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Places in Purgatory: Accumulation Through Dispossession in U.S. Territories

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**PLACES IN PURGATORY:
ACCUMULATION THROUGH
DISPOSSESSION IN U.S. TERRITORIES**

*By Erin Condo McCracken**

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I. INTRODUCTION

The United States’s (U.S.) territories live in a state of purgatory. As U.S. possessions, places designated as territories are neither recognized as fully part of the U.S. nor as independent from it. This prolonged purgatory has served to strengthen U.S. economic and military power while proving detrimental to native territorial populations. Throughout the Pacific Ocean and the Caribbean Sea, the U.S. has acquired islands and archipelagos that provide access to important trade routes and military outposts.¹ The U.S. went to great lengths to expand its empire including going to war with Spain in 1898, fighting bloody battles with Japan during World War II, and paying large sums of money to Denmark.² Aside from the economic and military strategic advantage that the territorial system provides to the U.S., it also brings with it extensive resources including agricultural land, labor, and captive markets for U.S. goods.³

In spite of, or perhaps because of, the value of these possessions to the U.S., territories in political and popular discourse

¹ SASHA DAVIS, *EMPIRES’ EDGE: MILITARIZATION, RESISTANCE, AND TRANSCENDING HEGEMONY IN THE PACIFIC*, 14-16 (2015).

² According to the Department of the Interior, the U.S. takes control of a territory through one of five main processes, including cession, occupation, accretion, subjugation, and prescription. The U.S. territories discussed throughout this paper were acquired through cession, defined by the DOI as “when the acquiring sovereign derives its title to a new insular area by the ceding sovereign’s transferring to it the supreme power over that insular area.” See *Acquisition Process of Insular Areas*, OFF. INSULAR AFF, <https://www.doi.gov/oia/islands/acquisitionprocess> (last visited June 27, 2022).

³ DAVIS, *supra* note 1, at 16.

are discussed in terms of *their* dependency on the U.S., benefitting from economic stability and access to markets as well as from military protection.⁴ Characterizing U.S. territories as dependent on the U.S. justifies maintaining the unequal territorial system because, as dependents, territories are considered to be unprepared to participate fully as U.S. states and unable to function as fully independent countries.⁵ The notion of dependency also justifies the economic meddling into the territories, so that they meet economic needs of the U.S. and the larger global economic system, often at the expense of the territories' economic stability.⁶

To the limited extent that territories are given consideration in mainland discourse, much attention is focused on the populous Puerto Rico, which defaulted on its sovereign debt in 2016 and by 2021 had accumulated debt exceeding \$70 billion.⁷ The U.S. Congress appointed the Financial Oversight Management Board (FOMB) to manage Puerto Rico's bankruptcy proceedings, to negotiate restructuring, and to oversee the budget and fiscal plans in Puerto Rico.⁸ On January 18, 2022, a federal judge approved a debt restructuring plan that reduced a \$33 billion portion of its overall debt down to \$7.4 billion, essentially bringing the territory out of bankruptcy.⁹ The FOMB, known locally as *la junta*, is a mechanism for asserting fiscal control over the archipelago territory by employing tactics of public austerity and market openness—the same

⁴ The U.S. government lists its territorial possessions as dependencies. *See Dependencies and Areas of Special Sovereignty*, U.S. DEP'T OF STATE (Dec. 17, 2020), <https://www.state.gov/dependencies-and-areas-of-special-sovereignty/>.

⁵ Terminology borrowed from former Guam Governor Hon. Robert Underwood. *See* Neil Weare, Hon. Donna M. Christensen, & Hon. Robert Underwood, *The Left and the Right's Blindspot in Systemic Racism: America's Colonies Problem*, EQUALLY AM. (Jan. 26, 2022, 5:00 PM), https://www.equalrightsnow.org/racial_justice_series_continues_with_part_ii_a_conversation_with_former_members_of_congress.

⁶ DAVIS, *supra* note 1, at 16.

⁷ ANDREW D. AUSTIN, CONG. RES. SERV., PUERTO RICO'S PUBLIC DEBTS: ACCUMULATION AND RESTRUCTURING 1-2 (2022).

⁸ 48 U.S.C.A. §§ 2101-06 (West 2018).

⁹ Patricia Mazzei, Frances Robles, and Coral Murphy Marcos, *Judge Approves Deal to Resolve Puerto Rico Bankruptcy*, N.Y. TIMES (Jan. 19, 2022, 12:08 AM), <https://www.nytimes.com/2022/01/18/us/puerto-rico-bankruptcy.html>.

tactics that often contributed to the territory's accumulation of debt.¹⁰ In early 2022, over 20,000 teachers, firefighters, and other public servants protested the FOMB-negotiated loss of pension guarantee and low wages that have been stagnant for over a decade.¹¹

While there are a number of territories owned by the United States, only Puerto Rico, the U.S. Virgin Islands (USVI), Guam, American Samoa (AS), and the Northern Mariana Islands (CNMI) are recognized as being inhabited by human populations.¹² The U.S. acquired Guam and Puerto Rico from Spain as part of the Treaty of Paris in 1898, and acquired American Samoa from the United Kingdom and Germany in 1900.¹³ The USVI were bought from Denmark in 1917, and the U.S. acquired the CNMI in 1986 after years of administering the islands following World War II.¹⁴ Guam, CNMI, and American Samoa are in the Pacific Ocean, while Puerto Rico and USVI are in the Caribbean. Each territory provides its own strategic militaristic and economic importance to the mainland and exercises varying degrees of financial and political autonomy.

This comment is premised on the idea that although U.S. territories are not homogenous in population, culture, location, or size, their shared colonial relationship as neither a U.S. state nor a sovereign nation bonds them in such a way as to make their comparison meaningful. All territories, "belonging to but not part of the U.S." have worked toward and achieved economic and political

¹⁰ NAOMI KLEIN, *THE BATTLE FOR PARADISE: PUERTO RICO TAKES ON THE DISASTER CAPITALISTS* 26 (2018).

¹¹ See Adrian Florido, *Teachers in Puerto Rico Protest for Better Wages and Pensions*, NPR, (Feb. 9, 2022, 4:23 PM), <https://www.npr.org/2022/02/09/1079654978/teachers-in-puerto-rico-strike-to-demand-higher-wages-and-better-pensions>; see also Carlos Tolentino Rosario, *Maestros Vuelven a Marchar Hasta La Fortaleza ante Reunión de Pierluisi con Líderes Magisteriales*, EL NUEVO DIA (Feb. 10, 2022, 7:49 AM), <https://www.elnuevodia.com/noticias/locales/notas/maestros-vuelven-a-marchar-hasta-la-fortaleza-ante-reunion-de-pierluisi-con-lideres-magisteriales/>.

¹² *United States Territories 2022*, WORLD POP. REV., <https://worldpopulationreview.com/country-rankings/united-states-territories> (last visited June 27, 2022).

¹³ OFF. INSULAR AFF., *supra* note 2.

¹⁴ *Id.*

alignment with the mainland.¹⁵ The impact of larger global forces, including two World Wars, a post-World War II (WWII) order that emphasized the interdependence of democracy and liberal markets, and the adoption of the Washington Consensus's neoliberal structural adjustment toward the end of the twentieth century compounded the territories' colonial status.¹⁶

This comment will first establish the roots and motivations of U.S. imperialism and discuss the major court cases that were used to justify the growth of the U.S. Empire. It then situates the U.S. Empire within, and as partly responsible for, the global capitalist economic system following WWII through today. In the absence of being fully part of or fully apart from the U.S., this comment explores how territories are particularly vulnerable to the negative consequences of empire and global capitalism.¹⁷ Borrowing from noted Marxist geographer David Harvey's theory of accumulation by dispossession, this study compares territories in terms of how the forces of colonialism, militarism, and global capitalism have helped the U.S. extract resources from these territories.¹⁸

II. BACKGROUND

A. Early Notions of U.S. Empire

The U.S. identity, first codified in the Declaration of Independence, is deeply tied to the idea of personal and national

¹⁵ The question of how newly acquired territories should be incorporated into the U.S. was determined in a series of Insular Cases, beginning in 1901, which determined that the U.S. could have control over a territory without affording it the rights and responsibilities of citizenship or membership into the U.S. By establishing that the U.S. could collect import duties from goods shipped from the territory of Puerto Rico, the U.S. maintained that the territory was "belonging to, but not part of" the U.S. This case continues to define and justify the U.S.'s control over its territories. *See* *Downes v. Bidwell*, 182 U.S. 244, 287 (1901).

¹⁶ DAVID HARVEY, *THE NEW IMPERIALISM*, OXFORD UNIVERSITY PRESS 137 (2003).

¹⁷ *Id.*

¹⁸ *Id.*

freedom.¹⁹ Commitment to this identity in political and popular culture has ignored how freedom was initially reserved for a select few and enjoyed at great cost to others.²⁰ Uncritical celebrations of our independence also obscure the expansionist interests that guided the founding of the country.²¹ Expansionism of the U.S. into new territories was justified by the philosophy that the U.S. had a manifest destiny to spread its political, economic, and religious institutions beyond its original borders.²² This expansion to new territories within and beyond its natural borders would solidify its place as an economic and military world power in the twentieth century.²³

The Louisiana Purchase in 1803 marked the U.S.'s first official expansion, and President Thomas Jefferson saw the vast swaths of land west of the Mississippi as a place where Creek American Indians could not only relocate, but a place where they could farm and “be encouraged to trade with whites, to incur debts, and then to pay off those debts with tracts of land.”²⁴ The removal of Native Americans and then their assimilation into a market economy was key to accessing and opening the West to trade and continued expansion.²⁵

Creek American Indian removal was also a crucial part of the extractive plantation economy of the U.S. South, where General Andrew Jackson offered rewards of Creek land to soldiers who fought against them during the War of 1812. Jackson then oversaw a treaty in 1814 that dispossessed the Creeks of half of their remaining

¹⁹ Eric Foner, *The Idea of Freedom in American History*, COLUM. UNIV. L. SCH. (Feb. 26, 2004).

²⁰ *Id.* at 4.

²¹ *Id.* at 7.

²² GEORGE C. HERRING, *FROM COLONY TO SUPERPOWER: U.S. FOREIGN RELATIONS SINCE 1776* 107-09 (2008).

²³ *Id.*

²⁴ For a brief moment following the Revolutionary War, Thomas Jefferson expressed his intent for Native American Nations, even those who had sided with the British, to remain on their land, unbothered. However, as white settlers began to populate land outside of the official U.S. borders, Jefferson quickly reversed course, promoting a policy of Indian Removal of the Creek Nation from Georgia. *See id.* at 126.

²⁵ *Id.*

southern land, which was then bought up by Jackson and others.²⁶ Importantly, Jackson's treaty with the Creeks transformed the Creek tradition of communal land ownership, requiring the remaining Creek-controlled lands to be divided into individual titled properties.²⁷ Forced displacement of Native Americans was eventually replaced with state laws that allowed Native Americans to keep their land if they assimilated into the land system and laws of the U.S.²⁸

These expansionary tactics—using military force to dispossess native populations of their land, displace them, and promote assimilation, especially to market systems—are played out repeatedly throughout the history of the U.S. Empire, especially as it spread beyond its “natural” coastal boundaries.

Although the acquisition of Caribbean and Pacific islands would not happen until the end of the nineteenth century, the mainland and the Caribbean islands were interconnected through trade routes to New England colonies and to plantation and slave economies in the south.²⁹ Thomas Jefferson imagined that the natural expansion of the U.S. included Canada and the Caribbean, especially Cuba.³⁰ In 1819, Secretary of State John Quincy Adams articulated a policy of “political gravitation” which foresaw the U.S. acquisition of the islands as part of a larger goal of U.S. domination of the Western Hemisphere, which meant expelling the Spanish and French from the

²⁶ *Id.* at 128.

²⁷ Andrew Jackson would later become President, introducing the Indian Removal Bill and overseeing the displacement of over 70,000 Native Americans to land west of the Mississippi River. Native Americans who refused to leave could stay if they followed U.S. laws and assimilated into the property and economic system. In spite of federal law binding the U.S. to treaties with Native Americans, the federal and state governments ignored treaties and whites would harass remaining Native Americans, often raiding and looting their land and resources. Land theft from the Creek especially benefited landowners in the South who could expand their plantations on this newly acquired land. *See id.* at 130-48.

²⁸ *Id.*

²⁹ *See* ERIC WILLIAMS, FROM COLUMBUS TO CASTRO: THE HISTORY OF THE CARIBBEAN 165 (1970).

³⁰ *Id.* at 409.

Caribbean and the British from Canada.³¹ Adams, aware of the fledgling country's potential "ambition hypocrisy," reframed the goal of expansion as part of a moral responsibility to "liberate" colonies from faraway powers who had no use for them anyway.³²

In 1823, the Monroe Doctrine took a stand against European colonization of Latin America while also declaring Latin America and the entire Western Hemisphere to be within the U.S. sphere of influence.³³ President Monroe and Secretary of State John Quincy Adams had their eyes particularly set on the Oregon Territories, Texas, and Cuba.³⁴

Just as territories in the Caribbean were long treated as part of U.S. expansionist goals, early leaders, entrepreneurs, and Christian missionaries were already moving to Pacific islands.³⁵ By the turn of the nineteenth century, U.S. businesses dominated the whaling industry in the Pacific, and other businessmen and explorers, aided by the U.S. Navy, charted and staked out the vast waters for possible U.S. trade outposts.³⁶ The U.S. traded in Hawaii, Fiji, Samoa, and the Marshall Islands, signaling more formal maritime expansion in the future; however, the U.S. would not gain a strong foothold in the Pacific until the end of the Spanish-American War in 1898 when it acquired Guam.³⁷

³¹ *Id.* at 410.

