rico but made an out and out effort to substitute all traces of Hispanic heritage with American institutions. The U.S. Counsul in Puerto Rico at the outbreak of hostilities, Phillip C. HANNA, for example, in a letter to Washington dated November 25, 1898, recommended substituting all that was Spanish (from government, courts and laws to traditions, superstitions, education and language)[4].

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[2] The treaty went into effect April 11, 1899, but American troops were in control weeks after their landing and military commanders were issuing orders that are still felt since prior to the treaty became binding.

[3] See *Annual Report of the War Department for the Year Ended June 30, 1899*, Part I, p. 31-32.

[4] Cited by DELGADO CINTRON, "Pensamiento jurídico e idioma en Puerto Rico: un problema ético, jurídico y lingüístico", 10 *Rev. Jur. U.I.A.* 200 (1975), p. 202.

This proved to be a change in American foreign policy. Up to the Spanish-American War the U.S. had shown interest in Caribbean coaling stations, not in cultural expansion outside contiguous territories. After 1898 naval coaling stations continued to be important, but commerce, banking, sugar plantations and cultural expansion soon followed. Laws were soon changed, largely through a three-man commission, of which two members were non-Spanish speaking Americans. Parts of the Civil Code were amended (an 1899 Military Order instituting divorce, for example, was codified and all articles dealing with nationality suppressed) and the Penal Code, the Civil Procedure Code and the Criminal Procedure Code, among others, were substituted for American versions[5]. Since the island's governor was also a non-Spanish speaking American appointed by the President of the United States[6], all bills signed into law were first signed in their English version, something that would soon prove to be significant.

The Puerto Rico Supreme Court, whose members, were also appointed by the President of the United States[7], soon began to issue decisions calling for the substitution of Common Law doctrines for Civil Law ones. The American judges in this court (and normally two of the five appointed justices were non-Spanish speaking and had little or no knowledge of Civil Law) called for Spanish Laws to be interpreted in the light of U.S. case law doctrines[8].

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[5] GARCIA MARTINEZ, "La lengua, los ordenamientos jurídicos que rigen en Puerto Rico y el léxico de los abogados", 37 *Rev. Col. Ab. (P.R.)* 521 (1976); GARCIA MARTINEZ, "El idioma y la profesión legal", 34 *Rev. Col Ab. (P.R.)* 473 (1973); DELGADO CINTRON, "Historia de un despropósito", preface to GARCIA MARTINEZ's *Idioma y política, supra,* reprinted in 36 *Rev. Col. Ab. (P.R.)* 891 (1975).

[6] Art. 17 of the Foraker Act of April 12, 1900, 31 Stat. 77, the first enabling act under U.S. rule (Foraker Act).

[7] Art. 33 of the Foraker Act.

[8] *Marimón* v. *Pelegrí*, 1 D.P.R. 225 (1902, concurring opinion by SULZBACHER) p. 229; *Bravo* v. *Franco*, 1 D.P.R. 242 (1902, SULZBACHER); *Esbrí* v. *Serrallés*, 1 D.P.R. 321 (1902, concurring opinion by SULZBACHER) p. 337; *Chevremont* v. *Pueblo*, 1 D.P.R. 431 (1903, concurring opinion by SULZBACHER) p. 432-433. In this last case the Court stated: "We are always inclined to adduce the doctrines of American jurisprudence when applicable to judicial problems in the Courts of this Island, considering them as more progressive, as an evolution of the old system." (Text taken from the English report, 3 P.R.R. 215 (1903) p. 245. See also DELGADO-CINTRON, "Pensamiento jurídico e idioma...", *supra*, p. 211-212, and TRIAS-MONGE, (Discurso sobre la formación del derecho puertorriqueño de 1975, pronunciado en el Colegio de abogados.) As Chief Justice of the Puerto Rico Supreme Court, TRIAS-MONGE issued several decisions calling for a reexamination of Civil Law traditions and overruling cases such as *Chevremont*. See *Gierbolini* v. *Employers Fire Ins.*, 104 D.P.R. 853 (1976) p. 855 and specially *Valle* v. *American Inter. Ins.*, 108 D.P.R. 692 (1979) p. 696. For a history of policies under the military government and the early part of U.S. rule see TRIAS MONGE, *Historia constitucional de Puerto Rico*, Ed. Universitaria, Río Piedras, Vol. I, 1980, p. 135. TRIAS MONGE's work should be read with the excellent review written by DELGADO CINTRON, "La aportación de Trías a la historiografía

In 1902 what Puerto Ricans call the Language Law came into effect[9]. The law states that both Spanish and English shall be official languages and that government transactions can be carried out in either language in all but the lowest courts (municipal and police tribunals), where few English-speaking plaintiffs are expected to appear. It also requires the hiring of translators and allows for documents, both private and public, to be drafted in English or Spanish, which in effect allows the entry of untranslated English texts into the Land Registry.

