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TILBURG LAW REVIEW 19 (2014) 223-235

Tilburg
Law Review

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The Indignity of a False Citizenship

Self-Induced Statelessness in Puerto Rico

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Abstract

This article will explore the history and legacy of attempts to advocate for independence in Puerto Rico via the renunciation of United States (US) citizenship. The US acquired Puerto Rico over a century ago, and Puerto Ricans gained US citizenship in 1917, but the island remains an unincorporated territory. Various options, including independence and statehood, have been debated for decades. While voting records show that only a small percentage of the Puerto Rican population supports full independence from the United States, many pro-independence activists spurred debate by renouncing their US citizenship and claiming that they are citizens of Puerto Rico only. This raised questions as to whether they actually became stateless as a result. One of the most notable independence activists, the late Juan Mari Brás, caused confusion at the US State Department, which initially accepted his renunciation of US citizenship only to reverse its decision three years later. A discussion of the multifaceted meaning of 'citizenship' in the context of Puerto Rico illuminates the United States' approach to the international right to a nationality.

Keywords

Puerto Rico – United States territories – independence – independentistas – renunciation of citizenship – Juan Mari Bras – self-induced statelessness – right to a nationality – Statelessness Conventions

* The author wishes to thank Sarnata Reynolds of Refugees International for her encouragement in the development of this article.

 | DOI 10.1163/22112596-01902022

1 Introduction

> The political status of Puerto Rico has been a vexing and controversial issue for over a century.[1] An island with four million residents located approximately 1000 miles (1600 km) off the coast of the United States mainland, Puerto Rico has been a US territory since 1899.[2] Puerto Rico is a semi-autonomous commonwealth, lacking both the freedom of an independent nation and some of the rights (such as the right to vote in presidential elections) it would have were it a state within the US federal system.[3]

Although the issue is complex and contentious, most Puerto Ricans favor some continued relationship with the United States (be it the status quo, statehood, or something in between).[4] However, a small but vocal minority (known as *independentistas*, or independence activists) has sought to establish a separate national identity for Puerto Rico via the renunciation of US citizenship.[5] By doing so, the *independentistas* essentially challenged the US government to recognize them as citizens of Puerto Rico, or as stateless. Their renunciations resulted in litigation and a somewhat confused reaction on the part of the government.[6] Were these individuals who renounced US citizenship seeking to be stateless – a status which usually results from human rights violations,[7] rather than voluntary action? Were they at any point actually stateless? This article discusses these questions and analyzes the US government's response to the renunciation of citizenship by Puerto Ricans in light of its stance on the Statelessness Conventions. In addition to historical interest, it is submitted that the actions of *independentistas* in the mid-1990s relating to the right to a

1 *Report by the President's Task Force on Puerto Rico's Status* (2011) 3, 17.

2 Ibid 17; Danica Coto, 'Puerto Rico Seeks to Define Its Relationship to US' *Associated Press* (4 November 2012) <http://bigstory.ap.org/article/puerto-rico-seeks-define-its-relationship-us> accessed 9 September 2013.

3 Coto (n 2).

4 ibid; *President's Report* (n 1) 21.

5 'Juan Mari Bras, Elder Statesman of Puerto Rico's Independence Movement, Dies at 82' *Associated Press* (10 September 2010) <www.foxnews.com/world/2010/09/10/juan-mari-bras-elder-statesman-puerto-ricos-independence-movement-dies/#ixzz2fgS9P1rO> accessed 8 August 2013.

6 Lisa Napoli, 'The Legal Recognition of the National Identity of a Colonized People: The Case of Puerto Rico' (1998) 18 BC Third World LJ 159, 191.

7 See eg D Weissbrodt and C Collins, 'The Human Rights of Stateless Persons' (2006) Hum Rts Q 245, 248.

nationality remain important today. Research into the human right to a nationality and the prevention of statelessness must not overlook why some people would willingly risk losing their only nationality (or even affirmatively choose to become stateless). An inquiry into this dilemma can illuminate the complex and often highly emotional nature of national identity and citizenship.

