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The Imperial Republic: A Comparison of the Insular Territories under U.S. Dominion after 1898

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Introduction

The Treaty of Paris (1898), which ceded Puerto Rico, the Philippines, and Guam to the United States, provoked a flurry of ruminations and recommendations by the legal community regarding their future governments. At the time, Cuba was under temporary military rule. The U.S. Congress had just annexed Hawai'i and would soon provide it with a territorial government. A temporary military government in a foreign country presented no constitutional problem, nor did the upcoming organization of a territorial government according to well-established continental precedents. But Puerto Rico, the Philippines, and Guam were somehow different. Legal scholars raised constitutional issues as early as 1898, and a debate

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soon ensued in the *Harvard Law Review*, the *Yale Law Journal*, and, to a lesser extent, the *Columbia Law Review* and *American Law Register*. In addition, several books were published on the problem of imperial rule, among them Horace Fisher's *Principles of Colonial Government* (1899) and Alpheus Snow's *The Administration of Dependencies* (1902). Secretary of War Elihu Root solicited a report on the legal status of the islands from Charles Magoon, law officer of the Division of Insular Affairs. Senator Henry Cabot Lodge requested that the chief bibliographer of the Library of Congress prepare an annotated bibliography on the history and political theory of colonization to accompany a House report on the same topic.¹ Special commissions visited Puerto Rico and the Philippines in order to study local conditions and make recommendations regarding the establishment of civil government.² The republic faced a legislative quandary that would entail long debates on the floor of Congress. Moreover, the legislation that it produced would provoke a constitutional problem that required a series of decisions—in what became known as the Insular Cases—by the Supreme Court.

What had provoked such a commotion? The United States possessed a well-established tradition of territorial expansion and had ample experience in the subjugation of racial minorities on the continent. By the end of the nineteenth century, African Americans had been socially segregated and effectively excluded from political participation in many states, in spite of the Fourteenth Amendment.

1. The full-length books published during the period included Horace Fisher, *Principles of Colonial Government Adapted to the Present Needs of Cuba and Porto Rico, and of the Philippines* (Boston, 1899) and Alpheus Snow, *The Administration of Dependencies: A Study of the Federal Empire, with Special Reference to American Colonial Problems* (New York, 1902). The principal governmental legal study was Charles Magoon, "Report of the Legal Status of the Territory and Inhabitants of the Islands Acquired by the United States during the War with Spain, Considered with Reference to the Territorial Boundaries, the Constitution, and Laws of the United States," 56 Cong., 1 sess., *Senate Document 234* (Feb. 12, 1900). The House report on colonization appeared with an inconspicuous title: "Monthly Summary of Commerce and Finance of the United States, Colonial Administration, 1800–1900," 57 Cong., 1 sess., *House Document 15* (Oct. 1901), 1197–1631. The annotated bibliography, prepared by A. P. C. Griffin, appeared as a supplement to this report: "List of Books, With References to Periodicals, Relating to the Theory of Colonization, Government of Dependencies, Protectorates, and Related Topics," in *ibid.*, 1567–1626.

2. Henry Carroll, *Report on the Island of Porto Rico* (Washington, D.C., 1899); Philippine Commission (Schurman), "Report of the Philippine Commission to the President," 4 vols., 56 Cong., 1 sess., *Senate Document 138* (Jan. 31, 1900); hereafter cited as Schurman Commission, "Report." The First Philippine Commission, headed by Jacob Gould Schurman and often known as the Schurman Commission, arrived in Manila in March 1899.

Furthermore, American Indians had been decimated, expelled from their lands, or moved to Indian Territory or reservations; at the time they were considered wards of the U.S. government. Moreover, Congress had just annexed Hawai'i—a group of noncontiguous tropical islands inhabited by peoples of diverse races, customs, and languages—and it would organize a conventional territorial government there in 1900. Historically, all U.S. territories had been intended as European American settler colonies, if not at the time of initial acquisition, then at least by the time Congress had organized a territorial government. By the end of the nineteenth century, most of these areas had already been organized as territories, settled by European American immigrants, and admitted as states. Hawai'i was thus one of the final frontiers of European American settlement.³

But with the acquisition of Puerto Rico, the Philippines, and Guam, the United States had surpassed the limits of its settler expansion and now faced what Frederic Coudert, Jr., called the “imperial problem”: These new territories were “inhabited by a settled population *differing from us* in race and civilization to such an extent that assimilation seems impossible, and *varying among themselves* in race, development, and culture to so great a degree as to make the application of any uniform political system difficult if not impractical.”⁴ How were the new possessions to be ruled, and what would be the political status of their inhabitants? Historical scholarship has emphasized the first part of this imperial problem—the issue of differences *between* the new possessions and the older states and territories—but has ignored the second part—the issue of differences *among and within* the new possessions. For example, Efrén Rivera, in his excellent study of the Insular Cases, has recounted how the Su-

3. Arrell Gibson considered the entire Pacific Basin to be “America’s last frontier.” His notion of frontier, adapted from Frederick Jackson Turner, is quite complex, including military, mercantile, missionary, and agrarian dimensions. In a most general sense, he viewed the frontier as a process of “Americanization.” The expansion of the frontier usually included “nationalizing currents” through which a region was incorporated into the economic, social, and political life of the nation. He argued that the incorporation of Hawai'i followed the same pattern as established by the Northwest Ordinance throughout the continental United States. He did not consider why some regions of the Pacific Basin frontier were incorporated and others were not. See Arrell Morgan Gibson, *Yankees in Paradise: The Pacific Basin Frontier* (Albuquerque, 1993), 3–11.