This effort to transculturize Puerto Ricans took place in a sophisticated society of about one million people with deeply ingrained Hispanic roots. The island had, by the time of the U.S. invasion, a clearly defined literature, a developing commercial class, a recent autonomous statute painstakingly obtained from the Spanish crown, and Spanish-based laws, codes and judicial institutions[10]. Puerto Rico was poor, but by no means a cultural hinterland; it had not exercised much political autonomy, but had obtained an enabling statute that granted it such autonomy and the laws Spain had forced upon the island at least were not culturally foreign.

Language Education Policies[11]

One of the most shocking examples of what has come to be known as the attempted transculturation of Puerto Rico occurred in the first third of the century. In their effort to have English substitute Spanish islandwide, the American authorities tried to force Puerto Ricans to use English as the language of instruction[12]. Although this was not the first serious attempt at transculturation, language substitution proved to be the first of the most important measures that proved to be impossible to implement. (Two of the previous and most noteworthy efforts of transculturation were the establishment of a United States District Court in Puerto Rico, a court which Puerto Ricans strongly opposed and which was kept to serve the highest cultural and lowest personal

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constitucional", 54 *Rev. Jur. U.P.R.* 371 (1985), which more than a review is a commentary.

9 Law of February 21, 1902, 1 L.P.R.A. 51 *et. seq.*

10 GARCIA MARTINEZ, *supra*, p. 26 and 47.

11 A far more detailed account of events during the first half century appears in OSUNA, *A History of Education in Puerto Rico*, Ed. Univ. de Puerto Rico, Río Piedras, 1949, p. 341-413.

12 OSUNA, *supra*, states that two of the three main policies of the American Education Commissioners in the first three decades of this century were Americanization and English teaching, which we consider to be an aspect of Americanization. The third was the growth of the educational network, p. 282.

interests of the new metropolitan ruling class[13], and the granting, if granting can be involuntary, of American citizenship on Puerto Ricans, something the main coalition in the Puerto Rican Chamber of Deputies, then the island's only elected legislative body, also unsuccessfully tried to block[14].)

Shortly after their arrival, American authorities emphasized it was to their advantage that Puerto Ricans learn English, preferably from the earliest grades. Eventually English was to be the main language of instruction. Coupled with the use of English was the intense teaching of American history and constant pledges of allegiance to the U.S. and its flag. Puerto Rican children knew more about American history than their counterparts in the U.S.[15].

Puerto Rican legislators tried to block this in 1913, when the Chamber of Deputies approved a bill to make Spanish the language of instruction. The bill, introduced by Deputy José DE DIEGO, one of the island's most important political leaders of this century, even required that Spanish and English texts be produced in Puerto Rico and that other texts be either produced in the island or imported from Spanish-

[13] DELGADO CINTRON, "El Tribunal federal como factor de transculturación en Puerto Rico", 34 *Rev. Col. Ab. (P.R.)*, 5 (1973); DELGADO-CINTRON, "El juez federal Bernard Rodney y la crisis de 1909", 40 (3) *Rev. Col. Ab. (P.R.)* 415 (1979); DELGADO-CINTRON, "El juez federal Peter J. Hamilton", 41 (3) *Rev. Col. Ab. (P.R.)* 11 (1980). An effort to have the creation of the court declared void failed in the U.S. Supreme Court, *Santiago* v. *Nogueras*, 214 U.S. 260 (1909).

[14] See, in general, TRIAS MONGE, *Historia constitucional..., supra,* Vol. II, 1981, p. 58 *et. seq.*

[15] NEGRON DE MONTILLA, *La americanización de Puerto Rico y el sistema de educación pública: 1900-1930,* Ed. Universitaria, Río Piedras, 1977, first published in English under the title: *Americanization in Puerto Rico and the Public School System: 1900-1930,* Ed. Edil, Río Piedras, 1971. NEGRON DE MONTILLA examines in detail speeches and orders ("circulars") of American governors and Education Commissioners during the first three decades of U.S. rule. She points out that 391 of the 3,374 "circulars" were directly related to the Americanization attempt, p. 10. Among the measures taken were pledges of allegiance to the American flag, celebrating American holidays, honoring and naming school buildings after American heroes, training teachers and students in American universities, using Americans to teach not only English but all classes in English, starting a network of "English Clubs", encouraging students to speak English even in the playground and dismissing or expelling students and teachers favorable to independence for Puerto Rico. One of the high points of the Americanization process came in 1921 when Education Commissioner Paul G. MILLER, in a confrontation with high school students favoring independence, referred to the Puerto Rican flag as the "enemy flag", p. 186. For examples of parades and celebrations aimed at having students identify themselves with American heroes and institutions, see pages 61, 65, 103, 134 and 197. See also GARCIA-MARTINEZ, "Language Policy in Puerto Rico: 1898-1930", 42 *Rev. Col. Ab. (P.R.)* 87 (1981), p. 89, and *Idioma y política, supra,* p. 55-62; SERENO, "Boricua: A Study of Language Transculturation", 12 *Psychiatry* 167 (1949).