2 Historical Background: Colonialism and Citizenship

Puerto Rico was annexed by the United States at a time when the United States was vastly expanding its empire and political power throughout the western hemisphere.[8] As a result of the Treaty of Paris following the Spanish-American War, Spain ceded Puerto Rico to the United States in 1899.[9] At that point, the residents of Puerto Rico lost their Spanish citizenship[10] and automatically became nationals (but not citizens)[11] of the United States of America.[12]

8 Christina Duffy Burnett, 'Untied States: American Expansion and Territorial Deannexation' (2005) 72 U Chi LR 797, 799.

9 *President's Report* (n 1) 17; US Department of State, *Foreign Affairs Manual Volume 7: Consular Affairs: Acquisition of US Nationality in US Territories and Possessions* (77 FAM 1120, 2013) 8.

10 'Citizenship in Puerto Rico: Question of the Status of the Island's 800,000 Inhabitants' *New York Times* (Washington, 19 October 1898) <http://query.nytimes.com/mem/archive-free/pdf?res=9E03EFDF1F3AE533A2575AC1A9669D94699ED7CF> accessed 7 September 2013.

11 At this point it will be useful to make a distinction between nationality and citizenship. 'The terms *citizenship* and *nationality* refer to the status of the individual in his relationship to the state and are often used synonymously.' However, a distinction is warranted with respect to an historic discussion of Puerto Rico. 'The word *nationality* (…) has a broader meaning than the word *citizenship*. (…) The term *citizen*, in its general acceptation, is applicable only to a person who is endowed with full political and civil rights in the body politic of the state. The term *national* includes a *citizen* as well as a person who though not a citizen, owes permanent allegiance to the state and is entitled to its protection, as for example, natives of certain outlying possessions of the United States.' Eugenio J Huot Calderón, 'The Concept of Puerto Rican Citizenship' (1996) 35 Rev Der PR 321, 325-26, citing John Bassett Moore, *A Digest of International Law* (vol 3, 1906) 273; see also INA s 308, 8 USCA s 1408 (defining those who are nationals, but not citizens, of the United States).

12 Huot Calderón (n 11) 325. The exception to this mandate was that Spanish-born Puerto Rican residents had the option of electing Spanish nationality so long as they did so within a year of the treaty's signing. 77 FAM 1120 (n 9) 8.

The United States government next addressed the status of Puerto Rico one year later, when Congress enacted the Organic ('Foraker') Act of 1900, establishing that the inhabitants of Puerto Rico 'shall be deemed and held to be *citizens of Puerto Rico*.'[13] This *sui generis* label was not defined and was thus subject to multiple interpretations,[14] and as will be discussed below, the lack of clarity has had serious legal ramifications.

The debate in Congress regarding the Foraker Act indicated that legislators in the majority were not willing to grant citizenship to the inhabitants of newly acquired territories due to racism and concerns about these territories' 'level of civilization'.[15] (While it is argued below that this particular discriminatory withholding of citizenship did not result in de jure statelessness, it is important to emphasize that discrimination against a specific population based on race or ethnicity is a root cause of statelessness in several regions of the world today.) As a result of the Foraker Act, Puerto Rican residents remained nationals of the United States, but citizens of Puerto Rico. This middle-of-the-road status was later solidified by the Supreme Court in the so-called *Insular cases* concerning the status of territories acquired by the US in the Spanish-American War, and in *Gonzales v US*, which established that residents of Puerto Rico were 'noncitizen nationals'.[16]

It was not until the US Congress passed the Jones Act in 1917 that Puerto Ricans gained US citizenship[17] (although the fact that the granting of

13 Organic Act, Ch 191, 31 Stat 77 (1900) (Foraker Act) s 7 (emphasis added).

14 See Christina Duffy Burnett, '"They Say I Am Not An American (…) ": The Noncitizen National and the Law of American Empire'(*Opinio Juris*, 1 July 2008) <http://opiniojuris.org/2008/07/01/they-say-i-am-not-an-american-the-noncitizen-national-and-the-law-of-american-empire/> accessed 7 July 2013.