³² *Id.* at 410.

³³ HERRING, *supra* note 22, at 158-64.

³⁴ Russia, Britain, and the U.S. had competing claims on the Oregon Territory. Mexico had control of Texas, and Spain had control of Cuba. *See id.* at 207-11.

³⁵ *Id.*

³⁶ Once the U.S. acquired the Oregon Territories from Britain through the Oregon treaty in 1846 and the northern California area after the Mexican American War through the Treaty of Guadalupe Hidalgo, the U.S. had a clear path to trade with Southeast Asia. *See id.*

³⁷ Trade with China was the goal in part because they had desired goods such as tea and opium, but they were also a potential market for surplus goods such as cotton and tobacco. Trade with China and Japan was highly restricted in the West until the 1842 Treaty of Nanjing, negotiated by the British, which created trade inroads for other countries such as the U.S. *See United States Maritime Expansion Across the Pacific During the 19th Century*, U.S. DEP'T OF STATE OFF. OF THE

1. Northwest Ordinance of 1787: The Constitution Follows the Flag

The first major policy of U.S. expansionism, the Northwest Ordinance of 1787, provided justification for claiming sovereignty over new land by assuring that newly claimed territories would be permitted to the union as equal to states or on the pathway to statehood.³⁸ Political leaders recognized that new territories would not be organized or wealthy enough to meet the requirements of statehood, and so a pathway was established for territories to become states through a multi-stage process.³⁹ In the first stage, territories would develop their administrative core capacities.⁴⁰ In the second stage, granted when the population reached 5,000 free males, territories would establish a localized representative government with a non-voting delegate participating in the U.S. House of Representatives.⁴¹ In the third stage, they would be granted statehood status.⁴²

With some variation, this three-stage process from territory to statehood status was followed as the U.S. expanded further with the Louisiana Purchase and the acquisition of California from Mexico. This assured pathway was reinforced in the *Dred Scott* decision of 1857, which, according to historian William Boyer, the “Supreme Court maintained that the U.S. had no power to acquire territory except with the Constitution in full effect, and with the purpose of admission to statehood as soon as conditions would warrant admission.”⁴³ In other words, the U.S. Constitution was to follow the

HISTORIAN, <https://history.state.gov/milestones/1830-1860/pacific-expansion> (last visited June 27, 2022); *see also* HERRING, *supra* note 22, at 207-11.

³⁸ Sovereignty by Indigenous Americans over the land was not recognized as a concern in U.S. expansionism. *See* WILLIAM W. BOYER, *AMERICA’S VIRGIN ISLANDS: A HISTORY OF HUMAN RIGHTS AND WRONGS* 90 (2010).

³⁹ *Id.* at 90.

⁴⁰ *Id.* at 91.

⁴¹ *Id.*

⁴² It was in this manner that the Midwest states of Ohio, Indiana, Illinois, Michigan, and Wisconsin became states. *See id.* at 91-92.

⁴³ *See* *Dred Scott v. Sanford*, 60 U.S. 393 (1857), *superseded by constitutional amendment*, U.S. CONST. amends. XIII, XIV; *see also* BOYER, *supra* note 38, at 94.

flag, wherever it was hoisted, and all new acquired territories had a clear pathway to statehood, established in the Northwest Ordinance.

2. The Spanish American War & the New Territorialism

The “full-fledged expansionist agenda” of the 1896 Republican Party, as expressed by Presidential candidate William McKinley, called for “European withdrawal from the hemisphere; a voluntary union of English-Speaking peoples in North America . . . acquisition of the Virgin Islands; annexation of Hawaii; and independence for Cuba.”⁴⁴

As president, McKinley mostly realized his vision after winning the War of 1898, also known as the Spanish-American War, in which the U.S. went to war with Spain to protect its financial investments in Cuba’s economy.⁴⁵ There was unqualified support for entering the war and supporting the Cuba Libre movement that stemmed from the U.S.’s own anticolonization sentiment. After fighting for freedom for Cuba from the Spanish Empire, the U.S. itself would emerge from the war as an empire, victorious in acquiring Spanish assets.⁴⁶ The Paris Treaty marked a U.S. victory in the Spanish-American War and named the U.S. protectorate of Cuba and administrator of the Philippines, Puerto Rico, and Guam.⁴⁷ Hawaii was also annexed in 1898.⁴⁸

The new U.S. territories fulfilled numerous economic and defensive objectives at the time. In the Pacific, Guam, Hawaii, and the Philippines served as important communication centers and bases

⁴⁴ HERRING, *supra* note 22, at 308-09.

⁴⁵ Cuba had been largely “Americanized” leading up to the war, with ties to U.S. funding, investment, and trade. *See id.*

⁴⁶ *Id.*

⁴⁷ The Platt Amendment, signed in 1900, reflected Cuba’s quasi-sovereign status, developed a favored trading status between Cuba and the U.S., and limited the ability of Cuba to trade in the region. *See id.* at 325. The Amendment was repealed in 1934 when the countries signed the Cuban American Treaty of Relations of 1934. *See id.* at 500. Regarding the Philippines, after many tumultuous years, the U.S. recognized independence for the country in 1946, and many U.S. military bases remained present. *See id.* at 634.

⁴⁸ *Id.* at 317.

for the navy, providing for easier access to defense against threats from Japan and China.⁴⁹ New trade routes through the Pacific meant access to Asian markets, which the U.S. foresaw as important to future commerce.⁵⁰ Similarly, in the Caribbean, control of Cuba and Puerto Rico meant access to sugar, tobacco, and other agricultural resources that the growing population of the U.S. needed to fulfill demand.⁵¹ The U.S. acquisition of Puerto Rico and, much later, the Virgin Islands, served to prevent European forces from controlling the Caribbean, and limited their access to the Panama Canal and the rest of Latin America, realizing their desired dominance in the Western Hemisphere outlined in the Monroe Doctrine.⁵²

As the U.S. grew, so did the laws and policies that would guide how new territories would be defined in relationship to the U.S., how they would assimilate to become states, or, as with island territories except Hawaii, how they would remain a property of the U.S. without full enjoyment of full constitutional rights.

3. New Rules for Territorial Possessions: The Insular Cases

Unlike past eras of U.S. expansionism, newly acquired territories did not follow the traditional path to statehood outlined in the Northwest Ordinance. The Insular Cases, beginning with *Downes v. Bidwell* in 1901, worked to clarify if and how the Uniformity Clause of the U.S. Constitution would be applied to the country's new island possessions.⁵³ On the surface, *Downes v. Bidwell* was concerned with the question of whether or not import taxes should be paid on goods coming from Puerto Rico, which had become part of the U.S.⁵⁴ With

⁴⁹ *Id.* at 319.

⁵⁰ *Id.*

⁵¹ JAMES L. DIETZ, ECONOMIC HISTORY OF PUERTO RICO: INSTITUTIONAL CHANGE AND CAPITALIST DEVELOPMENT 90 (1986).

⁵² HERRING, *supra* note 22, at 306-08.

⁵³ The Uniformity Clause granted the federal government the right to collect taxes so long as it was uniformly applied across the states. *See* U.S. CONST. art. 1, cl. 9; *see also* Frederick R. Coudert, *The Evolution of the Doctrine of Incorporation*, 26 COLUM. L. REV. 823, 824 (1926).

⁵⁴ *See* Bartholomew H. Sparrow, *The Public Response to Controversial Supreme Court Decisions: The Insular Cases*, 30 J. SUP. CT. 197, 209 (2005), <https://doi.org/10.1111/J.1059-4329.2005.00106.x>.

this question arose much larger constitutional questions surrounding how territorial possessions were to be treated.⁵⁵ The outcome of these cases, cumulatively, was the creation of three distinct types of association with the U.S.: full-fledged statehood, incorporated territories that would become states, and unincorporated territories not on the path to statehood but which are property of the U.S. that do not enjoy full protection under the Constitution.⁵⁶

Although Congress conferred the status of Incorporated Territory on the Hawaiian islands when the Organic Act was approved by Congress, the remaining territories were designated as unincorporated territories of the U.S.⁵⁷ In his concurrence in *Downes*, Justice Gray asserted that instead of inferring domestic status on conquered territories, they should be treated legally as a “foreign country.”⁵⁸ Puerto Rico, and by extension all unincorporated territories, was considered “foreign to the United States in a domestic sense, because the island had not been incorporated into the United States, but was merely appurtenant thereto as a possession.”⁵⁹

An overriding concern the Supreme Court expressed in *Downes* was the “foreignness” of the island territories and how their admission into the union would invite foreign influence on the government.⁶⁰ In his majority opinion, Justice Brown wrote:

⁵⁵ *Id.*

⁵⁶ *Id.*

⁵⁷ Hawaii was seen as having a highly organized governmental system and population that had proved its allegiance to the U.S. during World War II. Southern Democrats were opposed to admitting Hawaii as a state because they believed the foreign, non-white majority territory would support Civil Rights legislation. To counterbalance this non-white population, the Democrats forced the admittance of the mostly white Alaska at the same time that Hawaii became a state. See David Stebenne, *Statehood for Puerto Rico? Lessons from the Last Time the U.S. Added a Star to its Flag*, THE CONVERSATION (June 9, 2017) <https://tinyurl.com/mwe657x8>. It should be noted that Alaska had no organized government at the time of its incorporation; see also Sparrow, *supra* note 54, at 209.

⁵⁸ *Downes v. Bidwell*, 182 U.S. 244, 346 (1901) (Gray, J., concurring).

⁵⁹ *Id.*

⁶⁰ *Id.*

We are also of opinion that the power to acquire territory by treaty implies, not only the power to govern such territory, but to prescribe upon what terms the United States will receive its inhabitants, and what their status shall be in what Chief Justice Marshall termed the ‘American empire.’ There seems to be no middle ground between this position and the doctrine that if their inhabitants do not become, immediately upon annexation, citizens of the United States, their children thereafter born, whether savages or civilized, are such, and entitled to all the rights, privileges and immunities of citizens. If such be their status, the consequences will be extremely serious. Indeed, it is doubtful if Congress would ever assent to the annexation of territory upon the condition that its inhabitants, however foreign they may be to our habits, traditions, and modes of life, shall become at once citizens of the United States.⁶¹

Future Insular Cases would rely on *Downes v. Bidwell* as precedent for continued denial of full citizenship and uniformity under the law.⁶² Former Chief Justice of the Supreme Court of Puerto Rico writes of the outdated underpinnings of the Insular Cases:

They, and the policies on which they rest, answer to the following notions: democracy and colonialism are fully compatible; there is nothing wrong when a democracy such as the United States engages in the business of governing others; people are not created equal, some races being superior to others; it is the burden of the superior peoples, the white man’s burden, to bring up others in their image; and

⁶¹ *Id.*

⁶² Doug Mack, *The Strange Case of Puerto Rico: How a Series of Racist Supreme Court Decisions Cemented the Island’s Second-Class Status*, SLATE (Oct. 9, 2017), <https://slate.com/news-and-politics/2017/10/the-insular-cases-the-racist-supreme-court-decisions-that-cemented-puerto-ricos-second-class-status.html>. [hereinafter *Mack Slate*].

colonies have no right to freedom or any other rights, except to the extent that the nation which possesses them should in due time determine.⁶³

The Insular Cases thus solidified that under the U.S. Constitution, the U.S. could possess foreign territories without providing full rights afforded to the states and mainland citizens, and this denial of rights is based on the perception that foreign populations were a threat to democracy and the freedom of U.S. citizens.⁶⁴ The underlying xenophobia guiding the Insular Cases continues to provide legal justification and precedent for keeping territories in a prolonged state of purgatory, allowing the U.S. to benefit from their natural resources, geostrategic location, and labor while continuing the narrative that because of their “foreignness” territories are unprepared or unqualified to be a full-fledged state.

B. The Global Context of U.S. Colonialism

Following World War II, the creation of the Bretton Woods system marked a shift in the world order toward a collective commitment to peace, best established through an international liberal market.⁶⁵ The Bretton Woods system created the International Monetary Fund (IMF), World Bank, and the International Trade Organization.⁶⁶ The IMF serves as an economic diplomatic agency, working toward stable currency exchange rates, harmonized monetary policies, and providing temporary financial and

⁶³ José Trías Monge, *Injustice According to Law: The Insular Cases and Other Oddities*, In FOREIGN IN A DOMESTIC SENSE: PUERTO RICO, AMERICAN EXPANSION, AND THE CONSTITUTION 228 (Christina Duffy & Burke Marshall, eds., 2001)

⁶⁴ *Id.*

⁶⁵ Political leaders believed that the rise of fascism (and genocide) in Hitler’s Germany was the result of economic instability, and the way to prevent future world wars and genocide was to promote a liberal economic system that would benefit all of Europe. See HERRING, *supra* note 22, at 580.