speaking countries[16]. (The bill also required most government documents and all court proceedings to be in Spanish, although it exempted U.S. officials from its provisions and called for the translation of Puerto Rico Supreme Court decisions, which could be appealed to the U.S. Supreme Court. In this sense, it was an attempt to do away with the 1902 Language Law we have mentioned earlier.) The bill failed to become law, as the non-elected Executive Council refused to give its consent.

The issue came to a head after 1933, when the Teacher's Association, which since the early part of the century had been urging adoption of Spanish as the language of instruction, showed, by way of a referendum, overwhelming support for their position[17]. The United States, in turn, pressured for more English teaching. In 1937 President Franklin D. ROOSEVELT appointed José M. GALLARDO as Commissioner of Education, specifically instructing him to strengthen English teaching[18]. In 1946 Rafael ARJONA SIACA presented Senate bill 51 to make Spanish the teaching language. The bill cleared both legislative chambers (by this time members of both were elected), but was vetoed by the appointed governor. The bill again cleared both chambers by more than the required two thirds vote to override a veto and the Governor, after some delay, chose to refer it to the President of the United States who had the power to veto an overriden bill.

The President vetoed the bill, but some claimed he had acted too late. A court battle broke out and the issue was settled in 1948 when the Puerto Rico Supreme Court ruled on a technicality that the President's action was in time and that the bill had thus failed to become law[19]. In 1947 Education Commissioner Mariano VILLARONGA, a member of the moderately left of center autonomist Popular Democratic Party that had gradually won control of the local government in the previous elections, issued a decree ordering that Spanish be used in all but the English course in public schools[20].

This decree, however, has never been given formal legal status. It remains, even today, a mere administrative memo, binding only on public school teachers. For many years most private school taught in

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[16] DELGADO CINTRON, "La polémica del idioma y la creación del Instituto de Diego", 38 *Rev. Col. Ab. (P.R.)* 565 (1977). See also GARCIA MARTINEZ, *Idioma y política, supra*, p. 86.

[17] GARCIA MARTINEZ, *Idioma y política, supra*, p. 99-100.

[18] Letter to GALLARDO of April 17, 1937, in BOTHWELL GONZALEZ, *Puerto Rico: cien años de lucha política*, Ed. Universitaria, Río Piedras, 1979, Vol. III, p. 39.

[19] *Parrilla* v. *Martín*, 68 D.P.R. 90 (1948). See SERRANO GEYLS, "El caso del idioma", 17 *Rev. Jur. U.P.R.* 301 (1948).

[20] The decree is known as Circular number 10. It had been preceded in 1946 by another similar decree. GARCIA MARTINEZ, *Idioma y política, supra*, p. 107-109.

English and some top schools still do. (One, for example, issues bumper stickers in English with the following phrase: "Perpetuo Socorro, Building Today the People of Tomorrow".) The fact that academic achievement in these (and in most private) schools tends to be higher than in most public ones makes the use of English there significant. For the best educated will then be those who where trained in a language foreign to that of the vast majority of the population. If one adds that the cost of private education ($1,000 U.S. to $4,000 U.S. a year per child in some cases) makes private schools prohibitive to most, one must conclude a vast sector of the population will find education is not a means of social change and mobility. Since these better-educated students later become the island's political, business and cultural leaders, one understands why the lack of legislation is still an issue.

Despite VILLARONGA's decree, English continued to be used even at the state-run University of Puerto Rico and even many of its buildings had English names. Even today one finds schools such as the School of Medicine or Law who teach courses in English or use English texts, and course codes at some universities are still in English, despite the fact that Spanish has largely substituted that language as a teaching vehicle.

At present it would be political suicide for any party to request that English again be made the main language of instruction. Even the party which favors Puerto Rico becoming a state of the United States insists the island must retain its cultural heritage and, especially, its Spanish language. But the fact no government dares take up the issue adds to the fears of some.