15 Huot Calderón (n 11) 327-328. Congress expressed concern that granting US citizenship to Puerto Rico would set a precedent with respect to the Philippines, which was also acquired at the end of the Spanish-American War.

16 192 US 1, 13 (1904) (citizens of Puerto Rico were neither United States citizens nor aliens). See also 77 FAM 1120 (n 9) 3.

17 Ch 145, s 5, 39 Stat 951, 953 (1917); 77 FAM 1120 (n 9) 9. A 1934 statute clarified that US citizenship should only be conferred on persons born in Puerto Rico who would otherwise be stateless; thus, acquisition of a foreign nationality in any manner, including by automatic operation of foreign law, would keep a person born in Puerto Rico from benefiting from US citizenship. However, the 1940 Citizenship Act broadened the provisions so that the law was not only aimed at preventing statelessness but rather extended US citizenship to all persons born on the island, regardless of whether they had a second nationality. 77 FAM 1120 (n 9) 11-12.

citizenship was a unilateral action, taken without consulting Puerto Rico's residents, has been criticized[18]). Puerto Rico established a Constitution in 1952 (approved by the people of Puerto Rico by referendum), which recognized Puerto Rican citizenship[19] and established what is now known as the 'Commonwealth of Puerto Rico' (or in Spanish, *Estado Libre Asociado de Puerto Rico*).[20]

This did not solve the issue of Puerto Rico's political status, however. As noted above, debate and discussion has continued over the decades. A 2012 referendum marked the fourth time in 45 years that a vote has been held regarding the future status of the island.[21] Statehood and some form of continued commonwealth status have continually remained the most popular options in these nonbinding plebiscites.[22] Statehood would entail gaining voting members in the US Congress and the right to vote in Presidential elections, as well as federal tax obligations (Puerto Rican residents currently do not pay federal taxes). The option of independence has never garnered more than a small percentage of the vote.[23] Nonetheless, independence activists have remained firm in their belief that Puerto Rico must be a separate and distinct nation from the United States. They conceptualize the current status of Puerto

18 Duffy Burnett (n 14). Section V of the Act offered the option of affirmatively declining US citizenship within six months of the Act coming into effect. 77 FAM 1120 (n 9) 9-10.

19 Constitution of Puerto Rico arts III.5, IV.3, V.9 (referring to requirements that certain government officials be citizens of the United States and Puerto Rico).

20 *President's Report* (n 1) 17-18. The term 'Commonwealth,' when referring to areas under US sovereignty that are not states, is used to describe 'an area that is self-governing under a constitution of its adoption and whose right of self-government will not be unilaterally withdrawn by Congress.'

21 Coto (n 2).

22 The options available, as endorsed by the US Government and usually included in some form in plebiscites are: statehood (which would grant Puerto Rico full voting representation in the US Congress and as well as the obligation that residents pay federal taxes); independence ('Congress would need to pass specific legislation to allow the creation of a fully independent nation of Puerto Rico' and address the status of US citizenship of Puerto Rican residents); free association (a type of independence where the US controls security and defense policy, as is the case with Micronesia and the Marshall Islands; residents can attend school in the US but are not citizens); and commonwealth (essentially the status quo, but with the possible option of greater autonomy). Independence has garnered approximately 5% of votes in recent status plebiscites (with statehood and commonwealth consistently proving to be a much more popular option, usually winning over 40% of the vote each). *President's Report* (n 1) 21, 24-25.