4. Frederic Coudert, Jr., “Our New Peoples: Citizens, Subjects, Nationals or Aliens,” *Columbia Law Review*, 3 (1903), 13. Emphasis added.

preme Court established the legal basis, known as the “doctrine of incorporation,” that provided the distinction between two kinds of territories: incorporated territories, considered to be a part of the body politic of the United States, and unincorporated territories, belonging to, but not a part of, the United States. He has demonstrated convincingly that this “doctrine of incorporation” was based upon symbolic construction of “alien peoples” different from and inferior to European Americans. However, his legal analysis does not explain why Congress “incorporated” Hawai‘i—by means of a conventional territorial government—or why different governments were created for each of the unincorporated territories—Puerto Rico, the Philippines, and Guam.⁵ In other words, he has shown how a notion of “otherness” provided the basis for the doctrine of incorporation without exploring how cultural differences among these sites consequently affected the concrete forms of rule in each. His discussion of “otherness,” while illuminating, is too general to explain the particular manifestations of imperial rule in the different sites.

A similar problem is found among scholars who have argued that the cultural and racial descriptions of the island peoples frequently used analogies to both African Americans and American Indians to justify political domination. Certainly the newspapers of the day and the congressional debates have provided scholars with a host of indelicate quotations and a profusion of political cartoons populated by Uncle Sam and various caricatures of dark, primitive natives. Rubín Weston, among many others, has argued that a home-grown racism was extended, without much complication, to the former Spanish islands.⁶ Likewise, the more recent literature on

5. Efrén Rivera, “The Legal Construction of American Colonialism: The Insular Cases (1901–1922),” *Revista Jurídica Universidad de Puerto Rico*, 65 (1996), 225–328.

6. Rubín Weston, *Racism in U.S. Imperialism: The Influence of Racial Assumptions on American Foreign Policy, 1893–1946* (Columbia, S.C., 1972); Richard Slotkin, *Gunfighter Nation: The Myth of the Frontier in Twentieth-Century America* (New York, 1992). The following authors have also argued for the fundamental continuity of the metaphors of continental and overseas expansion: Walter Williams, “United States Indian Policy and the Debate Over Philippine Annexation: Implications for the Origins of American Imperialism,” *Journal of American History*, 66 (1980), 810–831; Gail Bederman, *Manliness and Civilization: A Cultural History of Gender and Race in the United States, 1880–1917* (Chicago, 1995); and Lisa Marcus, *Tender Violence: Domestic Visions in the Age of U.S. Imperialism* (Chapel Hill, N.C., 2000). On the use of feminine and childhood metaphors in the colonial or imperial context, see John Johnson, *Latin America in Caricature* (Austin, Tex., 1980); Malek Al-loula, *The Colonial Harem* (Minneapolis, 1986); and Kristin Hoganson, *Fighting for Ameri-*

“colonial discourses” has emphasized the incessant repetition of gendered, racialized, and infantilized images to portray the subject peoples and, in turn, to justify imperial dominion. Accordingly, “colonial discourses” have suppressed a wide variety of historical differences among peoples in favor of broad abstract generalities regarding inferiority; they posit a homogeneous “other”—childlike, feminine, and colored—as a means of creating and governing subject peoples.⁷

No doubt the culture of imperialism in the United States drew upon and extended the continental colonial experience in the elaboration of the fundamental alterity of the subject peoples in general.⁸ Nevertheless, it would seem that the cultural representations of the period—photographic and textual—demonstrated an acute awareness of the exceptional diversity of the peoples newly under U.S. dominion. Thus, alterity was not only a homogeneous notion, as most of the literature has suggested, but was simultaneously a thoroughly differentiated and hierarchical one. Indeed, the general proposition, originally articulated by Edward Said, that “colonial discourses” constructed a homogeneous “colonial other” is not entirely adequate for understanding the cultural differences present within the imperial archipelago. Moreover, the proposition of the

can Manhood: How Gender Politics Provoked the Spanish-American and the Philippine-American Wars (New Haven, Conn., 1998).

7. The founding text for the study of colonial discourses is Edward Said, *Orientalism* (New York, 1978). Said specifically analyzed “Orientalism” as a colonial discourse, and, although he did not make general claims regarding the construction of colonial alterity, his work has achieved paradigm status. Said promised, but did not deliver, an analysis of the concrete connections between Orientalism and the form of imperial domination in the Middle East and India. Instead, his affirmations regarding Orientalism were of the most general kind, lacking historical detail regarding concrete forms of dominion. This problem is inherent in his central proposition that colonial alterity was fundamentally a homogeneous notion—a timeless, abstract generality—rather than a differentiated, hierarchical one. For a similar critique, see Nicholas Thomas, *Colonialism’s Culture: Anthropology, Travel, and Government* (Princeton, N.J., 1994). Kelvin A. Santiago-Valles has used the colonial-discourse model in his analysis of the construction of a subject people in Puerto Rico; see Santiago-Valles, “*Subject People*” and *Colonial Discourses: Economic Transformation and Social Disorder in Puerto Rico, 1898–1947* (Albany, N.Y., 1994).

8. Elaboration, in the sense that Antonio Gramsci used it, refers to the process of working out a world view that has a cultural complexity that makes politics possible. Cultural elaboration is thus a necessary condition for hegemony. Edward Said discusses this concept in *The World, the Text, and the Critic* (Cambridge, Mass., 1983), 170–172. I am grateful to Oscar Campomanes for suggesting the importance of this concept. For his own treatment, see Campomanes, “On the Making of *Savage Acts*,” paper presented at the Caribbean Summit ’98, University of Puerto Rico, Río Piedras, Oct. 8–9, 1998.

homogeneous other fails to explicate the connections between particular representations of subject peoples and the specific patterns of imperial rule. This is due to the impossibility of addressing *differences* in imperial rule based upon a theory of the *homogeneous* construction of the colonial other.

This article expands upon previous studies of representations of alterity as a means to conceive, mobilize, and justify imperial rule. I argue that the elaboration of cultural difference became fundamental in the organization of different governments for the new U.S. possessions.⁹ Throughout the legal debates, official reports, court decisions, and congressional debates, participants used the metaphors of femininity, childishness, and race to evaluate the capacity of the various subject peoples for self-government. These representations expressed the cultural contrasts of the various peoples and served to devise and justify particular strategies of government. First, the contrast between the regions (states and territories) settled by European Americans and those new possessions inhabited by “alien” peoples effectively set the limits of the republic’s body politic and led to imperial rule beyond.¹⁰ Second, the evaluation of cultural differences among the subject peoples resulted in variations in the structure of government for each site that comprised the imperial archipelago. I will discuss how legal scholars, Congress, colonial administrators, and the Supreme Court devised the means of governing overseas possessions based upon notions of difference not only *between* the United States and the subject peoples but also *among* the subject peoples themselves.