Leaders of the governing Popular Democratic Party have of late been issuing statements that may soon give rise to a new battle to repeal the 1902 language law. Senate Vice President Sergio PEÑA CLOS and Senator Antonio FAS ALZAMORA, a chief executive of the P.P.D., filed Bill 857 on April 15, 1986, which called for making Spanish the official language of Puerto Rico and for reversing the early century language statute and Justice Secretary Héctor RIVERA CRUZ has called for all government local agencies to hold all proceedings in Spanish[21]. Nothing definite has yet come from either action and, for the present, it looks as if the Senate bill will die in committee proceedings.

The "English Only" Debate in the United States and its Impact on Puerto Rico

These fears are all the more important today, when an "English Only" legislative movement is underway in the United States. Although, at present, they have slim chances of getting approved, two resolutions

[21] *El Reportero*, of August 20, 1987.

calling for a Constitutional amendment making English the official language of that country are pending before Congress[22].

Some claim Congress will eventually vote a federal "English Only" law and, given its power to pass legislation applicable to Puerto Rico even without consulting the island's government, thus again attempting to replace Spanish as the native language, not to mention that of Spanish-speaking communities in the United States. The text of the amendment makes clear the fact that teaching in languages other than English is for the sole purpose of assimilating students into the American mainstream which, as far as Puerto Rico is concerned, means nothing less than cultural genocide. The proposed constitutional amendments do not specify if eventual applicability to the "States" means only those political entities admitted as States of the Union, plus the District of Columbia, or if it means all territories under the U.S. jurisdiction. In the past, and examples are legion, Congress has often chosen to include Puerto Rico in the definition of a "State".

Others argue political wisdom, constitutional law or international law will prevent this from happening, even if a federal language law comes into force in the mainland. Experience shows that time does not necessarily make societies more tolerant or less imperialistic. The last fifty years of West European and East Asian history tends to bear this out. The cultural repression of German-speaking Americans and immigrants in the late 19th and early 20th centuries and of Native Americans almost since the early days of colonization by Europeans

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[22] JUDD, "The English Language Amendment: A Case Study on Language and Politics", 21 (1) TESOL Quarterly 113 (1987). JUDD cites two proposals that were pending before the 99th Congress which ended in 1986. One proposal, Senate Joint Resolution 20, states that "The English language shall be the official language of the United States." It further adds: "The Congress shall have the power to enforce this article by appropriate legislation." The second proposal, House Joint Resolution 96, is longer and states as follows:

> "The English language shall be the official language in the United States.
> "Neither the United States nor any State shall require by law, ordinance, regulation, order, decree, program, or policy, the use in the United States of America of any language other than English.
> "This article shall not prohibit any law, ordinance, regulation, order, decree, program, or policy requiring educational instruction in a language other than English for the purpose of making students who use a language other than English proficient in English.
> "The Congress and the States may enforce this article by appropriate legislation."

Similar resolutions have been presented before the 100th Congress, although the House and Senate Judiciary Committees have not acted on them. These resolutions are: House Joint Resolutions 13, 33 and 60, presented January 6, 1987, the first day of session, and 83, presented two days later, and Senate Joint Resolution 13, also presented January 6, 1987. Hearings on the House Joint Resolutions were held begining May 11, 1988. The Resident Commissioner, Jaime Fuster, opposed approval of these.

makes one doubt if the United States can justly claim to be an exception to what some say is the very essence of Western culture[23]. This fact, it has been noted in Puerto Rico, has been more than adequately evidenced by the efforts of many since Machiavelli and Henry VIII to control Northern Italy and Wales and those of the Russian Tzars and the German rulers to transculturize the Ukraine and the Czechoslovaks[24].

In any case, the fact that nine states have already passed laws (*e.g.* Illinois and Indiana, both with large Hispanic populations) or even constitutional amendments (*e.g.* California, where predictions are that a majority of the population will be of Hispanic origin by the early part of the next century) making English the official language[25] is something to worry those who fear cultural repression. In 1986 twelve other states (among which one finds some, such as Florida, Massachusetts, New Jersey, New York and Pennsylvania, with strong Hispanic population) introduced bills to make English the official language[26]. One may argue that prospects for approval in these states is slim, but as has been noted elsewhere, prior to 1981 only two states — Nebraska and Illinois — had English language statutes of any kind[27].

Even now, at the federal level, there is a trend to fortify English and, as a matter of fact and of law, federal aid to education is currently being limited to public schools, such as those in Puerto Rico, where bilingual education is not a vehicle of assimilation into the American mainstream culture[28]. (This is significant in Puerto Rico, a country considerably poorer than the United States, for it can diminish the quality of education for that sector which cannot pay for private schools.) The increased use of English in the media (cable television, which pipes in a large number of U.S. stations is a case in point) makes some fear resistance to English will diminish even among the younger generation which does not go to those private schools where English is used as language of instruction.