23 Coto (n 2); *President's Report* (n 1) 21.

Rico as a stateless nation – an unjust situation of modern-day colonialism, which must be remedied.[24]

3 Juan Mari Brás: A Groundbreaking Independence Activist

One of the most well-know *independentistas* is the late Juan Mari Brás (1927-2010), a lawyer and activist who is credited with bringing the attention of the United Nations to the situation of Puerto Rico.[25] In 1994, Mari Brás renounced his citizenship before a consular agent at the US Embassy in Venezuela, in compliance with US law.[26] By renouncing his US citizenship, Mari Brás 'sought to redefine (…) the Foraker Act as a source of law that recognized a Puerto Rican nationality separate from that of the United States.'[27] In December 1995, he received a certificate of loss of nationality from the US State Department.[28]

Mari Brás' action inspired other independence activists to renounce their US citizenship.[29] The renunciations raised an important question: Did these Puerto Rican residents become stateless, or were they legitimately Puerto Rican *citizens* on the international stage?[30]

The ambiguity regarding the *independentistas*' legal status played out in court. The Department of Justice of Puerto Rico initially issued an opinion stating that Mari Brás was an alien for the purpose of US civil and political rights, eg voting.[31] Mari Brás was later sued to prevent him from voting in Puerto Rican elections based on the theory that his renunciation of US citizenship made him ineligible to vote.[32] Mari Brás argued that a de jure Puerto Rican citizenship existed because the US citizenship imposed by the Jones Act of 1917 did not supersede the already existing Puerto Rican citizenship under the Foraker Act of 1900.[33] The case reached the Supreme

24 See Dennis Hevesi, 'Juan Mari Bras, Voice for Separate Puerto Rico, Dies at 82' *New York Times* (11 September 2010) D8.

25 *Associated Press* (n5).

26 Napoli (n 6) 188.

27 Charles R. Venator Santiago, 'Race, Space and the Puerto Rican Citizenship' (2001) 78 Denv ULR 907, 907.

28 Huot Calderón (n 11) 321, Napoli (n 6) 188.

29 Hevesi (n 24).

30 Attorney General of Puerto Rico, *Opiniones del Secretario de Justicia de Puerto Rico, No 2007-8, Consulta Núm. 06-126-B* (2007) 4; Napoli (n 6) 189.

31 Huot Calderón (n 11) 321.

32 *Miriam J. Ramirez de Ferrer v Mari Bras* [1997] JTS 134.

33 Napoli (n 6) 190; Huot Calderón (n 11) 321.

Court of Puerto Rico, which found that Mari Brás was still a citizen of Puerto Rico even though he was no longer a US citizen, and that he was eligible to vote.[34]

After the Puerto Rican Supreme Court's ruling was issued, the commonwealth's Department of State issued its first certificate of Puerto Rican citizenship to Mari Brás.[35] Mari Brás affirmed that he had freed himself 'from the indignity of a false citizenship, that of the country that invaded mine, which continues to keep the only country that I owe allegiance to as a colony.'[36]

However, the *independentista* cause did not prevail in federal courts. In 1998, Alberto Lozada Colon, a US citizen born in Puerto Rico, challenged the decision of the United States State Department denying him a certificate of loss of nationality despite his oath of renunciation.[37] The Court held, inter alia, that Lozada Colon had failed to establish the statutory requirement that he actually intended to relinquish citizenship because he had continued to live in the United States, ie Puerto Rico.

The *Lozada Colon* case seemed to serve as a wake-up call to the federal government, which then changed its position regarding Juan Mari Brás: just weeks after the *Lozada Colon* opinion was issued, the US State Department revoked Mari Brás' renunciation of citizenship.[38]

4 Analysis under International and Domestic Law on Citizenship and Statelessness

This article now turns to an analysis of the renunciation of US citizenship by Puerto Ricans through the lens of statelessness. As a preliminary matter, it must be determined whether Puerto Rican citizenship is distinct from US citizenship in terms of international law. Although US and Puerto Rican law have established the existence of Puerto Rican citizenship (see discussion in Section 2 above), 'citizenship' in this sense refers to domicile, guaranteeing

34 *Ramirez de Ferrer v Juan Mari Bras* (n 32) 198-199.

35 See Roberto J Sanchez Ramos, *Department of Justice of Puerto Rico Consulta No 06-56-B* (2006). 'The [certificate] is valid as an ID in Puerto Rico, but not recognized outside the island.' Hevesi (n 24).

36 Hevesi (n 24).

37 *Alberto O. Lozada Colon v US Department of State*, [1998] 2 F Supp 2d 43 (DDC).