9. This formulation does not assume that discourses are independent of concrete historical conditions. Rather, discourses are pragmatic strategies that may articulate economic and geopolitical interests as well as value judgments. In addition, discourses may be “causal” in the sense that they may result in new historical conditions—in this case, the creation of new governments.

10. Throughout this article I distinguish between colonialism (the expansion of a people through settlement), and imperialism (the expansion of a state through political domination). J. A. Hobson proposed this distinction in *Imperialism: A Study* (1902; Ann Arbor, Mich., 1965), 3–13. Although I do not consider either Hobson’s study or his distinction to be a complete model of imperialism, I agree with the theoretical and historical importance of this particular distinction, as do many other authors. For example, see Ronald Horvath, “A Definition of Colonialism,” *Current Anthropology*, 13 (1972), 45–51, and Patrick Wolfe, “History and Imperialism: A Century of Theory, from Marx to Post-colonialism,” *American Historical Review*, 102 (1997), 388–420. Michael Doyle presents an elaborate typology in which settler peripheries occupy a clearly defined, although not central, place. Doyle, *Empires* (Ithaca, N.Y., 1986).

Hawai'i: A distant frontier

The United States expanded during the nineteenth century by means of migration, settlement, and a territorial scheme of making new states. Congress organized districts, then territories, and later admitted these as states with some regularity, following the model outlined in the Northwest Ordinance of 1787. First, Congress would create a temporary district government for a designated region. This district government was composed of an appointed governor, secretary, and several judges. The governor had extensive, autocratic powers. Second, upon reaching a specified “white” population, Congress would organize a territorial government, consisting of an appointed governor, an appointed legislative council, and an elected legislative assembly. Third, the process culminated with the territory’s incorporation as a state of the federal union with full representation in Congress.¹¹

By the end of the nineteenth century, most of the continental acquisitions had been converted to states of the Union. The remaining organized territories on the continent were New Mexico, Arizona, and Oklahoma, where governments had been organized in 1850, 1863, and 1890, respectively.¹² In addition, Congress had established a district government for Alaska in 1884.¹³ In 1830 all of

11. For a comprehensive treatment of the importance of the Northwest Ordinance in the process of state making, see Peter Onuf, *Statehood and Nation: A History of the Northwest Ordinance* (Bloomington, Ind., 1987). Jack Eblen has argued that this model went through some changes during the nineteenth century. During the period of the “first empire” (1787–1848), the autocratic district government was the normal predecessor to the territorial government. During the “second empire” (1848–1898), the district government was skipped in favor of an immediate establishment of territorial governments, in which Congress expanded the powers of the elected legislature—frequently bicameral—and reduced those of the appointed governor. Eblen characterized the third phase as an “oceanic empire” and grouped Hawai’i along with Puerto Rico, the Philippines, and Alaska, for reasons of geography, population, and historical period. Contrary to Eblen’s classification, the evidence presented in this paper suggests that the territorial government and the eventual trajectory of Hawai’i clearly follow the model established in the “second empire.” See Eblen, *The First and Second United States Empires: Governors and Territorial Government, 1787–1912* (Pittsburgh, Pa., 1968), 7–9.

12. Luis Dávila Colón, *Breakthrough from Colonialism: An Interdisciplinary Study of Statehood* (2 vols., Río Piedras, P.R., 1984).

13. “An Act Providing a Civil Government for Alaska,” *U.S. Statutes at Large*, 23 (May 17, 1884), 24–28. Congress did not organize a territorial government until 1912. See “An Act to Create a Legislative Assembly in the Territory of Alaska, to Confer Legislative Power thereon, and for Other Purposes,” *U.S. Statutes at Large*, 37 (Aug. 24, 1912), 512–518.

the Louisiana Purchase, except for the states of Louisiana and Missouri and the territory of Arkansas, was considered “free Indian territory” or “Indian country.” The gradual organization of these lands into territories and states reduced its area, and, by the 1850s, “Indian Territory,” now an official designation, occupied only the area roughly corresponding to present-day Oklahoma. Due to pressures from European American settlers, the western half of Indian Territory was opened to settlement in 1889, and one year later Congress organized the Territory of Oklahoma, conserving the eastern half as Indian Territory.¹⁴ Thus, in 1898 the continental United States was comprised, in addition to the states, of three organized territories (New Mexico, Arizona, and Oklahoma), one district (Alaska, in addition to the federal District of Columbia), and Indian Territory.

These regions constituted the final frontiers of European American settlement on the continent. In addition, Hawai‘i had been a frontier of European American settlement since missionaries, sailors, and merchants had arrived in the 1820s. As early as the 1850s these immigrants and their descendants, known as *haoles*, controlled the leading economic interests and exercised considerable power behind the throne of the Hawaiian monarchy. In 1893 they seized political power, deposed the monarchy, and created a provisional government with annexationist aspirations. President Grover Cleveland, however, questioned the legitimacy of the “revolution” and opposed annexation. Although Congress demonstrated interest in Hawai‘i for strategic reasons, there was little support for annexation at this time. In 1894 *haoles* created the Republic of Hawai‘i but did not abandon their movement for annexation. In June of 1898, during the military operations against Spain, the annexation of Hawai‘i once again became an issue. William McKinley, elected in 1896, was now President, and Republican expansionists dominated Congress. The debate regarding the Newlands Resolution (Joint Resolution 259), which proposed the annexation of the Republic of Hawai‘i, anticipated many of the objections that subsequent opponents would raise against the possible annexation of the islands acquired through the Treaty of Paris. Hawaiian annexation seemed to

14. Roy Gittinger, *The Formation of the State of Oklahoma (1803–1906)* (Berkeley, 1917). The state of Oklahoma, admitted in 1906, consisted of the former Territory of Oklahoma and the former Indian Territory.