⁶⁶ The International Trade Organization (ITO) would not be operationalized until the 1990s, when the ITO became the World Trade Organization (WTO). See *What are the Bretton Woods Institutions?*, BRETTON WOODS PROJECT (Jan. 1, 2019), <https://www.brettonwoodsproject.org/2019/01/art-320747/>.

administrative assistance to countries that cannot pay their debts.⁶⁷ The World Bank was established as a lender to countries needing assistance to rebuild critical infrastructure after World War II.⁶⁸ As this international economic system developed, countries and debtor countries were clearly defined, with their currency values affixed to the U.S. dollar.⁶⁹

While initially cautious in lending to developing countries, World Bank lending blossomed in the 1970s under Robert McNamara's tenure as its president.⁷⁰ McNamara called for aid and loans to developing countries as a moral responsibility on the part of wealthy Western nations. In theory, loans granted to developing countries would alleviate extreme poverty through the funding of public infrastructure that would work to increase the human and physical capital of a country and attract foreign investment and jobs.⁷¹ However, lending soon became a form of political and economic control.⁷²

⁶⁷ Initially, forty-four sovereign nations cooperated in creating the new international monetary system. The system merged two approaches, mostly from American economist Harry Dexter White, with some input from British economist John Maynard Keynes. *See id*; *see also* Sandra Kollen Ghizoni, *Creation of the Bretton Woods System*, FED. RESV. HIST. (Nov. 22, 2013), <https://www.federalreservehistory.org/essays/bretton-woods-created>.

⁶⁸ The lauded success of the U.S. Marshall Plan which provided loans and funding for rebuilding infrastructure devastated by the war in Europe served as a motivation and a model for providing development loans and grants to the rest of the developing world so that they may be brought into the new world order. *See The World Bank and the IMF*, WORLD BANK (Apr. 1993), <https://tinyurl.com/kdnmhkdh>. The loan and aid model, established during McNamara's tenure, did not achieve the same level of success that the Marshall plan purported to, in part because the Marshall Plan worked to rebuild countries with well-established existing government and economic institutions. *See* WILLIAM EASTERLY, *THE WHITE MAN'S BURDEN* 181-83 (2006).

⁶⁹ At the heart of this new world order was the recognition of the rights of sovereign states to participate on equal footing in an international market, but only a few states were considered "sovereign" at the end of WWII. *See* Sophia A. McClennen, *The Rights of Debt*, in *THE DEBT AGE* 13 (Jeffrey R. Di Leo, Peter Hitchcock, & Sophia A. McClennen ed., 2018).

⁷⁰ Robert McNamara was the former U.S. Secretary of Defense. *See id*.

⁷¹ *Id*.

⁷² *Id*.

The Bretton Woods Institutions viewed governments as having a strong role in developing and industrializing their economies.⁷³ But as sovereign debt ballooned in the 1970s, especially in Latin America, economists, members of the international finance institutions, and U.S. politicians became concerned.⁷⁴ The goal of the Washington Consensus—a set of economic policies to aid developing countries in crisis—was to synthesize economic policy by correcting specific economic concerns in Latin America, including “large and inefficient state-owned enterprises and much repressive state regulation of private business” while simultaneously incorporating practices of market liberalization and economically efficient governance that were standard in developing countries.⁷⁵ Although meant for challenges specific to Latin America, many tenets of the Washington Consensus were adapted by the IMF and exemplified in the Structural Adjustment Programs which encouraged debtor countries to reduce government regulation of markets, reduce government spending, and increase transparency.⁷⁶

The adoption of Structural Adjustment Programs not only failed as a sovereign repayment plan but contributed to economic volatility within countries and throughout international markets.⁷⁷ Even as the failure of the one-size-fits-all government restructuring system imposed on developing countries became apparent, the IMF continued to place blame for the inability to repay debts on borrower countries, labeling them corrupt and inadequate.⁷⁸

⁷³ Narcís Serra et al., *Introduction: From the Washington Consensus Towards a New Global Governance*, in *THE WASHINGTON CONSENSUS RECONSIDERED: TOWARDS A NEW GLOBAL GOVERNANCE* (Narcís Serra & Joseph Stiglitz ed., 2008)

⁷⁴ John Williamson, *The Strange History of the Washington Consensus*, 27 *J. POST-KEYNSIAN ECON.* 195, 195-97 (2005).

⁷⁵ *Id.* at 197.

⁷⁶ *Id.*

⁷⁷ Joseph E. Stiglitz, *Is There a Post-Washington Consensus Consensus?*, in *THE WASHINGTON CONSENSUS RECONSIDERED: TOWARDS A NEW GLOBAL GOVERNANCE* 46 (Narcís Serra & Joseph E. Stiglitz ed., 2008) (Oxford University Press), <https://projects.iq.harvard.edu/files/growthlab/files/serra8.pdf>.

⁷⁸ *Id.*

The influence of the World Bank and the IMF and its evolution to market fundamentalism stemming from the Washington Consensus is so strong that it is easily seen in U.S. territories who are not even eligible for World Bank loans because they are not considered political sovereigns separate from the wealthy United States. Territorial debt, however, is considered sovereign, and its repayment and restructuring plans are modeled heavily on IMF austerity measures.⁷⁹

C. From Decolonization to Debt Imperialism

The creation of the Bretton Woods system, followed soon after by the United Nations (U.N.), solidified the role of sovereign states as the key actors within the international economic and social systems.⁸⁰ Although there were just 44 sovereign states recognized in 1944, U.N. decolonization campaigns led to the independence and sovereignty of 80 former colonies.⁸¹ The U.N.'s commitment to decolonization not only reflected a new world order predicated on human rights and self-autonomy of would-be sovereigns, but as an opportunity to fold more economies into the international system.⁸²

Allowing that the post-WWII world order was committed to decolonization generally, the global economic system provided a means for continued extraction of colonial or former colonial resources without the financial burden of administering dispersed and culturally diverse territories.⁸³ The opening of developing countries to the ethos of market fundamentalism led to what Marxist geographer

⁷⁹ For example, in Puerto Rico, the FOMB is modeled heavily on structural adjustment policies of the IMF, even with limited proof of success throughout its application. See Laura Merling, *Puerto Rico's Peculiar Case: Bankruptcy of an Unincorporated Territory*, CTR. FOR ECON. & POL'Y RSCH., (Sept. 7, 2018, 12:00 AM), <https://cepr.net/puerto-rico-s-peculiar-case-bankruptcy-of-an-unincorporated-territory/>.

⁸⁰ McClennen, *supra* note 69.

⁸¹ The U.N. adopted the Declaration on the Granting of Independence to Colonial Countries and Peoples monitored by the Special Committee on Decolonization. See *Decolonization*, U.N. <https://www.un.org/en/global-issues/decolonization> (last visited June 29, 2022).

⁸² McClennen, *supra* note 69.

⁸³ HARVEY, *supra* note 16, at 137.

David Harvey terms “accumulation through dispossession,” whereby global capitalists use the international loan system, forces of colonialism, and militarism to accumulate wealth through the dispossession of the resources of developing countries.⁸⁴ He writes, “[t]he implication is that non-capitalist territories should be forced open not only to trade (which would be helpful) but also to permit capital to invest in profitable ventures using cheaper labour power, raw materials, low-cost land, and the like.”⁸⁵ Harvey argues that the international monetary system disguises imperialism while giving lip-service to decolonization.⁸⁶ It is not simply the dispossession of natural resources, but the public goods (or the privatization of the commons) that have been developed and invested in locally over time.⁸⁷

While holding such value for the U.S., territories have struggled economically, politically, and culturally within the territorial/colonial system as well as the international economic system. The status of U.S. territories as not-quite-sovereigns creates significant challenges to economic stability as well as their ability to get out from under their debt, which is considered to be sovereign.⁸⁸ They have been treated as a colony, whose resources can be extracted or “accumulated” through “dispossession” stemming from legal, military, and economic processes.⁸⁹ However, they are treated as a sovereign nation when tasked with repaying their debt. These competing notions of sovereignty and colonization work not only to entrap territories in a vicious cycle of debt and economic vulnerability, but to reinforce the American Empire, and in turn, the entire global economic system.

⁸⁴ *Id.*

⁸⁵ *Id.* at 139.

⁸⁶ *Id.*

⁸⁷ *Id.*

⁸⁸ McClennen, *supra* note 69.

⁸⁹ HARVEY, *supra* note 16, at 137.

III. TERRITORIAL POLITICAL, MILITARY, AND ECONOMIC HISTORIES

Before U.S. acquisition of its territories, each place possessed its own distinct indigenous identities, cultures, and systems. Becoming part of the U.S. system meant initial military rule followed by assimilation into the American economic and military hegemon. This section will provide an overview of each territory's evolving political status and governance structure, military importance and involvement, and economic development trajectories. This overview includes a discussion of how these overriding trends impacted local populations, land ownership, and economic well-being.

A. Puerto Rico

The long march to the Puerto Rican debt crisis began over 100 years ago with the U.S. acquisition of the island from Spain in 1898. With the Organic Act of 1900, also known as the Foraker Act, the economic path of Puerto Rico was established.⁹⁰ The Foraker Act not only created its political status as an unincorporated territory, it also clarified the economic rights, or rather, economic limitations of the island nation.⁹¹ The Foraker Act denied Puerto Rico the right to enter into trade agreements with other nations outside of the U.S. and the right to enact its own tariff system, and it limited shipping to and from the island to U.S. carriers.⁹² The Foraker Act essentially enfolded the comparatively tiny island into the behemoth U.S. economic system while denying Puerto Rico any agency to compete economically.⁹³ Historian James L. Dietz writes, “the local economy was left defenseless against the inflow of U.S. products and capital. . . .”⁹⁴

⁹⁰ Organic Act of 1900, Pub. L. No. 56-191, 31 Stat. 77 (1900) [hereinafter Foraker Act]; *see also* DIETZ, *supra* note 51.

⁹¹ DIETZ, *supra* note 51, at 88.

⁹² Prior to U.S. acquisition, Puerto Rico conducted most of its trade with the U.S. but was not beholden to expensive U.S. shipping fleets. *See id.* at 89.

⁹³ *Id.*

⁹⁴ *Id.* at 90.

The Foraker Act also incorporated Puerto Rico into the U.S. monetary system and devalued the Puerto Rican peso.⁹⁵ The devaluation of the currency coupled with being newly beholden to the U.S. was catastrophic for local farmers and industries.⁹⁶ The American Colonial Bank, which was unregulated in Puerto Rico, determined who was worthy of good or bad credit, with large American farmers considered “qualified” borrowers while Puerto Rican farmers, whose assets had just been devalued by the Foraker Act, were not considered qualified.⁹⁷ Puerto Rican landowners, with devalued currency, lack of access to credit, and shut out by U.S. competition, often lost their land when they defaulted on their loans or sold their land to American companies to avoid defaulting on their loans.⁹⁸

The Jones Act of 1920 followed in the Foraker Act’s footprints to further impede the island’s ability to dictate trade policy and gain economic independence.⁹⁹ The resulting rise in the cost of goods coupled with the high unemployment rate led to one of the first major diasporas in the island’s U.S. history.¹⁰⁰ Between 1914 and

⁹⁵ Under Spanish rule, the Puerto Rican peso was tied to the Spanish peso and valued one-to-one to the U.S. dollar. However, as the U.S. switched the island’s currency to the dollar, pesos were reimbursed for only sixty cents to the dollar, resulting in an immediate 40% loss of wealth, lowering purchasing power and wages, and limiting islanders’ access to credit. *See id.* at 89-90.

⁹⁶ *Id.*

⁹⁷ *Id.*

⁹⁸ *Id.* at 91.

⁹⁹ The Jones Act of 1920, requires that “vessels transporting cargo domestically be U.S.-built, owned, and crewed.” This protectionist policy aims to secure employment in U.S. shipbuilding and shipyards, cargo carriers, and merchant sailors. Although the USVI, CNMI, and American Samoa are exempt from the Jones Act, Puerto Rico and Guam are bound to its rules as are the non-contiguous U.S. states of Alaska and Hawaii. With the U.S. fleet dwindling, the cost of shipping cargo to U.S. territories is high and territories such as Puerto Rico and Guam (as well as to Alaska and Hawaii) pay higher prices for goods while being prohibited from developing their own trading partners or imposing its own protectionist economic policies. *See* JOHN FRITTELLI, CONG. RSCH. SERV., SHIPPING UNDER THE JONES ACT: LEGISLATIVE AND REGULATORY BACKGROUND 2 (2019).

¹⁰⁰ DIETZ, *supra* note 51.