38 'Berrios: Decision on Mari Bras Shows PR Still a Colony' *The San Juan Star/Associated Press* (7 June 1998) <http://www.puertorico-herald.org/issues/vol2n10/maribras-berrios.html> accessed 25 August 2013.

political rights on a local but not an international scale.[39] In other words, Puerto Rican citizenship is not citizenship with a recognized international status.[40] This is because, as is uncontested, Puerto Rico does not exist as a state under international law.[41] The *independentistas*' renunciation of US citizenship could not de facto create a new, internationally recognized and independent citizenship with respect to a US territory.

4.1 *Statelessness in Puerto Rico?*

Article 1(1) of the 1954 Convention Relating to the Status of Stateless Persons provides a definition of (de jure) statelessness which is accepted as part of customary international law:[42] a stateless person is one 'who is not considered as a *national* by any state under the operation of its law'.[43]

Although statelessness usually arises out of other human rights violations,[44] the United Nations High Commissioner for Refugees (UNHCR) Expert Meeting noted that this definition of statelessness

> refers to a factual situation, not to the manner in which a person became stateless. Voluntary renunciation of nationality does not preclude an

39 See Huot Calderón (n 11) 345; Pedro Rossello, *Department of Justice of Puerto Rico Consulta No 1996-1* (1996).

40 Huot Calderón (n 11) 338, Rossello (n 39).

41 'The Concept of Stateless Persons under International Law: Summary Conclusions' (United Nations High Commissioner for Refugees Expert Meeting, Prato, Italy, 2010). 'The meaning of 'State' should be based on the criteria generally considered necessary for a State to exist in international law. As such, relevant factors are those found in the Montevideo Convention on Rights and Duties of States (permanent population, defined territory, government and capacity to enter into relations with other States) coupled with other considerations that have subsequently emerged (effectiveness of the entity in question, right of self-determination and the consent of the State which previously exercised control over the territory in question). Whether or not an entity has been recognised as a State by other States is indicative (rather than determinative) of whether it has achieved statehood.', paras 23-24.

42 UNHCR Expert Meeting (n 41) para 2, citing the International Law Commission.

43 Convention Relating to the Status of Stateless Persons (adopted 28 September 1954, entered into force 6 June 1960) 360 UNTS 117 (1954 Convention) art 1(1) (emphasis added). Article 1(1) does not address whether the individual has a nationality that is effective (a concept often discussed in relation to de facto statelessness), but whether or not the individual has a nationality at all. In other words, 'Article 1(1) does not require a 'genuine and effective link' with the State of nationality in order for a person to be considered as a 'national.' UNHCR Expert Meeting (n 41) para 10.

44 Weissbrodt and Collins (n 7) 248.

> individual from satisfying the requirements of Article 1(1) as there is no basis for reading in such an implied condition to the definition of 'stateless person.'[45]

Residents of Puerto Rico have been nationals of the United States since 1900 and citizens of the United States since 1917. While the lack of citizenship during the period between 1900 and 1917 may have been due largely in part to discrimination, it does not seem that it amounted to the now accepted definition of statelessness, which uses the term 'national' rather than 'citizen'. Although they were not citizens, Puerto Rican residents were considered nationals by the US under the operation of its law. Further clarifying this matter, the UNHCR has explained that '[a] State may have two or more categories of 'national' not all necessarily enjoying the same rights. For the purposes of the definition in Article 1(1), these persons would still be regarded as nationals of the State and therefore not stateless.'[46] Thus, Puerto Rican nationals or citizens since 1900 are not likely to be considered de jure stateless.

But what about Juan Mari Brás? His renunciation of citizenship was accepted by the United States government before it reversed its decision three years later. If persons have a jurisdictional relationship with a political entity, and that entity does not exist as a state under international law, such persons are 'ipso facto considered to be stateless unless they possess another nationality.'[47] As discussed above, Puerto Rico does not exist as a State under international law. Therefore, during the period between the approval of Juan Mari Brás' renunciation of US citizenship and the revocation of renunciation by the US government, it would seem that Mari Brás was indeed stateless. He had managed to eliminate his sole internationally-recognized citizenship, remaining merely a 'citizen' (ie resident) of Puerto Rico. (It is not clear, however, whether during this period Mari Bras attempted to exercise any of the rights of national citizenship, such as international travel, that would have made his stateless status especially evident and burdensome.)