pose many of the same problems later raised by the acquisition of the former Spanish islands.¹⁵

Lorrin Thurston, in his polemic pamphlet directed at Congress, listed twenty commonly expressed objections to Hawaiian annexation and refuted them one by one.¹⁶ The principal objections were, first, that it was a distant, noncontiguous island territory, and second, that it was densely populated by peoples of different languages, customs, and races. Noncontiguity supposedly diminished the geopolitical merits of annexation since it made Hawai'i difficult to defend from foreign powers and would require excessive naval expenditures. More importantly, Hawai'i was populated largely by *kanakas* (native Hawaiians), Chinese, and Japanese who were, according to opponents, unfit for citizenship and self-government. Other issues included the competition that Hawaiian sugar posed for domestic producers, the questionable future of statehood for the territory, and the precedent statehood might establish for future overseas acquisitions.

How did the proponents of Hawaiian annexation refute the objections raised by their opponents? In the words of Thurston, Hawai'i was already a well-established and successful "American colony." In his spirited pamphlet, he advocated Hawaiian annexation on the grounds that it had been successfully Americanized according to the following criteria: 1) its American-style legal system and constitutional government; 2) its extensive public school system and high literacy rates; 3) the use of English in the courts, schools, and in commerce; 4) the use of American technology and standards in production and commerce; and 5) use of the dollar as the official currency.¹⁷ Americanization had been achieved through

15. Political processes are treated in Roger Bell, *Last Among Equals: Hawaiian Statehood and American Politics* (Honolulu, 1984), and in two volumes by William Adam Russ: *The Hawaiian Revolution (1893–1894)* (Selinsgrove, Pa., 1959) and *The Hawaiian Republic (1894–98) and Its Struggle to Win Annexation* (Selinsgrove, Pa., 1961). Cultural aspects are treated in Elizabeth Buck, *Paradise Remade: The Politics of Culture and History in Hawai'i* (Philadelphia, 1993) and Haunani-Kay Trask, *From a Native Daughter: Colonialism and Sovereignty in Hawai'i* (Monroe, Maine, 1993). Trask is explicit in her characterization of Hawai'i as a "settler society."

16. Lorrin Thurston, *A Handbook on the Annexation of Hawaii* (St. Joseph, Mo., 1897), 27–44.

17. *Ibid.*, 31. Compare Alfred Hartwell, "The Organization of a Territorial Government for Hawaii," *Yale Law Review*, 9 (1899), 107–113.

the continuous presence on Hawaiian soil of European Americans. They controlled the economy and had integrated it with U.S. shipping and trade. They held political power and maintained cultural dominance, especially through the use of the English language. This hegemonic presence of European American settlers established the crucial difference between Hawai'i and the former Spanish colonies acquired by the Treaty of Paris.

The congressional debates similarly emphasized the Americanization of Hawai'i by means of colonization. Representative Robert Hitt of Illinois, speaking in favor of annexation, referred to Hawai'i as "the only true American colony."¹⁸ A Republican from Iowa, S. M. Clark, also spoke in favor of annexation. In his refutation of one of the most serious objections to annexation—the incorporation of *kanakas*, Chinese, and Japanese to the United States without their consent—he reminded his colleagues that earlier continental expansion had also involved the domination of subject peoples. He presented the following interpretation of U.S. history:

It is said we should not annex Hawaii because its native people are not homogenous with us and have not voted in favor of joining this Republic. This statement involves a strange forgetfulness of the facts of American history. Every American State was made by dispossessing the native Indians. When and where did the two peoples become homogenous? When and where was the formation and conduct of this Government or the admission of a State into the Union made dependent upon a vote of the native American Indians? There are millions of colored people in this country. The majority opinion of the Supreme Court, after the Republic had existed seventy-five years, said the negroes [*sic*] were not citizens. And for twenty years past our Democratic friends in the Southern States have been making constitutions and laws eliminating the negroes [*sic*] out of the citizenship by depriving them of the suffrage.¹⁹

For Clark, the annexation of Hawai'i was but a continuation of the time-honored traditions of continental expansion. The majority of Congress agreed, and the resolution passed easily in the House and the Senate. President McKinley signed the resolution on July 7,

18. *Cong. Rec.*, 55 Cong., 2 sess. (June 11, 1898), 5773.

19. S. M. Clark, "Proposed Annexation of Hawaii," *Cong. Rec.*, 55 Cong., 2 sess. (June 14, 1898), appendix: 510. Compare Mr. Bromwell, in *ibid.*, 5919.

1898 and so annexed the Republic of Hawai‘i as a “part of the territory of the United States.”²⁰

Congress organized a territorial government for Hawai‘i in 1900 following the well-established legal precedents of continental expansion established during the late nineteenth century.²¹ Although there had been considerable debate regarding the desirability of Hawaiian annexation, its new territorial government presented no constitutional problem whatsoever. The territorial government of Hawai‘i consisted of a presidentially appointed governor, who in turn appointed his cabinet; a bicameral legislature of elected representatives; and a local supreme court appointed by the President. Hawai‘i sent a nonvoting delegate to the House of Representatives in Washington. Furthermore, Hawai‘i was fully incorporated into the United States with respect to the federal judiciary, customs, and currency. All legal statutes applied, including the collection of internal revenue. U.S. citizenship was granted to all former citizens of the Hawaiian republic, that is, to all male European American and native Hawaiian residents. Chinese and Japanese residents were excluded from citizenship, and future immigration from China or Japan was prohibited (in the first case) or restricted (in the second). The law also prohibited the emigration of Chinese from Hawai‘i to any other state or territory (see Table 1).²²

The imperial problem: Legal debates

Beginning in 1898, legal scholars debated two interrelated issues regarding the acquisition of overseas territories. First, by what constitutional principle could the United States govern the new possessions of Puerto Rico and the Philippines?²³ Second, exactly what sort of government should Congress establish therein? Participants

20. Russ, *The Hawaiian Republic*, 353.

21. William Willoughby argued that the only important difference between the government of the Territory of Hawai‘i and of the continental territories was the absence of municipal governments in Hawai‘i. As a result, the government of the islands was highly centralized. I should add that this situation facilitated control by a *haole* minority over the whole of Hawai‘i. See Willoughby, *Territories and Dependencies of the United States* (New York, 1905), 60–70.