1930, over 3% of the island's population moved to the U.S. mainland to find work.¹⁰¹

Following the Great Depression and leading up to World War II, efforts to reform the economy of the island worked to shift emphasis from rural agricultural and sugar production to urban industrial development. Under the governorship of New Deal reformist Rexford Tugwell, in conjunction with efforts from the Partido Popular Democrático (PPD) legislature led by Luis Muñoz Marín, Puerto Rico enacted a number of initiatives aimed at strengthening the administration of the island, promoting industrial development, and addressing the problem of absentee landowners in the hopes of moving toward greater autonomy.¹⁰² What began as a system of “state-capitalism” with a strong administrative core focused on state-owned industries and public works and infrastructure, shifted to state-sponsored capitalism, where industries were gradually privatized and supported by the government.¹⁰³

By the time Puerto Rico became a U.S. Commonwealth with Muñoz elected as its first governor in 1952, the PPD had already set in motion a number of administrative changes to modernize the economy, especially apparent in “Operation Bootstrap.”¹⁰⁴ Operation Bootstrap required an initial infusion of U.S. capital to shore up local industrial development in the long-term.¹⁰⁵ Between the 1950s and 1980s, Puerto Rico experienced exponential economic growth in wages and in Gross Domestic Product (GDP); Operation Bootstrap

¹⁰¹ *Id.*

¹⁰² What began as a system of “state-capitalism” with a strong administrative core focused on state-owned industries and public works and infrastructure, shifted to state-sponsored capitalism, where industries were gradually privatized and supported by the government. For both Tugwell and the PPD, there was not a resistance to capitalism, they just wanted to end exploitative capitalism and increase access to well-being (and wealth) to islanders. *See id.* at 182-85.

¹⁰³ *Id.*

¹⁰⁴ Commonwealth status granted Puerto Rico the authority to write its own constitution and establish a representative democratic government. The constitution had to be approved by U.S. Congress and could not declare Puerto Rico as a state or independent nation. *Id.* at 235.

¹⁰⁵ *Id.* at 206-39.

was considered a major success.¹⁰⁶ However, this success was dependent on local governments going to extraordinary lengths to attract mainland investment. In addition to multiple tax incentives created to spur development, Puerto Rico offered an unlimited and cheap source of labor, which some scholars argue provided a larger subsidy than tax incentives.¹⁰⁷

By the late 1970s, Puerto Rico was losing its comparative advantage of cheap labor with the rise of labor unions and outsourcing by multinational corporations to countries with even cheaper labor.¹⁰⁸ While wages increased for those who were lucky enough to be employed, the light industry that moved to the island did not lower unemployment overall. In many cases, increased employment in U.S. firms was coupled with a loss of employment in locally owned firms who did not benefit from the tax exemptions afforded to new industry.¹⁰⁹

Operation Bootstrap also resulted in the rise of export enclaves, characterized by companies that exported all their profits and capital back to the mainland, with little investment in Puerto Rico, save for the wages paid to workers. Although Muñoz and the PPD thought that increased economic development would lead to more autonomy for the island, Operation Bootstrap had the opposite effect. Ultimately, the Puerto Rican economy became dependent on the U.S. for trade and jobs, as local firms had diminished except in the areas of tourism and construction.¹¹⁰

The long-term effects of a development policy laser-focused on courting U.S. investment would become evident as local governments had trouble covering operating costs, especially as rapid urbanization caused by industrialization further stressed local services.¹¹¹ With the failure of export enclaves to enrich local economies and the local tax base, governmental operation costs faced

¹⁰⁶ *Id.*

¹⁰⁷ *Id.* at 247.

¹⁰⁸ *Id.* at 228-31.

¹⁰⁹ *Id.*

¹¹⁰ *Id.* at 183-85.

¹¹¹ *Id.* at 226-28.

budgetary shortfalls and in the 1970s, Puerto Rico began selling municipal bonds to cover operating costs.¹¹²

However problematic the overreliance on tax breaks to fund development turned out to be for local workers and businesses, the repeal of these tax exemptions in 1996 (to be phased out over 10 years) led to more economic disaster, with high job losses and increased outmigration.¹¹³ By 2006, Puerto Rico had lost a high number of manufacturing jobs and industries, and so debt became more than a way to cover budget shortfalls, it became a method for paying down past debt, leading to a debt spiral that would come to a head in 2016, when Puerto Rico defaulted on its debt payments. As journalist and social activist Naomi Klein writes:

Broke and desperate, the Puerto Rican government turned to borrowing, in part, by using its special tax status to issue municipal bonds that were exempt from city, state, and federal taxes. It also purchased high-risk capital appreciation bonds which will eventually rack up interest rates ranging from 785 to 1,000 percent.¹¹⁴

Despite defaulting on debt and the well-documented problems associated with courting outside investment, the economic development focus in Puerto Rico remains fixed on attracting U.S. capital investment and using tax exemptions to do so.¹¹⁵ In 2012, Puerto Rico passed Act 22, which offered generous tax breaks to individuals and businesses newly relocated to the island in an effort to attract wealthy immigrants and promote foreign investment. In 2019, three years after defaulting on its debt, Puerto Rico, under the

¹¹² KLEIN, *supra* note 10, at 26.

¹¹³ *Id.*

¹¹⁴ *Id.*

¹¹⁵ We see this in Act 20/22 and the Opportunity Zone Act of 2018/Puerto Rico Opportunity Act of 2019 (or Act 60). Act 20/22 provides tax exemptions for wealthy elite residing in Puerto Rico for at least 6 months of the year, including federal, local capital gains, tax until the year 2035. Ninety-eight percent of the island is considered an Opportunity Zone, creating further tax exemptions for external (U.S.) businesses who invest in Puerto Rico. *See* ROCÍO ZAMBRANA, *COLONIAL DEBTS, THE CASE OF PUERTO RICO* 49 (2021) (ebook).

supervision of the FOMB, passed Act 60.¹¹⁶ Similar to Act 22, new immigrants meeting the residence requirement benefit from zero capital gains tax on income earned on the island and new businesses do not pay export taxes.¹¹⁷

The failure of multiple earlier efforts to turn structural adjustment, austerity, and foreign investment into revenue generation for government operations raises significant questions about the motives of local leaders and the FOMB who continue to promote these strategies. In 2021, following the onset of the COVID-19 pandemic and the increase in remote work, Puerto Rico became a popular destination for cryptocurrency fund managers and investors.¹¹⁸ While the influx of these investors and businesses have created a few jobs on the island in the form of call centers, consulting, and tax services, the tax incentives are not extended to local business development, and the astronomical rise in real estate prices along the northern coast of Puerto Rico has priced out the workers needed to serve these new wealthy communities.¹¹⁹ The seemingly singular focus on tax incentives, in the end, has done more to harm Puerto Rico's economy, attracting "tax avoiders" who do little to raise revenue for the government, but have an outsized role in raising the cost of living for an island whose native residents

¹¹⁶ *Puerto Rico Incentive Code*, DEP'T OF ECON. DEV. & COM., <https://www.ddec.pr.gov/en/puerto-rico-incentives-code/> (last visited Jan. 7, 2022).

¹¹⁷ *Id.*

¹¹⁸ Francesca Maglione, *Zero Taxes, Golf and Beach Houses Create a Crypto Island Paradise*, BLOOMBERG (Dec. 11, 2021, 9:15 AM), <https://tinyurl.com/3ncsc32a>.

¹¹⁹ New wealth immigrants have settled in three main communities: the Condado neighborhood of San Juan, Dorado, and Bahia. *See id.* But they are also branching out into smaller communities, such as the small town of Quebradillas, where a working class apartment building was bought by a U.S. investment group to turn into expensive condominiums, unaffordable to current residents. *See* Bianca Graulau, *Are Puerto Ricans Being Pushed Out?*, YOUTUBE (Dec. 28, 2021), <https://www.youtube.com/watch?v=YGXtWpCOiC8>.

already bear the brunt of the austerity measures and debt repayment.¹²⁰

B. United States Virgin Islands (USVI)

The USVI consists of three islands in the Caribbean Sea, including St. Thomas, St. John, and St. Croix. The islands are classified as an unincorporated, organized U.S. territory, and were purchased from Denmark in 1917 for \$25 million, the most the U.S. has ever paid for land.¹²¹ The U.S. wanted to acquire the islands from Denmark for many years, and finally did so to prevent their sale to Germany during World War I.¹²² Years later, when President Hoover visited the island, he expressed regret at purchasing “an effective poorhouse” with little use beyond “remote naval contingencies.”¹²³ There have been a number of Organic Acts to establish governance and tax systems, beginning in 1934. After years of governors being appointed by the U.S., the USVI elected its first governor in 1970.¹²⁴

With some variation, all three islands have a shared history of indigenous Caribe, Arawak, and Taino inhabitants who did not survive early European colonization. Within the first hundred years of Christopher Columbus’s first encounter with locals he termed “hostile,” entire indigenous populations died from disease brought by the Europeans.¹²⁵ As European settlers from France, Spain, Denmark, and England took control of land at differing times and started sugar plantations, they imported slaves from Africa to work as

¹²⁰ *Economics Laureate Joseph Stiglitz on the Cause of Puerto Rico’s Financial Crisis*, PUERTO RICO REPORT (Dec. 21, 2022), <https://tinyurl.com/3m5nhva3> (regarding the cost of living in Puerto Rico, residents pay more for food and services such as electricity and water than in the U.S., while earning much less for similar jobs on the mainland) *See also* @bgraulau, TWITTER (Jan. 5, 2022 7:48 AM) <https://twitter.com/bgraulau/status/1478709959164628993>.

¹²¹ BOYER, *supra* note 38, at 305-07.

¹²² *Id.*

¹²³ Richard V. Oulahan, *Porto Rico Gaining, Virgin Isles a Loss, Hoover Concludes*, N.Y. TIMES (Mar. 27, 1931), <https://www.nytimes.com/1931/04/23/archives/urges-virgin-islands-to-diversify-crops-dr-skinner-says-development.html>.

¹²⁴ BOYER, *supra* note 38, at 305-07.

¹²⁵ *Id.* at 4.

free labor on the plantations.¹²⁶ Slavery on the island ended slightly earlier than many neighboring islands due to slave revolts, the increasing cost of maintaining slaves, and the emergence of the so-called “free colored” class.¹²⁷ However, once free, the plantation owners petitioned the Danish government to pass the Labor Act of 1849, which forced former slaves into year-long labor contracts, which when violated, resulted in fines.¹²⁸ Emancipated slaves did not find freedom, but instead were pushed into serfdom.¹²⁹

The current population, numbering over 104,000 people, largely descended from African slaves, with a small minority of people migrating from nearby islands, Denmark and other European countries, and since acquisition, the U.S. mainland.¹³⁰ Seventy-six percent of the population identifies as Afro-Caribbean or Black.¹³¹

After the U.S. acquisition in 1917, the islands were placed under Naval control, which did little to change the economic and political system left over from Danish colonialism.¹³² Voting rights were tied to property and wealth, while most people on the island were impoverished.¹³³ With the government catering to elite landowners, poverty on the island persisted.¹³⁴ At the end of the Naval autocracy, 80% of the land on St. Croix was owned by just twenty men and 90 of all arable land on all islands was owned by 1% of families.¹³⁵

¹²⁶ *Id.*

¹²⁷ The “free colored” term was applied to those born of a female slave and a white father on the USVI. *See id.* at 38-39.

¹²⁸ *Id.* at 59-60.

¹²⁹ *Id.*

¹³⁰ Historian Boyer refers to U.S. mainland residents as “continentals.” *See id.* at XXV.

¹³¹ *United States Virgin Islands Population 2021*, WORLD POP. REV., <https://worldpopulationreview.com/country-territories/united-states-virgin-islands-population> (last visited January 5, 2022).

¹³² BOYER, *supra* note 38, at 111-23.

¹³³ *Id.*

¹³⁴ *Id.*

¹³⁵ *Id.* at 162.

In addition to Naval leadership inaction, a declining sugar industry, the stock market crash of 1929, and Hurricane San Felipe-Okeechobee, worked together to worsen the plight of residents.¹³⁶ The population had already been in decline for over 50 years before the U.S. acquired the islands, and with the acquisition, many of the most capable residents left for the mainland, creating a remittance economy on the islands.¹³⁷ Much of the manual labor was taken up by foreign workers from neighboring Caribbean islands.¹³⁸

The economic development of the territory can be classified into three major overlapping phases. Early attempts focused on the revitalization of agriculture inherited from the plantation economy under Danish rule.¹³⁹ These efforts focused on sugar and fed into the rum industry, as exemplified in the Virgin Islands Company (VICO) which morphed into the Virgin Islands Corporation (VICORP), a public-private partnership investing in the infrastructure and innovation of the agricultural sector.¹⁴⁰ VICORP rarely made a profit, and its budgetary shortfalls were often supplemented with public sector money. Keeping such an organization afloat may have been wise had the employees been native islanders, but workers were predominantly foreign.¹⁴¹ Thus the government was investing in an expensive project that largely served to provide employment for immigrant labor.¹⁴²

This trend continued regardless of the economic focus of the government, from the tourism which blossomed in earnest in the late 1950s or the industrialization of the economy in the 1970s. External investors—usually white continentals—owned the property and the businesses, and the staff consisted of foreign workers. Native Virgin Islanders rarely owned tourist or industrial businesses, and further, were rarely employed in these sectors, despite policies that required

¹³⁶ AUSTIN, *supra* note 7.

¹³⁷ BOYER, *supra* note 38, at 301.

¹³⁸ *Id.* at 167-70.

¹³⁹ *Id.* at 180.