4.2 *US Law in Relation to Statelessness and Renunciation of Citizenship*

The United States is not party to either the 1954 Convention on the Status of Stateless Persons or the 1961 Convention on the Reduction of Statelessness. While these conventions are not widely ratified, they provide the foundational

45 UNHCR Expert Meeting (n 41) para 20.

46 Ibid para 11.

47 Ibid para 7.

framework for an international legal analysis of statelessness.[48] In this sense, the US situation will be discussed here against the international standard established by the Statelessness Conventions.

Under the 1961 Convention, a Contracting State may retain the right to deprive a person of his nationality if that person 'has taken an oath, or made a formal declaration (…) or given definite evidence of his determination to repudiate his allegiance to the Contracting State.'[49] However, this renunciation provision is limited by Article 7(1)(a), which states that loss of nationality shall not have effect 'unless the person concerned possesses or acquires another nationality.' Therefore, under the 1961 Convention, there is no real freedom to renounce one's nationality unless the individual in question is in possession or is assured of acquiring another nationality. This is indicative of the general principle that the renunciation of nationality should not result in statelessness.[50]

In contrast, US law provides for the loss of nationality even if it would result in statelessness.[51] Such loss can be effectuated by 'making a formal renunciation of nationality before a diplomatic or consular officer of the United States in a foreign state,'[52] voluntarily and with intent to relinquish US citizenship. The Department of State guidance further clarifies, citing the *Lozada Colon* case, that '[a] person seeking to renounce US citizenship must renounce all the rights and privileges associated with such citizenships,' including the right to live in the United States.[53] This guidance additionally notes that statelessness may be a consequence of renunciation: 'Persons intending to renounce US citizenship should be aware that, unless they already possess a foreign nationality, they may be rendered stateless and, thus, lack the protection of any government.'

48 Cf ibid.

49 Convention on the Reduction of Statelessness (adopted 30 August 1961, entered into force 13 December 1975) 989 UNTS 175 (1961 Convention) art 8(3)(b).

50 Carol A Batchelor, 'Transforming International Legal Principles into National Law: The Right to a Nationality and the Avoidance of Statelessness' (2006) 25 Refugee Survey Q. 3, 16. This rule prohibiting statelessness is arguably a valid interpretation of international human rights norms as established in the Universal Declaration of Human Rights and the American and European Conventions on Human Rights as an 'implicit counterpart to the right to a nationality.' See Laura van Waas, *Nationality Matters: Statelessness under International Law* (Intersentia 2008) 85-86. Article 8 of the European Convention on Nationality also prohibits the renunciation of nationality if it would result in statelessness.

51 s 349(a)(5) of the Immigration and Nationality Act (INA), 8 USC 1481(a)(5).

52 US Department of State, 'Renunciation of US Citizenship.' <http://travel.state.gov/law/citizenship/citizenship_776.html> accessed 9 September 2013.

53 Ibid.

Therefore, the international prohibition on what might be called 'self-induced' or 'voluntary statelessness' is a primary reason why the United States is not party to the Statelessness Conventions: this prohibition conflicts with US law, which grants the freedom to renounce one's nationality regardless of whether statelessness is a consequence.[54]

At first blush, the US position seems contrary in fact to the government's ultimate response to Juan Mari Brás. The government accepted Mari Brás' renunciation of citizenship and arguably allowed him to be stateless, only to withdraw this renunciation three years later. One could take the view that in withdrawing legal recognition of his renunciation, the United States government deprived Mari Brás of his right (under US law) to be stateless. The counterargument, and the inferred US position, is that Mari Brás did not actually meet the requirements for renunciation and/or obtained his revocation certificate under false pretenses because he apparently intended to continue residing in the United States (ie Puerto Rico) at the time of his renunciation.