22. The territorial government of Hawai‘i was created by “An Act to Provide a Government for the Territory of Hawaii,” *U.S. Statutes at Large*, 31 (April 30, 1900), 141.

23. The debaters consistently ignored Guam in their discussions, perhaps because they never considered the possibility of a civil government there.

Table 1: Governments of Hawai'i, Puerto Rico, and the Philippines

	<i>Hawai'i</i>	<i>Puerto Rico</i>	<i>The Philippines</i>
Executive	Governor and territorial secretary appointed by President. Other executive officials appointed by governor.	Governor and executive council, both appointed by President.	Governor-general and Philippine Commission, both appointed by President.
Legislature	Two houses, a senate and a house of representatives, both comprised of elected delegates.	A legislative assembly comprised of the executive council and a house of elected delegates.	A legislative assembly comprised of the Philippine Commission and the Philippine Assembly of elected delegates.
Local Judiciary	Local supreme court appointed by President. U.S. Supreme Court had arbitrement.	Local supreme court appointed by President. U.S. Supreme Court had arbitrement.	Local supreme court appointed by President. U.S. Supreme Court had arbitrement.
Federal Judiciary	Judge, district attorney, and marshal appointed to federal district court by President.	Judge, district attorney and marshal appointed to federal "district court of the United States for Puerto Rico."	Not a part of the federal judiciary.
U.S. Statutes	All applied, except those not locally applicable, including collection of internal revenue.	All applied, except those not locally applicable and excluding internal revenue.	Did not apply.
Congressional Representation	One elected delegate to the House with voice but no vote.	None (one resident commissioner was entitled to official recognition in Washington).	None (two resident commissioners were entitled to official recognition in Washington).
Citizenship	Citizens of former Hawaiian republic became U.S. citizens (including native Hawaiians).	Citizens of Puerto Rico not U.S. citizens.	Citizens of the Philippines not U.S. citizens.

Table 1: *Continued*

	<i>Hawai'i</i>	<i>Puerto Rico</i>	<i>The Philippines</i>
Customs	U.S. customs district.	Temporary duties on trade between U.S. and Puerto Rico (until 1902) followed by free trade.	Foreign port.
Currency	U.S. dollar.	U.S. dollar.	Philippine peso.
Language Stipulations	Proceedings of legislature in English. Voters required to speak, read, and write English or Hawaiian.	Proceedings of district court in English. Delegates to legislature required to read and write English or Spanish. Resident commissioner required to read and write English.	None.
Racial Exclusion	Chinese immigration to Hawai'i or from Hawai'i to the states or territories prohibited. Chinese and Japanese residents denied citizenship.	None.	Special provinces for Muslims and animist tribes ruled by appointed officials without representation in the Philippine Assembly.

Note: All presidential appointments required the approval of the Senate.

Sources: *U.S. Statutes at Large*, 31 (April 12, 1900), 71–86; *U.S. Statutes at Large*, 31 (April 30, 1900), 141–162; *U.S. Statutes at Large*, 32 (July 1, 1902), 691–712.

Table 1: Governments of Hawai'i (1900), Puerto Rico (1900), and the Philippines (1902) as established by Congress

in the law review debate were the first to discuss seriously what in 1903 Frederic Coudert, Jr., called the “imperial problem” that followed the acquisition of the “dependencies.” Coudert defined two dimensions of the imperial problem. First, since the “dependencies” were inhabited by peoples of different cultures, they required political systems different from those of the territories. Second, significant cultural differences within the “dependencies” made any uniform political system unworkable. According to Coudert, previous

experience in continental territories acquired from France, Spain, or Mexico did not prepare the United States for the current imperial problem. In the continental territories, “a growing stream of immigration soon made the new lands thoroughly American.” Granted, these settlers had faced an “Indian problem,” which they met by removing the indigenous people from the land. In addition, the Spanish, Mexican, or French populations in the continental territories had been easily assimilated because they were few in number and of “Caucasian race and civilization.” In contrast, the imperial problem referred specifically to “the domination over men of one order or kind of civilization by men of different and higher civilization.” He stated that the “problem of to-day cannot be solved either by extermination, as in the case of the Indian, nor by assimilation, as in the case of the few Frenchmen and Spaniards.”²⁴ The imperial problem, as Coudert defined it, was how to establish dominion over the islands without extensive European American settlement.

Horace Fisher, in his 1899 book on the principles of “colonial government,” was precise about cultural difference and rule. He argued in favor of an imperial view of U.S. history in order to justify congressional plenary power over the new possessions, but he defined these possessions as different from past and present territories. In addition, the new insular territories were unlike among themselves:

[I]t seems inevitable that our body politic must be enlarged by the creation of a new legal status—that of “Colonial Dependencies,” for the reason that they cannot be governed by the same uniform laws as our Territories, on account of their radical differences in condition and political capacity, not only when compared with our Territories, but when compared with each other.²⁵

Fisher clearly distinguished the principles applied to “our Territories” (and states) and those applied to “colonial dependencies,” defining Cuba, Puerto Rico, and the Philippines specifically as colonial dependencies. These dependencies also differed among themselves and consequently would require distinct governments. There were multiple “others” to be ruled accordingly.