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[23] GLATUNG, RUDENG and HEIESTAD, "On the Last 2,500 Years in Western History, and Some Remarks on the Coming 500", in *The New Cambridge Modern History*, Vol. XIII, Cambridge Univ. Press, Cambridge, 1979, p. 318-361.

[24] DELGADO CINTRON, "Historia de un despropósito", *supra*, p. 892.

[25] " 'Official English': Federal Limits on Efforts to Curtail Bilingual Services in the States", 100 *Harv. L. Rev.* 1345 (1987), p. 1346.

[26] *Ibid.*

[27] *Ibid.*

[28] Public Law 98-511 of October 19, 1984, 98 Stat. 2370, codified under 20 U.S.C. 3222, paragraph (b) (4) states at least 45 per cent of funds for bilingual education must be destined to "transitional" programs.

Language Statutes in the Courts and Land Registries

In some other areas — Puerto Rican courts of law are perhaps the primary example — Spanish has been recognized as the only official language, this despite the 1902 language law claiming both English and Spanish to be both on an equal footing. Bar examinations are in Spanish[29], pleading must be made in Spanish[30], documents not in Spanish must be translated prior to being presented in evidence[31], decisions are rendered in Spanish and only Supreme Court decisions are translated into English[32] and for the last 15 years, only photocopies of the translated versions are bound and kept as a matter of record in the Supreme Court library and clerk's office and in an office at the Puerto Rican State Department[33].

In 1965 the Supreme Court issued a leading opinion on the matter which, for all practical purposes, rewrote the 1902 language law. An American attorney, invoking the 1902 law, claimed the right to have a trial conducted in English. The trial judge ruled in his favor and even issued his ruling in English, although he clearly pointed out his ruling "would create a very difficult problem for the administration of justice". The issue was taken before the high court, which ruled that despite the exact words of the statute (which, in any case, it held not to be mandatory) the sole language to be used in Puerto Rican courts was Spanish. The Chief Justice, who issued the decision, stated:

> "It is a fact, not subject to historical rectification, that the vehicle of expression, the language of the Puerto Rican people — an integral part of our origin and our Hispanic culture — has been and continues to be Spanish...
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> "The determining factor as to the language to be used in judicial proceedings in Commonwealth [of Puerto Rico] courts does not arise from the [language] law of February 21, 1902... It arises from the fact that the means of expression of our people is Spanish and that is a reality that cannot be changed by any law."[34]

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[29] Board of Bar Examiners Rule 3(a), 4 L.P.R.A. App. VII-B.

[30] Civil Procedure Rule 8.5, 32 L.P.R.A., and Supreme Court Rule 11 (d), 4 L.P.R.A. App. I.

[31] *Ibid.*

[32] Supreme Court Rule 8 (1), 4 L.P.R.A.

[33] Supreme Court Rule 8 (1), 4 L.P.R.A. App. I.

[34] *Pueblo* v. *Tribunal Superior*, 92 D.P.R. 596 (1965). Translation taken from the English text, 92 P.R.R. 580 (1965), p. 588-589. See also LOPEZ-BARALT NEGRON, "Pueblo v. Tribunal Superior: Español: Idioma del proceso judicial", 36 *Rev. Jur. U.P.R.* 396 (1967) and VIENTOS-GASTON, "Informe del Procurador General sobre el idioma", 36 *Rev. Col. Ab. (P.R.)* 843 (1975).

The most notable exception to the monopoly of Spanish in Puerto Rican courts has already been explained. It is that, according to Article 13 of the Civil Code, the English version will be the official version of all laws introduced in English, or even those introduced in Spanish where this version is nothing more than a translation of an American law. The prior rule, in force until article 13 of the Code was amended November 12, 1917, was that the official version was that in which the laws were first signed. This meant English was always the official version, for the U.S.-appointed governors knew no Spanish[35]. This meant that even the accused could be convicted for doing that which, according to the Spanish version of the Penal Code, was not a crime[36]. As has been stated, the English versions of the Civil and Criminal Procedure codes, among other laws, were held to be the official versions. In addition, judges must take judicial notice of the meaning of English words and phrases[37].

Although a new Penal Code, first introduced in Spanish, was voted into law in 1974, according to article 13 of the Civil Code the new rules of Evidence and Civil procedure of 1979 and Criminal Procedure Rules of 1963 should be read first in their English version, for they are, for the most part, mere translations of the federal rules. Only insofar as there is an amendment to these can the judge rule that the official version is the Spanish one[38]. Only by exception does a law state that its official version is the English one.[39].