¹⁴⁰ *Id.*

¹⁴¹ *Id.*

¹⁴² *Id.* at 268.

such.¹⁴³ The growth of tourism on the island did serve to increase revenues and spending on the islands, as air travel and cruises increased in the post-WWII boom of the U.S.¹⁴⁴ After a slow start to efforts to turn tax breaks and subsidies into foreign investment, by 1970, U.S. investment in diverse light industry had finally taken root.¹⁴⁵ Similar to agriculture and tourism development, light industry consisted of white business ownership who employed foreign workers.¹⁴⁶

Just as black native Virgin Islanders were not beneficiaries of jobs in tourism or light industry, very few owned land.¹⁴⁷ Brought to the islands as slaves for plantation owners, land remained in the hands of the wealthy elite when slavery ended and passed to wealthy continentals at the height of tourism and industry. After U.S. acquisition, the federal government and military also became a major landowner on the islands. This highly stratified economic system consisting of white ownership, a foreign labor class, and an outmigration of native Virgin Islanders to the U.S. for work, led to racial tensions at all levels of society.¹⁴⁸ Wealthy landowners walled their homes and communities off from both native islanders and foreign workers. Native islanders, dispossessed from land and business, fought to maintain their native identity while differentiating themselves from the “down islanders.”¹⁴⁹ Violent crime, drug use, and trafficking abounded from 1980-2000.¹⁵⁰

After years of growth, the industrial sector struggled in the 2000s and one of the biggest employers, Hovensa oil refinery, closed,

¹⁴³ *Id.*

¹⁴⁴ *Id.* at 262.

¹⁴⁵ *Id.*

¹⁴⁶ Although the 1975 iteration of the Industrial Development Program required that businesses benefitting from tax breaks were required to have a workforce consisting of native Virgin Islanders, the two biggest beneficiaries—Hess Oil Company and Harvey Alumina Company, both heavily extractive and polluting—consistently failed to meet this quota. *See id.* at 288.

¹⁴⁷ BOYER, *supra* note 38, at 313.

¹⁴⁸ *Id.* at 407-22.

¹⁴⁹ *Id.* Because foreign workers typically came from neighboring islands in the Lower Antilles, they were referred to as “down islanders.”

¹⁵⁰ *Id.*

reducing revenue for the government and prompting a rise in unemployment.¹⁵¹ The USVI continues to be economically dependent on the tourism industry, which is highly susceptible to disruption from extreme weather events and pandemics such as COVID-19.¹⁵²

With its loss of manufacturing revenues and the instability of the tourism market, the USVI turned to borrowing to finance its budget shortfalls for day-to-day operations and meet its pension obligations.¹⁵³ Whereas in the past, bonded debt had been reserved for funding schooling, infrastructure, and past debt service, “more than a third of USVI’s current bonded debt outstanding fiscal year 2015 was issued to fund government operating costs.”¹⁵⁴ As of 2017, USVI carried \$2 billion in public debt and owed \$4 billion to its public pension system.¹⁵⁵ The USVI hasn’t had a credit rating since 2017 because then-Governor Mapp suspended relations with credit rating agencies¹⁵⁶ The European Union (E.U.) designated USVI as a “non-cooperative tax jurisdiction.”¹⁵⁷

C. Guam

Guam’s status as an unincorporated, unorganized territory of the U.S. was established in the Treaty of Paris of 1898 when it was ceded to the U.S. by Spain.¹⁵⁸ Since then, Guam’s geographic location

¹⁵¹ AUSTIN, *supra* note 7.

¹⁵² U.S. GOV’T ACCOUNTABILITY OFF., U.S. Territories: Public Debt Outlook, GAO-18-160, 52 (2017), <https://www.gao.gov/assets/gao-18-160.pdf>.

¹⁵³ *Id.*

¹⁵⁴ *Id.*

¹⁵⁵ AUSTIN, *supra* note 7.

¹⁵⁶ *Id.*

¹⁵⁷ Then-USVI governor Kenneth Mapp’s strategy to meet financial obligations and pay down debt included some tax increases on beer, soda, liquor and timeshares; enhanced revenue collection measures; and reduced government spending. The new administration is looking for longer-term solutions that include economic diversification beyond tourism dependency and debt payment from a “lockbox” account. However, it is anticipated that the pension fund will be depleted by 2024. *See id.* at 3.

¹⁵⁸ The island has been occupied by various countries and military forces since it was “discovered” in 1521 by the Portuguese explorer Magellan, who was commissioned by Spain. ROBERT F. ROGERS, *DESTINY’S LANDFALL: A HISTORY OF GUAM* 5 (1995).

solidified its strategic importance in military and political operations and has played an important role in U.S. military conflicts from WWII through the Gulf War in 1991.¹⁵⁹ The island also serves as a Pacific shipping and communications center for the U.S.¹⁶⁰ Similar to other colonial projects, the desires of the indigenous Chamorro population were not taken into account as Spain, Japan, and the U.S. determined who would control the island at various points since its discovery.

It is impossible to divorce the U.S. military, especially the Navy, from the economic and political history of Guam. Between 1898-1941 and 1944-1950, the U.S. Navy governed the island as a military outpost rather than an island nation.¹⁶¹ The island's geostrategic importance was also clear to Japan, which occupied Guam during WWII from 1941-1944.¹⁶²

Setting up a proper naval base in the Pacific required the takeover of local land. With the stated goal of displacement of the indigenous Chamorro population in the name of national security, the federal government had claimed ownership of at least 58% of land on the island by 1958.¹⁶³ Loss of some of the most fertile land crippled the agricultural sector and caused grief among locals who had familial and cultural attachments to their communal property.¹⁶⁴

¹⁵⁹ Guam is located “almost dead center” of the Western Pacific and north of the equator and halfway between Hawaii and the Philippines going East to West and halfway between Japan and Papua New Guinea going North to South. It is the largest island in the Micronesia cultural region of Oceania (or the South Pacific) at 214 total square miles and is “also the only high island with a protected major harbor and sufficient land for several airports.” *See id.* at 1.

¹⁶⁰ *Id.* at 1-2.

¹⁶¹ *Id.*

¹⁶² The U.S. expelling Japan from the island became part of the “liberation story” at the heart of the national identity that the U.S. imposed on Guam. *See* Valerie Solar Woodward, “I Guess They Didn’t Want Us Asking Too Many Questions”: *Reading American Empire in Guam* 25 CONTEMP. PAC. 1, 67-91 (2013).

¹⁶³ ROGERS, *supra* note 158, at 214-29.

¹⁶⁴ U.S. policy dictated that Chamorrans be reimbursed for land annexed by the federal government, but in the end, the payout was small (\$8 million to 4,000 families) and federal land holdings increased. MANSEL G. BLACKFORD,

Remaining land not owned by the federal government was restricted to ownership and leases by indigenous Chamorro people only.¹⁶⁵ While the stated intent of these restrictions was protectionist in nature, when coupled with high security restrictions they deterred foreign investment.¹⁶⁶ The former agricultural-based economy would not regain its footing in the sector nor would a diverse commercial sector emerge.¹⁶⁷ In the 1960s, following the signing of their Organic Act, Guam looked to tourism for its economic future. Tourism would only flourish on the island after working for years to extricate itself from the restrictions set by the U.S.¹⁶⁸ After restrictions were lifted, tourists came from all over the Pacific, especially Japan.¹⁶⁹

The island's distance from potential trade partners created further challenges in developing a vibrant manufacturing sector. And with the Navy controlling the only major port on Guam, the import/export economy was further inhibited.¹⁷⁰ Although the island now has its own government representation, the political and economic life of the island remains highly intertwined with the U.S. federal government and the U.S. military, especially regarding U.S. subsidies and employment.¹⁷¹

D. American Samoa

American Samoa is a group of five volcanic islands and two atolls south of the equator in the Pacific Ocean. The islands of American Samoa, named Tutuila, Aanu'u, Ofu, Olosega, and Ta'u became part of the U.S. through deeds of cession established

PATHWAYS TO THE PRESENT: U.S. DEVELOPMENT AND ITS CONSEQUENCES IN THE PACIFIC 173 (2007).

¹⁶⁵ ROGERS, *supra* note 159, at 214-17.

¹⁶⁶ *Id.* at 230.

¹⁶⁷ *Id.* at 245-50.

¹⁶⁸ Travel to Guam required a U.S. security clearance, which deterred the development of the tourist economy. Aside from the restrictions on travel and foreign work on the island, the detritus from the military littered beaches and potential tourist sites. *See id.* at 174.

¹⁶⁹ *Id.*

¹⁷⁰ *Id.* at 174-76.

¹⁷¹ *Id.* at 252.

between 1900 and 1924.¹⁷² American Samoa is classified as an unincorporated, unorganized territory of the U.S. and its citizens have U.S. National status.¹⁷³ Upon U.S. acquisition, the U.S. Navy governed the islands until 1951 and the U.S. Department of the Interior (DOI) took control in 1956. While technically under the control of the DOI, American Samoa adopted its own Constitution in 1966 and held its own election in 1977.¹⁷⁴ The group of islands makes their own immigration and border rules.¹⁷⁵

The U.S. acquired American Samoa with the goal of establishing a naval coaling station in the city of Pago Pago on Tutuila, Samoa's most populous island.¹⁷⁶ Upon cession, the U.S. Navy assumed control of the American Samoa islands.¹⁷⁷ Under indirect rule of Commandant Benjamin Tilley, the Navy established a central administration, a regional governance system, tax system, a property system, and enacted lifestyle ordinances.¹⁷⁸ The central administration created policy and enacted and enforced law through the High Court. A regional governance system was developed that incorporated some elements of traditional Samoan leadership and administrative levels, including districts overseen by a Samoan *matai* (chief), counties administered by county chiefs, and fifty-two villages led by a village council—or *pulenu'u*—that served as a liaison between the traditional Samoan system and the new centralized governance system developed by the U.S.¹⁷⁹

¹⁷² LINE-NOUE MEMEA KRUSE, THE PACIFIC INSULAR CASE OF AMERICAN SAMOA: LAND RIGHTS AND LAW IN UNINCORPORATED US TERRITORIES 6 (2018).

¹⁷³ Unlike other U.S. territories, American Samoa does not fall under an Organic Act defining its governance structure. Those with U.S. National status are not considered U.S. citizens. See *American Samoa*, U.S. DEP'T OF INT. OFF. OF INSULAR AFFS., <https://www.doi.gov/oia/islands/american-samoa> (last visited June 30, 2022).

¹⁷⁴ *Id.*

¹⁷⁵ *Id.*

¹⁷⁶ KRUSE, *supra* note 172, at 43.

¹⁷⁷ *Id.*

¹⁷⁸ Lifestyle ordinances were enacted at the village level prohibited public nudity, fornication, cohabitation, disorder, and in one village, tattooing. *Id.* at 115.

¹⁷⁹ *Id.*

American Samoa self-chose the status of unorganized, unincorporated territory that brought with it limited U.S. National citizenship status, because they wanted to maintain their own cultural identity and tribal systems of land tenure.¹⁸⁰ The Deeds of Cession in 1904 outlined measures to preserve the communal land tenure system which indigenous Samoan's considered a "cultural cornerstone."¹⁸¹ Once the Navy was in control, however, they interpreted and enforced their own laws and began to slowly erode communal ownership of land in American Samoa.¹⁸² The establishment of new property laws reflected multiple desires of the U.S., including the protection of its Samoan land assets from foreign purchase and takeover, the monetization of the agricultural system, and the establishment of an American system of individual property ownership.¹⁸³ Property titles were awarded to individuals who could prove that they had ten or more years of land tenure and cultivation.¹⁸⁴ The awarding of property titles to individuals broke down traditional communal ownership of land while simultaneously monetizing agricultural production to generate taxes to support the administration of the island.¹⁸⁵

Economic development efforts in American Samoa faced the challenge of a difficult, mountainous topography and its geographical distance from the continental U.S.¹⁸⁶ Agriculture would not develop beyond subsistence farming, but with its proximity to one of the world's richest tuna fisheries the territory attracted tuna companies such as the U.S.-based Star-Kist and Thailand's Chicken of the Sea who opened tuna canneries in Pago Pago.¹⁸⁷ The industry benefited from economic ties to the U.S., including duty-free tuna exports to

¹⁸⁰ *Id.*

¹⁸¹ *Id.* at 43.

¹⁸² *Id.*

¹⁸³ *Id.* at 135-57.

¹⁸⁴ *Id.* at 163-68.

¹⁸⁵ *Id.* at 124.

¹⁸⁶ Liam Campling & Elizabeth Havice, *Industrial Development in an Island Economy: US Trade Policy and Canned Tuna Production in American Samoa*, 2 ISLAND STUD.J. 2, 211 (2007).