24. Coudert, “Our New Peoples,” 13–14.

25. Fisher, *Principles of Colonial Government*, 49.

Simultaneously, this imperial problem provoked a discussion about constitutional authority in the leading law reviews.²⁶ A small group of legal scholars adopted the doctrine of *ex proprio vigore*. This doctrine held that the Constitution applied in the territories “by its own force”; in other words, that the “Constitution follows the flag.” The doctrine asserted that Congress had the power to acquire territories, to establish temporary military rule, to organize civil territorial governments, and to admit territories eventually as states. However, the Constitution permitted neither permanent colonies nor subjects. These scholars assumed that eventually all territorial possessions would become states of the federal union. Consequently, all personal and civil rights guaranteed by the Constitution must also apply to the European American inhabitants of the territories, although full political participation at the federal level was to be extended to these inhabitants only after statehood. The paradox of the doctrine of *ex proprio vigore* was that the Constitution would extend to the new dependencies, but the present inhabitants of the islands were supposedly not fit for self-government under the Constitution. By implication, direct rule over the islands would have to be relinquished shortly, following the precedent of Cuba. This was a conclusion entirely unacceptable for the expansionists of the day.²⁷

In contrast, the majority of legal scholars in the law review debate adopted a doctrine of plenary powers, which stated that Congress could legislate for U.S. possessions or territories as it saw fit, with little or no constitutional restriction. These scholars asserted the legitimacy of the cessions of the Treaty of Paris and sought the

26. See José Trías Monge, *Historia constitucional de Puerto Rico* (4 vols., Río Piedras, 1980), 1: 236–241. I follow Trías’s division of the debaters into three fundamental groups.

27. The main proponents of this doctrine were Elmer Adams, “The Causes and Results of Our War With Spain From a Legal Standpoint,” *Yale Law Journal*, 8 (1899), 119–133; Carman Randolph, “Constitutional Aspects of Annexation,” *Harvard Law Review*, 12 (1898), 291–315; and Simeon Baldwin, who published several articles including Baldwin, “The Constitutional Questions Incident to the Acquisition and Government by the United States of Island Territory,” *Harvard Law Review*, 12 (1899), 393–416, and Baldwin, “The People of the United States,” *Yale Law Journal*, 13 (1899), 159–167. The Teller Amendment to the Joint Resolution of Congress (1898) disclaimed any “intention to exercise sovereignty, jurisdiction, or control” over Cuba and proclaimed its right to a free and independent government. However, the United States recognized the new government of Cuba in 1903 only after imposing the provisions of the Platt Amendment, which in fact limited Cuban sovereignty: Cuba could not sign treaties with other countries, it ceded territory for a U.S. naval station, and it conceded to the United States the right to intervene militarily in Cuban affairs. See Louis Pérez, Jr., *The War of 1898: The United States and Cuba in History and Historiography* (Chapel Hill, N.C., 1998), 28–36.

utmost political expediency in ruling them. They were concerned that the inhabitants of the former Spanish colonies were not prepared for self-government, that they were not culturally assimilable to the United States, and that the lands would never be sites for migration and settlement by European Americans. These writers ruled out the possibility of repeating the historical sequence of cultural inclusion envisioned by the Northwest Ordinance.²⁸ The paradox of the doctrine of plenary powers was that, by granting virtually unrestricted sovereignty to Congress to deal with the insular territories abroad, it implied that Congress had these same unlimited powers at home, even in the existing continental territories and districts, including the District of Columbia.

In an effort to resolve this paradox, the legal debates produced a “third view,” the doctrine of incorporation, which proposed a simple and effective distinction between the new possessions and territories as such. Abbott Lowell was the first to present this third view. After reviewing legal precedents, he asserted that “possessions acquired by conquest or cession do not become a part of the United States.” Rather, “the incorporation of territory in the Union” is a question to be considered by the “legislative or the treaty-making authorities,” which have two options. First, a “territory may be so annexed as to make it a part of the United States, and that if so all the general restrictions in the Constitution apply to it, save those on the organization of the judiciary.” Second, “possessions may also be so acquired as not to form part of the United States, and in that case constitutional limitations, such as those requiring uniformity of the taxation and trial by jury, do not apply.” Therefore, the new territories ceded by the Treaty of Paris were “possessions,” according to this third view, but they did not “form a part of the United States”; that is, they were not fully incorporated to the United States. Although the language was subdued, the meaning was clear: Not all constitutional principles necessarily applied to possessions. Indeed, many

28. Among the proponents of the doctrine of plenary power were C. C. Langdell, “The Status of Our New Territories,” *Harvard Law Review*, 12 (1899), 365–392. The territorial clause of the Constitution stated simply that Congress had the “power to dispose of and make all needful rules and regulations respecting the territory or other property belonging to the United States.” *United States Constitution*, Article IV, section 3, clause 2. Others, like Horace Fisher, proposed that the new possessions be designated “colonial dependencies” to distinguish them from the “territories.” However, Fisher’s terminology was not easily accommodated within either the political climate or the legal doctrine of the day. Fisher, *Principles of Colonial Government*.

constitutional principles were “inapplicable except among a people whose social and political evolution has been consonant with our own.”²⁹ The third view granted plenary powers to Congress over the new possessions and their inhabitants, while it left intact the constitutional guarantees and congressional limits in the incorporated territories and districts that were part of the body politic.

Beginning in 1901, the Supreme Court legitimated the doctrine of incorporation through a series of decisions known as the Insular Cases. The most important was *Downes v. Bidwell*, which dealt with the constitutional principle of uniform taxation. The Foraker Act (1900), which established the civil government of Puerto Rico, had included a temporary customs tax in order to finance the fledgling local government. The court ruled that the principle of uniform taxation was not applicable because Puerto Rico was not a part of the United States. Justice Edward Douglas White, whose concurring opinion most clearly spelled out the doctrine of incorporation, pronounced that “in an international sense Porto Rico was not a foreign country, since it was subject to the sovereignty of and was owned by the United States.” However, “it was 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.”³⁰ Justice Henry Billings Brown, in another concurring opinion, contrasted previous continental expansion and the recent acquisition of insular possessions in this way:

It is obvious that in the annexation of outlying and distant possessions grave questions will arise from differences of race, habits, laws and customs of the people, and from differences of soil, climate and production, which may require action on the part of Congress that would be quite unnecessary in the annexation of contiguous territory inhabited only by people of the same race, or by scattered bodies of native Indians.³¹

Previous continental expansion, according to Brown, involved the incorporation of contiguous territory, inhabited by “people of the same race,” that is, European Americans. At most, the previously annexed territory might have included “scattered bodies of native Indians,” to whom the rights of citizenship did not apply. The new

29. Abbott Lowell, “The Status of Our New Possessions: A Third View,” *Harvard Law Review*, 13 (1899), 176.

30. *Downes v. Bidwell*, 182 US 341–342.