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[35] Note 6, *supra*; *Manrique de Lara* v. *Registrador*, 23 D.P.R. 864 (1916, HERNANDEZ) p. 865-866; *Perez* v. *Tribunal de Distrito*, 69 D.P.R. 4 (1948, SNYDER) p. 16-17; *Descartes, Tesorero* v. *Tribunal de Contribuciones*, 74 D.P.R. 567 (1953, PEREZ PIMENTEL) p. 582. Application of Art. 13 at times led to having the Spanish text prevail, as was the case in *Morales Morales* v. *Registrador*, 89 D.P.R. 811 (1964, RAMIREZ BAGES) p. 813; *Esso Standard Oil* v. *A.P.P.R.*, 95 D.P.R. 772 (1968, RAMIREZ BAGES) p. 788.

[36] *Pueblo* v. *Chardón*, 7 D.P.R. 428 (1904, MACLEARY) p. 430-431; *Pueblo* v. *Acosta*, 11 D.P.R. 249 (1906, WOLF) p. 255; *Pueblo* v. *Santiago*, 16 D.P.R. 469 (1910, MAC LEARY) p. 488-489; *Ex Parte Cintrón*, 21 D.P.R. 155 (1914, ALDREY) p. 157; *Pueblo* v. *Noonan*, 46 D.P.R. 724 (1934, ALDREY) p. 726; *Pueblo* v. *Padilla*, 50 D.P.R. 622 (1936, WOLF) p. 624-625; *Pueblo* v. *Ortiz Castro*, 90 D.P.R. 593 (1964, RAMIREZ BAGES) p. 596-597; *Pueblo* v. *Echevarría Lazu*, 95 D.P.R. 556 (1967, Per Curiam) p. 557.

[37] Evidence Rules 11 and 12, 32 L.P.R.A., previously 32 L.P.R.A. 1711 (1); GARCIA MARTINEZ, *Idioma y política*, *supra*, p. 85.

[38] *E.L.A.* v. *Tribunal Superior*, 97 D.P.R. 644 (1969, concurring opinion by HERNANDEZ MATOS), p. 691-698.

[39] Acqueducts and Sewers Act of May 3, 1949, 22 L.P.R.A. 141 *et. seq.*, note under section 141; GARCIA MARTINEZ, *Idioma y política*, *supra*, p. 96-97.

Notaries may draft documents in English[40] and often draft them in both languages, especially if they are negotiable and are to be marketed in the United States. The Land Registry must also accept documents in English[41] (something that was surprisingly disallowed under the U.S. Military Government following the American invasion in 1898[42]). This has led to some bizarre entries, explainable only by the public employee's lack of knowledge of both English and of the common law terms. (Puerto Rico retains the 1889 Spanish Civil Code with few amendments, especially in Property and Contracts Law.) To cite but one example, one Registrar literally copied, in English, a document by which "air rights" were mortgaged, despite the fact that the necessary registering of the more or less equivalent superficial rights had never occurred or even been requested. As a result, the bankruptcy court ruled that a loan for some $12 million was unsecured.

Contrary to what occurs in Puerto Rican courts, the Federal District Court uses English as its official language. The statute, which orders English to be used in all pleadings and proceedings, dates from 1900[43] and has never been changed despite strong opposition to it[44]. The growing jurisdiction of this court has made use of English there a vivid political issue, one that is further complicated by the fact that federal judges are today viewed as favoring, almost to the man, total integration of Puerto Rico into the United States[45]. Use of English there is at times

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[40] 4 L.P.R.A. 1017. The new Notary Law statute, Law 75 of July 2, 1987, not yet codified, states nothing about the language to be used, but since the 1902 Language Law allows for documents to be drafted in English or Spanish, both can be used.

[41] 30 L.P.R.A. 2210; *R.C.A. Communications* v. *Registrador*, 79 D.P.R. 77 (1956, PEREZ PIMENTEL); GARCIA MARTINEZ, *Idioma y política, supra*, p. 116.

[42] General Order No. 192 of December 30, 1898, under 1 L.P.R.A. 51.

[43] Art. 34 of the Foraker Act. Art. 35 of the same act stated that all appeals to the U.S. Supreme Court should be in English. Art. 42 of the 1917 Jones Act, now part of Puerto Rico's enabling act, the so-called Federal Relations Act of July 3, 1950, 64 Stat. 314, incorporates Art. 42 of the Jones Act. Regarding the original adoption, see DELGADO CINTRON, "La admisión de los abogados americanos a los tribunales puertorriqueños (1898-1900)", 39 *Rev. Col. Ab. (P.R.)* 255 (1978).

[44] Efforts to have the statute changed included two bills presented in Congress by two Puerto Rican Resident Commissioners. These are House Resolution 9234 (1959), also known as the Fernós-Murray Bill, which also proposed general changes to the Puerto Rican status, and House Resolution 8349 (1973). See TSCHUDIN, "The United States District Court for the District of Puerto Rico: Can an English Language Court Serve the Interests of Justice in a Spanish Language Society", 37 *Rev. Col. Ab. (P.R.)* 41 (1976) and GARCIA MARTINEZ, *Idioma y política, supra*, p. 130.