¹⁸⁷ *Id.*

the mainland and exemption from U.S. corporate income taxes.¹⁸⁸ And because industries on the islands were exempt from U.S. labor laws, companies could pay wages below the U.S. minimum wage but at higher rates than other island nations in the region.¹⁸⁹ These benefits had their limitations, which became clear when the tax-exemptions and tax credits ended. With increased global competition, market liberalization, and extreme-weather events that impacted the infrastructure of the canneries, the Chicken of the Sea plant closed in 2009, and 2,000 jobs were lost.¹⁹⁰

While much economic research focuses on the importance of the success of tuna canneries in supporting the economy, people indigenous to the island saw fewer benefits.¹⁹¹ Low wages, further suppressed by high competition from cheaper foreign labor markets, permeate the island.¹⁹² Poverty and out-migration to the U.S. and other regional countries are high.¹⁹³ American Samoa has a higher diaspora population living abroad than on the island itself, which is dependent on remittances sent home.¹⁹⁴ Between 2010 and 2020,

¹⁸⁸ According to Section 936 of the Internal Revenue Act, the U.S. provides a tax credit equal to the taxable income from trade or business in U.S. territories, effectively cancelling out the collection of U.S. corporate income tax. *See* I.R.C. § 936.

¹⁸⁹ *Id.* §§ 218, 222.

¹⁹⁰ The repeal of Section 936 of the Internal Revenue Act in 2006 exempted tuna canneries until 2012. The American Samoan industry still benefits from duty-free trade with the U.S. mainland and the ability to set lower wages; however, by U.S. labor laws, American Samoa's minimum wage rate is set to increase to match the current U.S. minimum wage over the next 15 years. *See generally* U.S. GOV'T ACCOUNTABILITY OFF., GAO-20-467, AMERICAN SAMOA: ECONOMIC TRENDS, STATUS OF THE TUNA CANNING INDUSTRY, AND STAKEHOLDERS' VIEWS ON MINIMUM WAGE INCREASES (2020), <https://www.gao.gov/assets/gao-20-467.pdf>.

¹⁹¹ *Id.*

¹⁹² *Id.*

¹⁹³ *Id.* at 10-11.

¹⁹⁴ Adam S. Beissel, *Transnational Corporations of Football Kin: Migration, Labor Flow, and the American Samoa MIRAB Economy*, 44 J. SPORT & SOC. ISSUES, 47, 52 (2020).

American Samoa lost over 10% of its population.¹⁹⁵ Thirty five percent of the current island population is foreign-born, with a majority coming from neighboring Samoa.¹⁹⁶

The declining tuna industry and GDP on the islands have reduced revenues for local governments resulting in budget cuts to many essential services.¹⁹⁷ Historically, the island nation has been highly dependent on American subsidies.¹⁹⁸ Federal and local governments have focused on expanding the broadband infrastructure on the island to promote commerce and remote work.¹⁹⁹ However, the islands were overlooked in recent federal funds earmarked for broadband infrastructure.²⁰⁰ Although American Samoans did not desire the path to statehood, their status as an unorganized, unincorporated territory did not protect their way of life from the larger forces of U.S. and global capitalist systems.

E. Commonwealth of Northern Mariana Islands

North of Guam, the Northern Mariana Islands consist of fourteen small islands totaling 183.5 square miles of land mass that span a 300-mile archipelago in the Pacific Ocean. Only four islands—Saipan, Grugan, Rota, and Tinian—are populated, although sparsely, with a total population of 50,000 people.²⁰¹ Spain originally colonized

¹⁹⁵ *Census Bureau Releases 2020 Population and Housing Unit Counts for American Samoa*, U.S. CENSUS BUREAU (Oct. 28, 2021), <https://www.census.gov/newsroom/press-releases/2021/2020-census-american-samoa.html>.

¹⁹⁶ *American Samoa Population 2022*, WORLD POP. REV., <https://worldpopulationreview.com/country-territories/american-samoa-population> (last visited June 30, 2022).

¹⁹⁷ *Overview of the State: American Samoa 2020*, U.S. DEP'T HEALTH & HUM. SERV., <https://mchb.tvisdata.hrsa.gov/Narratives/Overview/be7a1b90-b6cb-4716-ac6e-a27b897be87a> (last visited June 30, 2022).

¹⁹⁸ *Id.*

¹⁹⁹ U.S. GOV'T ACCOUNTABILITY OFF, *supra* note 190, at 31.

²⁰⁰ While tribal communities in Hawaii received federal funds from the U.S. Consolidated Appropriations Act, Pacific Island possessions did not benefit. *See* U.S. DEP'T HEALTH & HUM. SERV., *supra* note 198.

²⁰¹ U.S. GOV'T ACCOUNTABILITY OFF., GAO-20-305, COMMONWEALTH OF THE NORTHERN MARIANA ISLANDS: RECENT ECONOMIC AND WORKFORCE TRENDS, (2020), <https://www.gao.gov/assets/gao-20-305.pdf> [hereinafter *GAO CNMI*].

the Northern Marianas but Germany later possessed them after World War I, followed by Japan during World War II. The Northern Marianas relationship with the U.S. began during World War II, after the U.S. expelled the Japanese.²⁰²

Within the first 150 years of Spanish colonization of the Northern Mariana Islands, the indigenous Chamorro population was reduced from 100,000 to 5,000. The surviving Chamorro resisted the imposition of Catholicism and the Spanish responded by forcing their displacement to nearby Guam.²⁰³ The islands remained uninhabited for 100 years until the Spanish used them to re-home residents from the Carolina islands which had been destroyed by a storm. Thus, the native-born population of the Northern Marianas is considered to include both Chamorran and Carolinian populations.²⁰⁴

At the end of World War II, the local population, which at that time included many Japanese, was once again forcibly displaced, but to camps on Saipan instead of to Guam, and by the U.S., not the Spanish.²⁰⁵ CNMI celebrates “Liberation Day” as a holiday commemorating their release from these camps and the establishment of U.S. control of the islands.²⁰⁶ The holiday occurs on July 4th of each year, coinciding with U.S. Independence Day.

The islands were put into a U.N. Trusteeship administered by the U.S. in 1947 and put under the power of the U.S. Department of State from 1952 to 1976 by the U.S. Department of the Interior.²⁰⁷ The Northern Marianas sought their own path to statehood after

²⁰² *Id.*

²⁰³ There was one remote community on the remote island of Roto where Chamorrans were not displaced to Guam. *See* GREGG DE BIE, PRIVATE LANDS CONSERVATION IN THE COMMONWEALTH OF THE NORTHERN MARIANA ISLANDS 5 (2004).

²⁰⁴ ROGERS, *supra* note 158, at 87.

²⁰⁵ DOUG MACK, THE NOT-QUITE STATES OF AMERICA: DISPATCHES FROM THE TERRITORIES AND OTHER FAR-FLUNG OUTPOSTS OF THE USA 176 (2017).

²⁰⁶ *Id.*

²⁰⁷ KRUSE, *supra* note 172, at 184.

Guam refused to join in their appeal.²⁰⁸ Like Puerto Rico, they asked to be recognized as a commonwealth, believing it was a path to statehood.²⁰⁹ In 1978, the islands established their own constitution called the “Covenant” and established a local government that mimicked the U.S. system, although local law dictated property, immigration, labor, and tax policy.²¹⁰ In 1986 the Northern Mariana Islands became an official commonwealth of the U.S. and its residents were granted U.S. Citizenship.²¹¹ Upon gaining commonwealth status, CNMI received \$420 million and additional moneys in indirect subsidies such as welfare and food stamps between 1978 and 1992.²¹²

Economic development on the islands from the late 1980s through the 1990s focused on the industrialization of the island and the development of the tourism industry. Boasting a low minimum wage and duty-free imports to the U.S., Saipan attracted more than thirty garment factories at the peak of industrialization, employing up to 1,500 foreign guest workers.²¹³ As low wages attracted foreign workers—largely from China, the Philippines, and Bangladesh—many native CNMI residents left to find better opportunities in the states, resulting in over 50% of CNMI’s population being dominated by foreign-born guest workers.²¹⁴

One of the champions of keeping wages low on the islands to maintain garment factories was former U.S. House Majority Leader

²⁰⁸ The Northern Marianas sought to unite with Guam in their efforts to become an official U.S. territory, but Guam was resistant because of past tensions exacerbated by the Northern Mariana assistance to the brutal Japanese during the war. See ROGERS, *supra* note 158, at 250.

²⁰⁹ *Id.* at 253.

²¹⁰ *Id.*

²¹¹ *Id.*

²¹² *Id.*

²¹³ Wali M. Osman, *Economic Structure of American Samoa, Commonwealth of the Northern Mariana Islands (CNMI), Guam and the U.S. Virgin Islands (USVI)*, U.S. DEPT OF THE INTERIOR 6 (2012), <https://docslib.org/doc/4829149/economic-structure-of-american-samoa-the-commonwealth-of-the>.

²¹⁴ John Ydstie, *The Abramoff-Delay-Marianas Connection*, NPR (June 17, 2006, 8:00 AM), <https://www.npr.org/2006/06/17/5492833/the-abramoff-delay-mariana-islands-connection>.

Tom Delay of Texas. Lobbied by Jack Abramoff who earned millions from the CNMI government, Tom Delay visited the islands and described CNMI as “a shining light for what is happening in the Republican Party . . . represent[ing] everything that is good about what we’re trying to do in America, leading the world in the free market system.”²¹⁵

The reality on the ground was different from the promise of the free market put forth by Delay, however. Lax labor standards led to predation upon guest workers, first from recruiters who charged large fees for the transport or trafficking of guest workers to the employers themselves.²¹⁶ Guest workers were promised lucrative work in the U.S.²¹⁷ Upon arrival, guest workers found themselves far from the mainland, and often working in barbed-wire enclosed garment factory campuses, highly indebted to their recruiters.²¹⁸ Many news outlets reported on a 1998 Department of the Interior investigation that uncovered multiple labor abuses including withheld paychecks by garment factories, long hours at low pay, forced abortions, and being forced to remain on the compound during off-hours without compensation.²¹⁹ If work was not to be found in the

²¹⁵ From a 1998 ABC 20/20 Investigative report, *quoted in id.*

²¹⁶ *Id.*

²¹⁷ *Id.*

²¹⁸ *Id.*

²¹⁹ Labor abuses have been referenced in numerous articles such as Rebecca Claren’s *Paradise Lost*, which was a story originally published in 2006 or 2007 and told the story of young Chinese rural women becoming victims to trafficking, often forced into work at brothels. *See* Rebecca Claren, *Paradise Lost*, MS. MAG. (July 15, 2019), <https://msmagazine.com/2019/07/15/paradise-lost/>. The Washington Post also reported on these abuses in 1998. *See* William Branigin, *Rising Abuse of Workers Reported on U.S. Island Territory*, WASH. POST (Mar. 30, 1998), <https://www.washingtonpost.com/archive/politics/1998/03/30/rising-abuse-of-workers-reported-on-us-island-territory/51ae4621-e791-4254-8ba6-07b57e7674f5>. A number of hearings also took place regarding these labor abuses as well, including a testimony by David B. Cohen to the House Committee on Natural Resources in 2007, that outlined how economic hardships and labor abuses continued even as oversight and accountability measures improved. *Current Economic, Social, and Security Conditions of the Commonwealth of the Northern Mariana Islands: Statement to the H. Comm. on Nat. Res. Subcomm. on Insular Aff.*, 110th Cong. (2007) (statement of David B. Cohen, Deputy Assistant Secretary, Interior for Insular Affairs), https://www.doi.gov/ocl/hearings/110/northernmarianaislands_

garment factories, guest workers might end up working in the booming sex trade on the island.²²⁰

With the replacement of GATT with the WTO, import tariffs that protected U.S. industry were lifted, reducing the value of the “Made in the USA” label.²²¹ In 2007, the Commonwealth came under U.S. minimum wage rules, which were to gradually increase the minimum wage to match the U.S. minimum wage by 2015, removing an additional incentive for foreign investment on the islands.²²²

The proliferation of garment factory work and their subsequent exit negatively impacted the Commonwealth’s economy. CNMI’s GDP was in a steady decline between 2006 and 2012 as the garment and tourism industries saw simultaneous reductions in revenue.²²³ Yearly GDP gain between 2012 and 2017 is attributed to increased visitor spending and a new tourist boom centered around casinos and gambling.²²⁴ As the casino industry grows, reports of labor abuses continue despite oversight by multiple federal agencies and numerous reformist policies.²²⁵ Recruiters still charge large fees to guest workers, bringing them to work in the construction and operation of the casinos, and illegal prostitution continues.²²⁶ Natural disasters and the ongoing COVID-19 pandemic continue to create challenges to tourism development in CNMI.²²⁷

41907; see also *Oversight Hearing on the Enforcement of Federal Laws and the Use of Federal Funds in the Northern Mariana Islands: Hearing Before the H. Comm. on Nat. Res.*, 106th Cong. (1999), <https://www.govinfo.gov/content/pkg/CHRG-106hhrg63071/html/CHRG-106hhrg63071.htm>.

²²⁰ Claren, *supra* note 219.

²²¹ Osman, *supra* note 213, at 6.

²²² Nikolao Pula, Acting Deputy Assistant Sec’y, Interior for Insular Affs., Statement to the Senate Committee On Energy And Natural Resources (Feb. 28, 2008), https://www.doi.gov/oc/heardings/110/IncreasedMinimumWage_022808.

²²³ *GAO CNMI*, *supra* note 201.

²²⁴ *Id.*

²²⁵ *Id.*

²²⁶ Claren, *supra* note 219.