Despite the US government's confused approach, the ultimate reversal of Mari Brás' renunciation was not inconsistent with prior cases recognizing the finality of renunciation because those cases had recognized renunciation and resulting statelessness in the context of expatriation, ie former US citizens who had departed from US territory –unlike Mari Brás, who remained in Puerto Rico with no apparent intention of leaving.[55]

Current State Department guidance also emphasizes the irrevocability of renunciation:

> (…) [T]hose contemplating a renunciation of US citizenship should understand that the act is irrevocable (…) and cannot be canceled or set aside absent successful administrative or judicial appeal (…) Renunciation is the most unequivocal way in which a person can manifest an intention to relinquish US citizenship.[56]

This emphasis is interesting in light of Juan Mari Brás' saga with the State Department. Whether or not the Mari Brás' case influenced the current US

54 N Green and T Pierce, 'Combatting Statelessness: A Government Perspective' (2009) Forced Migration R No 32, 34-35.

55 *Davis v INS*, [1979] 481 F Supp 1178, 1180-82 (An American citizen renounced his citizenship in Paris and was denied re-entry into the US. The Court said that the right of expatriation is a long standing principle of the United States).

56 US Department of State (n 52).

stance, it seems that the government position with respect to the renunciation of citizenship by Puerto Ricans is much clearer than in the mid-1990s, during the *independentistas*' heyday.

5 Conclusion

In analyzing the situation of Puerto Rico through a statelessness framework, this article has sought to provide insight into tensions surrounding national identity and citizenship. Puerto Rico has been a United States territory for over a century, and yet its future legal status remains in limbo despite several referenda regarding self-determination. Puerto Ricans are US citizens but do not have the same political rights as residents of the 50 US states. Activists who strongly believe that Puerto Rico should be an independent nation protested the status quo in the 1990s by renouncing or attempting to renounce their United States citizenship, in the hope that this would lead to affirmation of their (separate) Puerto Rican citizenship.

Although the island's highest court and other legal authorities recognized Puerto Rican citizenship in the context of the case of leading *independentista* Juan Mari Brás, it ultimately was made clear that 'citizenship' in this context is a byword for local residency, and was not meaningful under international law. Mari Brás' renunciation of US citizenship was subsequently revoked as the federal government apparently clarified its approach to those who wished to both renounce their US citizenship and remain in US territories such as Puerto Rico.

The United States government has asserted that it cannot become a party to the 1954 and 1961 Statelessness Conventions because these instruments conflict with US law allowing the renunciation of citizenship regardless of whether it results in statelessness. It is thus somewhat ironic that the revocation of Mari Brás' renunciation of citizenship, and the refusal to recognize renunciation by other *independentistas*, was ultimately consistent with the Conventions in that the end result prevented or remediated statelessness.

Clearly, renunciation of citizenship can be a mechanism for statelessness if it is completed without gaining another nationality.[57] However, it seems that Puerto Rican *independentistas* erred in believing they could ultimately achieve an alternative to statelessness, that is, Puerto Rican citizenship, while still successfully renouncing their ties to the United States. Even the leader of the Puerto Rican independence party referred to Mari Brás' effort as an

57 Weissbrodt and Collins (n 7) 253, 259.

'experiment' that demonstrated Puerto Rican independence must come before true Puerto Rican citizenship.[58]

Nonetheless, the 'experiment' indicates that Puerto Rico's unresolved status has created conditions where some people believe that risking self-induced statelessness may result in garnering greater rights. This challenges the notion that citizenship is a foundational right, although any gains by *independentistas* who renounced (or attempted to renounce) their nationality seem to have been of a political rather than legal nature. Therefore, the fact that individuals are willing to give up the right to a nationality –the purported 'right to have rights'[59]– in pursuit of a political goal is indicative of the strength of their convictions.

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58 *The San Juan Star/Associated Press* (n 38).

59 Hannah Arendt, 'The Decline of the Nation-State and the End of the Rights of Man' in *The Origins of Totalitarianism* (Harcourt, Brace, Jovanovich, 1948) 267-304.