[45] The Puerto Rican Bar Association has on several occasions called for the use of Spanish in the U.S. District Court (and at all times has even called for the out and out suppression of the Court). See, generally, the DELGADO CINTRON and GARCIA MARTINEZ articles and, for recent examples, TAPIA FLORES, "The Spanish Language in the Federal Court", 40 *Rev. Col. Ab. (P.R.)* 333 (1979); TRIAS MONGE, *Historia constitucional..., supra,* Vol. II, p. 61, and *El Nuevo Dia*, of November 22 and

absurd, as when attorneys, parties, jurors and the judge are all native Spanish speakers, and yet all is translated back and forth between English and Spanish for no other reason than to comply with a statutory mandate, for no one pays attention to the English translations.

It has been argued that the use of English in the Federal District Court is, in effect, a violation of due process of law. The jury cannot be one of peers when more than half the population is not English-speaking, the accused is being denied the right to choose his own attorney when he is forced to choose from a very limited bar of attorneys who practice in that court and he is being denied a fair trial when he does not understand the process (and not merely the translation of the witnesses's testimonies). If this were to occur in a jurisdiction where the majority is English-speaking, the constitutional problems might not arise, but, given the fact that Puerto Rico is overwhelmingly a Spanish-speaking society, the English language requirement offends the most basic cultural rights[46]. The U.S. District Court for the District of Puerto Rico has rejected this argument[47].

Language Statutes and Practices in the Executive Branch

In other areas the U.S. government is aware of the limited fluency of the Puerto Rican population in English for it issues most administrative documents, even income tax forms, in Spanish. Even the Veteran's Administration, where one would expect knowledge of English to be more widespread, issues its booklets and instructions in both English and Spanish.

25, 1987 where the current Bar Association President Hector LUGO BOUGAL calls for suppression of the Court which, in his words, has no place in Puerto Rico and where the Vice President of the Puerto Rican Senate, Sergio PEÑA CLOS, calls the U.S. District Court a "partisan political committee" which has no place in Puerto Rican political life. See also the article by Manuel MENDEZ BALLESTER, a prominent author and columnist, in *El Mundo*, of January 15, 1988.

[46] TSCHUDIN, *supra*. The author cites *Snyder* v. *Massachusetts*, 291 U.S. 97 (1934) in support of his last statement. In that case a conviction for murder in which it was unsuccessfully argued that a view by the jury of the scene of the crime — where the accused's attorney but not the accused was allowed to be present — was unconstitutionally prejudicial, it was said: "The Commonwealth of Massachusetts is free to regulate the procedure of its courts in accordance with its own conception of policy and fairness, *unless in so doing it offends some principle of justice so rooted in the traditions and conscience of our people as to be ranked as fundamental.*"

[47] *U.S.* v. *[de Jesús] Boria*, 371 F. Supp. 1068 (1973). The accused's last name is "de Jesus Boria" and not "Boria" as is stated in the court report. Spanish speakers use the father's ("de Jesus") or both the father's and mother's ("Boria") last name, but never only the mother's. The inverse would be calling someone like Franklin Delano ROOSEVELT, Franklin DELANO and totally suppressing the other name.

Constitutionally, nothing forces or prevents using a language other than English[48]. It has been noted that the framers of the U.S. Constitution considered and rejected the notion to make English the official language, and this despite the deep hostility of some of the most revered figures in American history against "'aliens' German immigrants, who will shortly be so numerous as to germanize us instead of our anglifying them"[49]. As a result, there is no Constitutional bar to what is a logical practice, especially as far as collecting taxes and providing social services is concerned.

In the Puerto Rican government in general Spanish does not share the same degree of protection as in Puerto Rican courts. Although Spanish is, as a matter of fact, used almost exclusively, at times clashes occur. The same laws that made English mandatory in the Federal District Court also stated that members of the Puerto Rican legislative bodies must be fluent in either English or Spanish[50], which, theoretically, allows for some to sit in those chambers knowing not a word of the local language. This provision is today incorporated, in the same manner, in the Puerto Rican Constitution of 1952[51]. Spanish, however, is and for decades has been the language of the elected chambers, which since 1917 comprise both legislative bodies.

Another provision of the Foraker and Jones Act requires the Resident Commissioner, Puerto Rico's only representative in Congress (he has a voice but no vote in the House of Representatives, although recently he has been granted a vote in some committees) to be bilingual[52]. The 1947 law which allows Puerto Ricans to elect their governor also establishes that he must be fluent in English[53]. As is to be expected, all five governors who have since been elected are also fluent in Spanish.