²²⁷ Super Typhoon Yutu damaged critical infrastructure throughout the CNMI, including to the Saipan International Airport, which was closed for close to six months. This natural disaster would be followed by the COVID-19 pandemic in

Lost in much of the discussion surrounding CNMI is the story of how native Marianans interact, contribute to, or guide economic policy, other than to move to the mainland to find work. The story of CNMI revolves around foreign investors, exploited guest workers, and the corrupt recruiters who function as the intermediary between the two. Between 2010 and 2020, CNMI lost over 12% of its population, although the percentage of native CNMI residents in this exiting population is not known, as the number of employed guest workers has remained the same during this timeframe, it is likely that the exodus represents a fair number of native CNMI residents, and that they moved to the mainland U.S.²²⁸ Regardless of whether the loss of population stems from foreign guest workers or native Marianas, the population loss represents reduced revenues for government operations and public investment.

IV. ANALYSIS

Following Harvey's theory of accumulation by dispossession, this analysis compares the U.S. territories in terms of how forces of colonialism, militarism, and global capitalism have worked to dispossess their resources. These forces are not mutually exclusive; in fact, they are highly interdependent, impacting territorial economies, populations, and political autonomy. I contend that living in a purgatorial relationship with the U.S. makes its territories particularly vulnerable to the negative consequences of empire and global capitalism.

A. Forces of Colonialism

Through judgements in the series of the Insular Cases, the U.S. used the courts to cement its right to treat its territories as belonging to but not fully part of the U.S. As property of the U.S., territorial residents do not enjoy full citizenship status unless they

2020 through the time of this writing, hurting tourism and lowering the GDP since 2018. See *GAO CNMI*, *supra* note 201.

²²⁸ *Census Bureau Releases 2020 Census Population and Housing Unit Counts for the Commonwealth of the Northern Mariana Islands*, U.S. CENSUS BUREAU (Oct. 28, 2021), <https://www.census.gov/newsroom/press-releases/2021/2020-census-cnmi.html>.

move from their homeland to the U.S. or another U.S. territory, and in the case of American Samoa, they only reach U.S. National citizenship status when they do so.²²⁹ Importantly, the territories lack representative power in the U.S. government.²³⁰ While they elect delegates to represent them in Congress, these representatives cannot vote on legislation, even when it concerns territorial matters.²³¹

Following the trajectory of traditional paths to statehood as outlined in the Northwest Ordinance, Guam, Puerto Rico, and the USVI sought autonomy by creating their own representative government, one which mirrored the federal government. CNMI, which didn't become a U.S. territory until 1975, sought commonwealth status as a move toward statehood. Both CNMI and Puerto Rico carry the distinction of being a Commonwealth, but still face economic challenges similar to organized, unincorporated territories such as Guam and USVI and the unorganized, unincorporated territory of American Samoa. As a group, these non-state entities have a higher poverty rate than any U.S. state except for Mississippi.²³² No discernable pattern relating to economic trends emerges related to the small distinctions in political status. Instead, their shared status of being a territory, belonging to but not part of the U.S. sets them apart economically and politically from their state counterparts.

One of the most harmful outcomes of colonialism is exclusion. Territorial exclusion is maintained publicly through a collective forgetfulness, which local Guam scholar Valerie Solar Woodward describes as the mechanism that helps justify or hide the empirical nature of the U.S. Empire.²³³ Woodward calls Guam the “forgotten territory,” one far from the thoughts and minds of

²²⁹ MACK, *supra* note 205, at 73.

²³⁰ CHRISTOPHER M. DAVIS, CONG. RSCH. SERV., DELEGATES TO THE U.S.: HISTORY AND CURRENT STATUS (2015), <https://crsreports.congress.gov/product/pdf/R/R40555/9>.

²³¹ *Id.*

²³² See *Quick Facts*, U.S. CENSUS BUREAU, <https://www.census.gov/quickfacts/US> (last visited June 30, 2022).

²³³ Woodward, *supra* note 162, at 72.

mainland Americans.²³⁴ By “forgetting” about Guam, the U.S. can also conveniently forget about its own status as an imperial nation.²³⁵ On a fundamental level, *inalienable* rights are contingent upon national belonging, and when national belonging is denied, there are cultural, psychological, and economic consequences.²³⁶

B. Forces of Militarism

The occupation of far-flung island and archipelago territories was not always meant to directly dispossess those places of resources. Instead, their value can be extracted in terms of the role they play in building and securing the U.S. Empire.²³⁷ The islands of the Pacific, including those that are not populated, are strong components of what the U.S. considers its militarized borderland.²³⁸ Following the September 11 attack on the U.S., defenses have been shored up across the U.S. territories in the Pacific.²³⁹

The forces of militarism are most apparent in the territory of Guam. With its proximity to Japan and China, the U.S. has focused many of its military installations on the island, referring to it as “the tip of the spear” of U.S. military efforts.²⁴⁰ Guam’s military importance meant that its economy was heavily intertwined with military and federal government endeavors. The military occupies almost half of the land on the island, and decades of military dumping has resulted in a number of toxic, uninhabitable spots throughout the island.²⁴¹ An economy grew around the military, but economic growth was restricted in Guam for years, due to security

²³⁴ *Id.*

²³⁵ *Id.*

²³⁶ *Id.*

²³⁷ DAVIS, *supra* note 1, at 16.

²³⁸ *Id.*

²³⁹ *Id.*

²⁴⁰ Chris Gelardi, *Guam: Resisting Empire at the “Tip of the Sphere,”* THE NATION (Nov. 2, 2021), <https://www.thenation.com/article/world/guam-resistance-empire>.

²⁴¹ *Id.*

concerns.²⁴² Many Chamorro people refer to the military as “occupiers.”²⁴³

Both American Samoa and USVI were brought into the American empire to serve military purposes. Military scouts thought that American Samoa would provide a great location for a Naval Coaling Station.²⁴⁴ Most of the fighting and staging for the effort in the Pacific during World War II occurred farther north in Guam and the Mariana Islands, but American Samoa served as an important safeguard to southern Pacific trade routes and communication lines.²⁴⁵ Similarly, the USVI initially held military significance as a way to deter German entrance into the Caribbean and Latin America. Following World War II, U.S. leaders expressed regret for its purchase.²⁴⁶

In the CNMI, one of the deadliest battles of World War II was fought on the island of Saipan, and the island of Tinian hosted the airstrip that would serve as a staging area for loading the atomic bombs into the planes *Enola Gay* and *Bockscar* to be dropped on Hiroshima and Nagasaki.²⁴⁷ After World War II, the Central Intelligence Agency ran a secret training base for foreign agents.²⁴⁸

U.S. citizenship for Guamanians was originally tied to enlistment in the U.S. military, and there are currently 20,000 military personnel that originate from territories.²⁴⁹ Since 1899, hundreds of thousands of Puerto Ricans have served in the U.S. military, primarily because military enlistment offers a middle-class income not

²⁴² ROGERS, *supra* note 158, at 174.

²⁴³ Gelardi, *supra* note 240.

²⁴⁴ KRUSE, *supra* note 172, at 27.

²⁴⁵ *American Samoa's Role in World War II*, NAT. PARK SERV., <https://www.nps.gov/teachers/classrooms/american-samoa-s-role-in-world-war-ii.htm> (last visited June 30, 2022).

²⁴⁶ MACK, *supra* note 205, at 30.

²⁴⁷ *Id.* at 174.

²⁴⁸ ROGERS, *supra* note 158, at 234.

²⁴⁹ *The Territories: They Are Us*, NAT'L. CONF. OF STATE LEGS. (2018), https://www.ncsl.org/Portals/1/Documents/magazine/articles/2018/SL_0118-Stats.pdf.

otherwise available to Puerto Ricans.²⁵⁰ American Samoa boasts the highest rate of military enlistment of any state or territory in the U.S.²⁵¹ On Vieques Island in Puerto Rico, a former Navy base now sits as a superfund site.²⁵²

For many insular territories who experience natural disasters such as typhoons, tsunamis, or hurricanes, the military is sent in to direct recovery efforts, turning the territories, if only temporarily, into a state of what locals call “disaster militarism.”²⁵³ The military is often glorified for providing order and relief, but in many instances, such as in Puerto Rico, Guam, and CNMI, they are often poor replacements for trained public and humanitarian agencies.²⁵⁴ Territorial police forces in Puerto Rico, USVI, Guam, and CNMI utilize surplus gear from the military to run their operations.²⁵⁵

The forces of militarism as seen in the territories are to protect more than U.S. national security. Military domination of the territories allows the U.S. to project power to the world as well as police the trade and shipping lanes that support the global economy.²⁵⁶ The forces of militarism, then, as expressed in the U.S. territories, support the forces of global capitalism.

C. Forces of Global Capitalism

The forces of global capitalism are played out in the U.S. territories in a number of ways. This comment focuses on three

²⁵⁰ Harry Franqui-Rivera, *The Puerto Rican Experience in the U.S. Military: A Century of Unheralded Service*, CENTRO, <https://centropr.hunter.cuny.edu/digital-humanities/pr-military/puerto-rican-experience-us-military-century-unheralded-service> (last visited June 30, 2022).

²⁵¹ *Born in American Samoa? Want to be Recognized as a Citizen Without Having to Naturalize? Take this Survey*, EQUALLY AM., <https://tinyurl.com/3s839bva> (last visited June 30, 2022).

²⁵² Tiara Na’puti & Kristie Soares, *Militarization without Representation: Your Vote Could Determine the Future of the U.S. Territories*, LATINX POLS. (Oct. 29, 2020), <https://www.latinxspaces.com/latinx-politics/militarization-without-representation-your-vote-could-determine-the-future-of-the-us-territories>.

²⁵³ Gelardi, *supra* note 240.

²⁵⁴ Na’puti & Soares, *supra* note 252.

²⁵⁵ *Id.*

²⁵⁶ DAVIS, *supra* note 1, at 17.

outcomes: economic development trajectories and failures, diaspora, and economic instability.

1. Economic Development in the Image of Global Capitalism

The negative effect of global economic forces is evident across all of the U.S. territories. Each territory initiated numerous economic strategies with the goal of transitioning from plantation or subsistence agriculture and fishing economies into diverse, industrialized economies that could compete in the global free market system. Adopting free market principles put forth by the U.S. and the global economic infrastructure of the IMF, World Bank, and WTO, the island nations became economically vulnerable to labor and resource exploitation by hard-to-please mainland corporations. Territorial relationships with the U.S. only worked to impede sustained economic growth on the islands. U.S. territories are bound by many federal laws and also exercise some freedom in enacting economic policy, such as providing tax breaks and offering lower labor costs than states do.

In Puerto Rico, Operation Bootstrap did modernize the former agrarian landless workforces and raise wages on the island.²⁵⁷ But its focus on attracting foreign investment led to incentives that were not available to local businesses.²⁵⁸ Benefits of industrialization were also elusive for local governments who, short on corporate tax revenue due to tax breaks, struggled to maintain the infrastructure required by foreign investors and the public services required for workers.²⁵⁹ As revenues failed to match operating expenses, public debt started to grow.²⁶⁰

U.S. garment businesses and politicians saw an opportunity in CNMI to take advantage of cheap and vulnerable labor while avoiding import taxes. Garment factories in CNMI, much like the tuna canneries in American Samoa, attracted foreign-born workers from around the Pacific. The garment factories in CNMI have come

²⁵⁷ DEITZ, *supra* note 51, at 206-39.

²⁵⁸ *Id.*

²⁵⁹ *Id.*

²⁶⁰ KLEIN, *supra* note 10.

under scrutiny for major worker exploitation that includes human trafficking, forced labor, and prostitution.²⁶¹ Changes in the global economic order, including the development of the World Trade Organization (WTO) and the North Atlantic Free Trade Agreement (NAFTA) allowed businesses to follow opportunities for cheaper labor in developing countries.²⁶²

Efforts to industrialize with a focus on foreign investment played out in American Samoa, whose tuna canneries struggle to compete with canneries in other countries where labor is cheaper.²⁶³ The once promising oil refinery industry closed down in USVI.²⁶⁴ While most of the employees in American Samoa's canneries and USVI's Hovensa oil refinery were non-native guest workers, the loss of income meant less revenue for local operating budgets.²⁶⁵

In spite of territorial access to the U.S. economy and adopting tenets of global capitalism including low taxes on businesses, focus on foreign investment, keeping labor costs low, territories have found little sustained success in industrialization and global free markets.

2. Diaspora

One of the most evident consequences of the failure of sustained economic development is the loss of population. Population loss creates economic and cultural challenges. Economically, local governments, already cash-strapped, face a reduced tax and revenue base to meet operating expenses. Every

²⁶¹ Claren, *supra* note 219.

²⁶² Larry Rohter, *Trade Pact Threatens Puerto Rico's Economic Rise*, N.Y. TIMES (Jan. 3, 1993), <https://www.nytimes.com/1993/01/03/us/trade-pact-threatens-puerto-rico-s-economic-rise.html>.

²⁶³ U.S. GOV'T ACCOUNTABILITY OFF, *supra* note 190.

²⁶⁴ Dánica Coto, *USVI Oil Refinery to Shutter Indefinitely Amid Violations*, AP (June 21, 2021), <https://apnews.com/article/caribbean-health-coronavirus-pandemic-business-cc9e2aea00c48b70192375d127f027ac>.