31. *Ibid.*, 281.

possessions for Brown reflected a fundamentally different situation. First, these possessions were “outlying and distant.” Second, they were marked by differences of soil, climate, and economic production. Finally, they were inhabited by peoples of different races, cultures, laws, and customs who were neither readily “Americanized” nor easily displaced by European American settlers.³²

The doctrine of incorporation did not, however, answer the question of precisely how the possessions were to be governed. Again, the law review debate produced a range of opinions before Congress commenced its deliberations. Proponents of the doctrine of *ex proprio vigore* argued that the only tradition compatible with the Constitution was the organization of a territorial government in the near future, which implied eventual statehood. However, this argument led to the conclusion that the new possessions should not be annexed because the inhabitants were not suited at present for territorial government and would never be suited for statehood. Carman Randolph, for example, concluded that the United States should not annex any country “unfit for statehood because of the character of its people,” especially if there was little hope that “Americans will migrate to it in sufficient numbers to elevate its social conditions and ultimately justify its admission as a state.”³³ Randolph also ruled out the possibility that the inhabitants be governed either as “dependent nations” or as “wards,” using the congressional precedents in dealing with American Indians. Only a minority of the inhabitants of the Philippines could be considered to be “tribal Indians,” but the majority could not be denied the privileges of citizenship on the mistaken premise of their tribal organization. Simeon Baldwin reached similar conclusions for Puerto Rico and Hawai‘i: Eventually the inhabitants must be conceded the same right to suffrage as was afforded to “white men of civilized races.” Since neither permanent colonies nor dependencies were permissible under the Constitution, and since the inhabitants of the new possessions were not suited for statehood, Congress would have to relinquish the territories.³⁴ This anti-imperialist conclusion was not acceptable to the expansionists of the period.

32. I agree with Efrén Rivera that the doctrine of incorporation was based upon the notion of racial difference, but I emphasize that the doctrine was deployed only in the absence of significant European American settlement. See Rivera, “The Legal Construction of American Colonialism,” 225–328.

33. Randolph, “Constitutional Aspects of Annexation,” 304.

34. Baldwin, “The Constitutional Questions,” 393–416.

Proponents of the doctrine of plenary power produced two basic alternatives for civil government. The first, pursued by Lebbeus Wilfley, among others, was to treat Puerto Rico and the Philippines as the British treated their crown colonies. He distinguished “temperate colonies,” inhabited by English or European immigrants who enjoyed “responsible governments” with elected legislatures, from “tropical colonies,” inhabited by native, colored populations incapable of self-government. He argued that climate determined the racial attributes of the population, in turn dictating the appropriate form of government.³⁵ The second strategy, which stayed explicitly within the confines of U.S. constitutional tradition, was to treat the new possessions as unorganized territories to be ruled directly by Congress. John Beach argued that legal precedents provided for three kinds of territories—organized, unorganized, and Indian—and for five “degrees of relationship” between the individual and the federal government—full citizenship in the states, limited citizenship in the organized territories, limited citizenship in the unorganized territories, subjects, and wards.³⁶ He concluded that Congress should treat the new possessions as unorganized territories and treat its peoples as either subjects or wards of the United States with no political rights and only a minimum of personal rights. To Beach, the most appropriate models were the district of Alaska and the ward status of American Indians in general.³⁷

Critics identified considerable problems with each of these imperial alternatives. On the one hand, most members of Congress were loath to accept outright that the United States possessed colonies like the British, especially in light of the persistent anti-imperialist stance many congressmen had taken. In addition, the United States did not possess a well-developed legal, political, or institutional tradition of administering imperial possessions in the manner of European empires. On the other hand, Congress did not want to treat the possessions as either organized territories—which implied eventual statehood—or as an Indian territory—which im-

35. Lebbeus Wilfley, “How Great Britain Governs her Colonies,” *Yale Law Journal*, 9 (1900), 207–214. Compare James Thayer, “Our New Possessions,” *Harvard Law Review*, 12 (1899), 464–485.

36. For an invaluable discussion of the application of the notion of “wardship” to American Indians, see David Wilkins, *American Indian Sovereignty and the U.S. Supreme Court* (Austin, Tex., 1997).

37. John Beach, “Constitutional Expansion,” *Yale Law Journal*, 8 (1899), 225–234. Compare Frank Mitchell, “The Legal Effect of the Acquisition of the Philippine Islands,” *American Law Register*, 48 (1900), 193–210.

plied some kind of tribal organization and loyalty that did not exist, except perhaps in some isolated areas of the Philippines. Instead, congressional leaders wanted to organize civil governments with some representative institutions in order to promote limited self-rule within the confines of imperial sovereignty. Although the law review debate had produced a workable distinction between the incorporated and the unincorporated territories, it would be imperial administrators, rather than legal scholars, who produced the institutional models for civil government.