As occurs with Puerto Rico Supreme Court decisions[54], laws, regulations, Attorney General opinions and many Executive Branch reports

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[48] *Meyer* v. *Nebraska*, 262 U.S. 390 (1923) and *Bartels* v. *Iowa*, 262 U.S. 404 (1923) invalidated state convictions for teaching in German. *Yu Cong Eng* v. *Trinidad*, 271 U.S. 500 (1926) ruled businessmen in the Philippines could use Chinese in their business documents. A Hawaiian territorial statute barring parents from sending their children after school hours to foreign language schools (Japanese, in the case), was nullified in *Farrington* v. *Tokusige*, 272 U.S. 284 (1927).

[49] " 'Official English': Federal limits...", *supra*, p. 1348, quoting from WAGNER, "The Historical Background of Bilingualism and Biculturalism in the United States", in *The New Bilingualism: An American Dilemma*, p. 42-44.

[50] Art. 30 of the Foraker Act.

[51] Art. III, Section 5 of the Constitution.

[52] Art. 39 of the Foraker Act and 36 of the Jones Act, which has also been incorporated into the Puerto Rico enabling act of 1950.

[53] 1 L.P.R.A. 81, 61 Stat. 770 (1947).

[54] Supreme Court Rule 8 (1), 4 L.P.R.A. App. I.

are translated into English, but only the laws and a very small number of the other documents are published in English for general distribution[55]. Governmental affairs are, as a matter of fact, conducted in Spanish except for isolated cases, official dealings with the federal government, foreign consultations — basically where the consultant is from the United States — and similar affairs.

Language in Non-Governmental Affairs

In other matters, there is Puerto Rican legislation that makes use of Spanish mandatory on labels on many clearly dangerous products (animal feeds and poisons[56], for example) but such legislation is, at times, ignored. Legislation making use of Spanish mandatory on certain consumer contracts[57] is more readily complied with, possibly because these are contracts and thus, claims for involuntary enforcement or damages require going before a court of law where language statutes are more fully complied with.

There is no legislation regarding use of Spanish in work places or forcing commercial advertisement to be in one language or in both. The only law establishing language requirements is one that requires packages on items to be manufactured at home to have either the proprietor's or his agent's name and address in Spanish[58], something one would expect a good businessman to do in any case. Despite this lack of legislation, Spanish is the language in the workplace and many American businessmen in Puerto Rico find they must learn it if they hope to bypass the foreman, who, until then, must act as his translator. There is a general circulation English language newspaper, *The San Juan Star,* but its circulation is small and limited mainly to San Juan[59].

A mid-century attempt to have commercial publicity or advertisements exclusively in Spanish failed. English advertisements and, even more so, English business name concerns, are very common, even in small shops where both the owner and the clients barely speak English. Perhaps the fact that Spanish is spoken almost exclusively throughout the island and the fact that the effort to substitute English for Spanish as a teaching vehicle in public schools failed leads people to think such legislation is unnecessary.

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[55] 2 L.P.R.A. 189, 3 L.P.R.A. 1046, 81 and 941 respectively.

[56] 5 L.P.R.A. 557 and 1005 (b).

[57] 10 L.P.R.A. 741 (3), retail installment contracts; 26 L.P.R.A. 1114, insurance policies.

[58] 29 L.P.R.A. 382.

[59] Several years ago the newspaper tried to break out of the language constraint and, in order to increase circulation, advertised using the phrase "...because being Puerto Rican is not a matter of language" ("...porque ser puertorriqueño no es cuestión de idioma"). Public reaction, mostly in the form of ridicule, forced an end to the advertisement campaign.

Where English has made a large inroad has been in the so-called liberal professions, mainly in medicine, where that language has been dominant for years. English is also widely used among engineers and among those lawyers practicing mainly in the United States District Court in Puerto Rico[60]. As we have said, this court's jurisdiction has greatly increased, as federal laws and regulations and as federal expenditures increase.

As we have pointed out, teaching, even at the University of Puerto Rico, is at times conducted in English. This is especially true in the School of Medicine but can also be seen in the Engineering School and in some Law School courses, especially those dealing with topics where federal statutes are examined or where Puerto Rican Law is largely a copy of American statutes (Constitutional, Administrative, Procedural, Corporation, Labor, Tax, some Commercial and a large segment of Criminal Law are the main examples).

[60] For an example of language interference among lawyers see CINTRON GARCIA, "Del lenguaje entre abogados", 36 *Rev. Col. Ab. (P.R.)* 1033 (1975), 39 *Rev. Col. Ab. (P.R.)* 327 (1978) and 41 *Rev. Col. Ab. (P.R.)* 179 (1980).