²⁶⁵ *See id*; *see also* U.S. GOV'T ACCOUNTABILITY OFF., GAO-21-508, U.S. TERRITORIES: PUBLIC DEBT OUTLOOK—2021 UPDATE (2021), <https://www.gao.gov/assets/gao-21-508.pdf>.

territory has seen a marked population decline in the last ten years.²⁶⁶ The highest population loss happened in USVI which lost 18% of its population.²⁶⁷ CNMI and Puerto Rico both lost roughly 12% of their population while American Samoa's population fell by almost 11%.²⁶⁸ Guam had the smallest population decline at almost 4%.²⁶⁹ High population loss in USVI and Puerto Rico is attributed to the multiple economic and natural shocks occurring over the last twenty years, such as the recession, loss of industry, Hurricane Maria in Puerto Rico and USVI, and Hurricane Irma in USVI.²⁷⁰

In territories highly dependent on foreign workers, some of this population loss could be explained by the loss of non-native populations that left as industries declined. However, in USVI, the migrant population actually increased between 1995 and 2015.²⁷¹ Regardless of who left the islands, this population shift signifies a reduced tax base and reduced revenues, hampering the ability of governments to balance budgets, provide adequate public services, and make debt payments. The stories of the islands become stories of guest workers and not of the indigenous populations.

3. Sovereign Debt and Other Economic Challenges

Sovereign debt is one mechanism for accumulation through dispossession discussed by David Harvey.²⁷² The sustainability of sovereign debt is determined by the IMF as a government's ability to

²⁶⁶ *Population and Housing Estimates 2020* U.S. CENSUS BUREAU (2021), <https://www.census.gov/programs-surveys/popest.html>; see also Steven Wilson et al., *2020 Population of U.S. Island Areas Just Under 339,000*. U.S. CENSUS BUREAU (Oct. 28, 2021), <https://www.census.gov/library/stories/2021/10/first-2020-census-united-states-island-areas-data-released-today.html>.

²⁶⁷ *Id.*

²⁶⁸ *Id.*

²⁶⁹ *Id.*

²⁷⁰ Jason Bram, *Puerto Rico and the U.S. Virgin Islands After Hurricanes Irma and Maria*, FED. RSRV. BANK OF N.Y. (Feb. 22, 2018), <https://tinyurl.com/3fj344db>.

²⁷¹ See *International Migrant Stock (% of Population) – Virgin Islands (U.S.)*, WORLD BANK, <https://data.worldbank.org/indicator/SM.POP.TOTL.ZS?locations=VI> (last visited June 30, 2022).

²⁷² HARVEY, *supra* note 16.

make future debt payments based on the amount of money going into the economy, and is simplified as the debt-to-GDP ratio.²⁷³ A World Bank report identified a debt-to-GDP threshold for developed economies of 77%, wherein any rate higher slows economic growth which in turn impedes a country's ability to pay down its debt.²⁷⁴ For developing countries, the threshold was even lower, at 64%.²⁷⁵ According to these criteria, and the classification of U.S. territories as "developed" based on their status as part of the U.S., only Puerto Rico has surpassed this threshold, with a debt to GDP ratio of 95%.²⁷⁶ If we view the U.S. territories as emerging markets or developing countries, the USVI would be considered to be past the threshold, with a debt to GDP ratio of 69%.

In spite of the lack of inclusion of territories in any World Bank or IMF classification system, and despite the remaining U.S. territories displaying debt-to-GDP ratios well below the World Bank threshold, policy makers in the U.S. are voicing concerns about rising debt levels in all of the U.S. territories.²⁷⁷ Another area of concern related to debt is each territory's obligation to its public pension system. Three territories—CNMI, American Samoa, and Guam—carry pension obligations that the General Accounting Office

²⁷³ Justin Kuepper, *International Investors Should Know the Debt-to-GDP Ratio*, THE BALANCE (Nov. 1, 2021), <https://www.thebalancemoney.com/what-is-the-debt-to-gdp-ratio-1978993>.

²⁷⁴ Mehmet Caner et al., *Finding the Tipping Point: When Sovereign Debt Turns Bad*, WORLD BANK 2-11 (The World Bank, Latin America and the Caribbean Region, Economic Policy Sector, Policy Research Working Paper No. 5391, 2010), <https://openknowledge.worldbank.org/bitstream/handle/10986/3875/WPS5391.pdf>.

²⁷⁵ *Id.*

²⁷⁶ U.S. GOV'T ACCOUNTABILITY OFF., *supra* note 265.

²⁷⁷ In 2018, the U.S. Virgin Islands (USVI) debt to Gross Domestic Product (GDP) ratio rose to 69%, up from 68% in 2016, owing \$29.4 million. Similarly, Guam's debt to GDP ratio rose from 42% to 44% between 2016-2018, totaling \$2.6 billion. American Samoa jumped from a ratio of 19% to 37% ratio in the same time period, signaling a worrisome trend. And although the Commonwealth of the Northern Mariana Islands (CNMI) has a lower debt to GDP ratio than their counterparts, there are warning signs that debt levels may increase as a result of recent economic struggles related to the COVID-19 pandemic. *See id.*

considers to be significant.²⁷⁸ Puerto Rico's enormous pension obligation contributed to its bankruptcy declaration in 2016 and USVI's pension system is considered insolvent by the General Accounting Office.²⁷⁹ Much of Puerto Rico's debt stems from its public corporations that provide basic electrical, water, and transportation services.²⁸⁰

As economic challenges create obstacles for government operation and funding, they also impact the economic well-being of territorial people. In nearly every economic indicator, territories do not fare as well as states in the U.S. For instance, every U.S. territory experiences rates of poverty higher than all U.S. states except for Mississippi.²⁸¹ American Samoa has the highest poverty rate of any state or territory at 65%.²⁸² Not far behind, CNMI's poverty rate is 52% and Puerto Rico's poverty rate is 44%. Guam and USVI have a lower poverty rate at just over 20%.²⁸³

Median household income varies widely across the U.S. territories. In Guam, with its large federal and military workforce, median household income is \$48,276.²⁸⁴ In Puerto Rico and CNMI median household income is just below \$20,000. American Samoa's median household income is \$24,000 while USVI's median household income is just over \$37,000.²⁸⁵ The U.S. median household income is \$62,843; Mississippi is the state with the lowest median household income at \$39,680. Only Guam fares as well as U.S. states.²⁸⁶

²⁷⁸ *Id.*

²⁷⁹ *Id.*

²⁸⁰ AUSTIN, *supra* note 7, at 3-4.

²⁸¹ See *Quick Facts*, U.S. CENSUS BUREAU, <https://www.census.gov/quickfacts/US> (last visited June 30, 2022).

²⁸² *Id.*

²⁸³ *Id.*

²⁸⁴ Median household income is derived from the year 2017. See *State Profiles*, USASPENDING.GOV, <https://www.usaspending.gov/state/> (last visited June 30, 2022).

²⁸⁵ *Id.*

²⁸⁶ *Id.*

Economic diversification is a healthy sign of a place's long-term economic well-being because when an economy is diverse, it can better withstand economic shocks such as pandemics and natural disasters.²⁸⁷ Every territory has struggled to capitalize on industrialization of their economies. In prioritizing foreign and mainland investment, island economies have provided endless incentives, often at the cost of the local workforce and local business development.²⁸⁸ After many failed attempts at economic diversification through industrialization, all of the islands find themselves highly dependent on tourism as their main economic driver and revenue generator. This is true even in Guam, which benefits from a large public sector.²⁸⁹

The populous Puerto Rico has shown periods of growth when diversifying its economy, but the benefits of this growth were not evenly distributed. The healthcare sector, which benefited from corporate tax breaks outlined by Section 936, invested heavily in the island, but fizzled out when the tax break was repealed.²⁹⁰ As with the other island territories, tourism is one of the largest sectors in Puerto Rico.²⁹¹

After the garment factories closed down, CNMI worked to develop its tourism industry and has attracted foreign investment in casinos.²⁹² It has also legalized recreational cannabis to attract tourists from around the Pacific. Tourism accounts for a substantial portion of revenues for CNMI.²⁹³

According to the Bureau of Labor Statistics, employment in USVI was concentrated in food preparation and service,

²⁸⁷ World Bank Group, *Economic Diversification: Lessons from Practice*, in OECD & WTO, AID FOR TRADE AT A GLANCE 2019: ECONOMIC DIVERSIFICATION AND EMPOWERMENT 136 (2019), https://www.wto.org/english/res_e/booksp_e/aid4trade19_chap5_e.pdf.

²⁸⁸ U.S. GOV'T ACCOUNTABILITY OFF., *supra* note 265.

²⁸⁹ *Id.*

²⁹⁰ *Id.*

²⁹¹ *Id.*

²⁹² Osman, *supra* note 213.

²⁹³ U.S. GOV'T ACCOUNTABILITY OFF., *supra* note 265.

management, and construction and extraction occupational groups.²⁹⁴ Construction and extraction jobs contributed to a rate of over 9% of total employment, paying an average wage of \$27 per hour.²⁹⁵ Overall, USVI mean hourly wage was \$23 in 2021 compared to \$27 per hour in the U.S.²⁹⁶

In American Samoa, most employment is concentrated in either the tuna canning industry or the government.²⁹⁷ The tuna industry in American Samoa has been on a steady decline since canneries began closing in 2007.²⁹⁸ Starkist Samoa operates the only remaining cannery in American Samoa and faces increasing competition and labor market challenges as American Samoa increases its minimum wage.²⁹⁹ In spite of the increased minimum wage, wages as a whole have been in a steady decline as well.³⁰⁰ American Samoans have taken recent steps to diversify their economy by investing heavily in their telecommunications infrastructure.³⁰¹

V. CONCLUSION

The U.S. territories hold great economic value and military importance to the U.S. Since 1898, the U.S. has benefited tremendously from extracting resources from its territories. By increasing its imperial holdings, the U.S. shored up its military power and increased trade routes to new markets in Asia and in Latin America.³⁰² The U.S. expanded its military presence in the Pacific and dominated the Caribbean by cutting off European access to Latin

²⁹⁴ *Occupational Employment and Wages in the U.S. Virgin Islands—May 2020*, BUR. OF LAB. STATS., https://www.bls.gov/regions/new-york-new-jersey/news-release/occupationalemploymentandwages_virginislands.htm (last visited June 30, 2022).

²⁹⁵ *Id.*

²⁹⁶ *Id.*

²⁹⁷ U.S. GOV'T ACCOUNTABILITY OFF., *supra* note 190.

²⁹⁸ *Id.*

²⁹⁹ *Id.*

³⁰⁰ *Id.*

³⁰¹ It should be noted that their recent jump in sovereign debt is related to their investment in developing telecommunications infrastructure on the island. *Id.*

³⁰² KRUSE, *supra* note 172, at 36.

America and the Panama Canal.³⁰³ The territories have provided cheap labor to industries relocating to islands and cheap labor in the U.S. as diasporic populations settled in industrial areas.³⁰⁴ The territories themselves have proven to be captive markets, especially when the Jones Act requires all imports to come from or through a U.S. mainland port.³⁰⁵

In its early days of empire building, the U.S. represented itself as the savior imperialist, rescuing the small island and archipelago nations from “worse” imperial powers and providing economic opportunities for isolated island nations.³⁰⁶ Since taking possession, however, it is the mainland U.S. that has disproportionately benefited. The U.S. has continually accumulated resources such as land and labor from its territories to maintain and project its economic and military dominance in the world.³⁰⁷ Imperialism, both through territorial colonialism and the adoption of neoliberal global economic development strategies, has worked to accumulate resources for the U.S. Decades of extraction have led to negative economic and social outcomes for territorial populations, which have in turn been utilized to justify a paternalistic narrative surrounding how territories are dependent on the U.S., thus quashing discussions about statehood or independent status.

By looking at how colonialism has played out across all U.S. populated territories, this comment contends that a non-state association with the U.S. is not an advantage for its small island territories. While the far-flung territories fare better than their sovereign neighbors, these islands struggle to compete with the behemoth mainland economy, and fare much worse than their state counterparts. With a laser-like focus on neoliberal economic development within a global capitalist system, the territorial emphasis on attracting foreign investment has come at the cost of local business, vulnerable monolithic economies, and significant losses in population.

³⁰³ *Id.*

³⁰⁴ KLEIN, *supra* note 10.

³⁰⁵ *Id.*

³⁰⁶ Mack Slate, *supra* note 62.

³⁰⁷ DAVIS, *supra* note 1, at 16-17.

The purgatorial status of “belonging to, but not part of” the U.S. is a key barrier to economic and cultural stability for U.S. territories. But while it is time to revisit the outdated and xenophobic Insular Cases, it is also time, more generally, to re-center U.S. territories in discussions of U.S. hegemony and the global economy at large. It is time to remember, rather than forget, that the U.S. territories are a fundamental part of the American identity and power projection. This comment contributes to this re-centering process by providing a broad overview of how these territorial nations, as geographically and culturally distant as they are from each other, share similar economic and political histories stemming from their territorial statuses. It is impossible to fully capture the extent of how each territory experiences and responds to U.S. control, but it is clear that the interrelated forces of colonialism, militarism, leave no territory unscathed.