The question of rule in Puerto Rico and the Philippines: Official recommendations

The doctrine of plenary power and its subtle variant, the doctrine of incorporation, effectively resolved lingering doubts regarding congressional authority over Puerto Rico, the Philippines, and Guam by legalizing their status as possessions belonging to but not a part of the United States. As a whole, then, the new possessions—as unincorporated territories—could be treated differently from incorporated territories, including Hawai‘i. Despite this common legal foundation, however, Congress would not deal with the unincorporated territories in uniform fashion when it came time to organize local governments. Effective control over the new possessions required not only a fundamental exclusion based upon a radical difference *between* possessions and the states and territories, but also an elaboration of the differences *among* them. The doctrine of incorporation did not indicate specifically how they might be governed or what the political status of the inhabitants was to be.³⁸

Contemporary debates—in Congress, the law reviews, and the press—were centered on exactly how the United States would rule. The question of rule was premised upon the notion of the cultural difference, or “otherness,” of the inhabitants of the islands. Specifically legal discussions were permeated by, and contributed to, an elaboration of presumably relevant differences that also appeared in descriptions and photographs in illustrated books, reports and recommendations by government officials, world’s fairs, and debates on the floor of Congress. All U.S. participants implicitly agreed on the essential difference of the inhabitants of the new possessions,

38. Indeed, the Supreme Court decision of 1901 legitimated what was already a *fait accompli*; Congress had created a civil government in Puerto Rico with the Organic Act of 1900.

even though there was much dispute about precise characterizations of these various peoples. Repeatedly, we find the observation that the new possessions were tropical islands, thickly populated by “alien races”—places with few, if any, possibilities for immigration and settlement by “Americans.”³⁹ While the list of adjectives—distant, noncontiguous, tropical, densely populated, inhabited by alien races—were equally applicable to Hawai‘i, the decisive point stemmed from the conclusion that the new insular territories were inhospitable to European American immigrants.

In practice, we can observe a pragmatic convergence of ruling strategies that incorporated some elements of U.S. territorial traditions within an overall imperial framework. In its discussion of a suitable government for the Philippines, the Schurman Commission considered the varied colonial governments established throughout the British Empire: the crown colony, the colony with representative institutions, and the self-governing colony with an autonomous local government. The commission rejected the crown colony because it did not promote the development of “home rule,” that is, local self-government. The commission also rejected the self-governing colony because there was no “community of blood, race, and language,” and the island populations in general were considered entirely unfit for self-government at the moment. The model of a colony with representative institutions, furthermore, did not provide for a clear division of governmental functions between the sovereign power and the colony that might enable the further development of representative institutions. Thus, the Schurman Commission argued that the most applicable model for governing the Philippines was the U.S. model of territorial government, which itself was a modified version of the British colony with representative institutions:

The [imperial] governor might, indeed, be given a qualified veto power on local legislation; and in such a case the whole subject should be referred for final disposition to the legislature of the sovereign power, in which, however, the colony should have a representative to present its side of the case. In this way, without doing any violence to representative institutions, the rights of the local legislature and the supremacy of the sovereign power could be easily adjusted and reconciled. But in these suggested modifi-

39. The absence of opportunities for European American settlers is a recurring theme in the congressional debates. This was also the conclusion of leading imperial administrators; see Leonard Wood, William Howard Taft, Charles Allen, Perfecto LaCoste, and M. E. Beall, *Opportunities in the Colonies and Cuba* (New York, 1902).

cations of the British colony having representative institutions but not responsible government has developed substantially into the American scheme of Territorial governments.⁴⁰

Furthermore, according to the commission, this model of territorial government had two variants: a “first-class” territorial government with an elected legislature, and a “second-class” territorial government with a presidentially appointed legislature.⁴¹ Citing Thomas Jefferson on self-government among people who were “as yet as incapable of self-government as children,” the commission recommended a lower house of elected representatives and an upper house of appointed officials.⁴²

The changes suggested in the Jeffersonian scheme of government for Louisiana, in the light of the ideals formulated by prominent and progressive Filipinos—that is, an elected lower house with an upper house half elected and half nominated—would practically convert the scheme into a Territorial government of the first class. And this, after due consideration of circumstances and conditions in the Philippines, is what the commission earnestly recommends.⁴³

40. Schurman Commission, “Report,” 1: 106. The commission also rejected the “Malayan” protectorate, because it was too similar to a crown colony, and the proposed “Tagalog” protectorate, because it granted self-government to the Philippines under U.S. protection from foreign intervention. The commission was willing neither to accept self-government nor to offer U.S. protection in the absence of any external controls over local government. Also, note that the commission recommended that a representative be sent to the U.S. Congress. The organic act, however, provided for two resident commissioners who were entitled to governmental recognition in Washington but had no official standing in Congress.

41. Eblen distinguishes “district” from “territorial” government, following the legal scheme of the Northwest Ordinance of 1787. District government consisted of a skeleton staff of presidential appointees with no clear separation of powers. In contrast, territorial government included a fully or partially elected legislative branch in addition to appointed executive and judicial branches. By the end of the nineteenth century, Congress favored passing over the district phase and immediately establishing territorial governments. See Eblen, *First and Second United States Empires*; Dávila, *Breakthrough from Colonialism*, vol. 1. Apparently, the commission’s distinction of a “second-class” and a “first-class” government corresponds to Eblen’s “district” and “territorial” governments, respectively. The lack of elected representation was the source of dissatisfaction among the residents of the territories with district governments.

42. The child metaphor had been used previously to justify territorial governments in the United States. See Onuf, *Statehood and Nation*, 69–72. In the imperial context, it was elaborated further, albeit toward different ends.

43. Schurman Commission, “Report,” 1: 111. Congress modified this recommendation somewhat by organizing a fully appointed upper house. The commission also recommended that Filipinos fill civil-service posts, especially lower-level ones, whenever possible.

As we shall see below, the Organic Act of 1902 provided for an elected lower house and a fully appointed “upper house,” known as the Philippine Commission.

Gen. George Davis, then military governor of Puerto Rico, also drew upon British colonial models for similar recommendations. He began with an overview of governance in the independent nations and British colonies in the Caribbean. He quickly rejected the model of the independent nation, giving a decidedly unfavorable review of the Dominican Republic. Then he turned to the colonial arrangements in the British empire, which he classified as of three types: 1) those with a responsible parliament and appointed governor (like Canada); 2) those with an appointed governor and executive council but having an elected legislature (like Barbados); and 3) those with an appointed governor and executive council, without an elected assembly (like Jamaica). He suggested that the colonial model most appropriate for Puerto Rico was Trinidad, a crown colony with only a partially elected legislative assembly. His specific recommendations for Puerto Rico provided for an appointed governor and executive council, but with a legislative assembly eventually to be fully elected.⁴⁴ Davis summed up his recommendation with the following explanation:

The degree of autonomy that this project [for a civil government] contemplates is very much broader than that accorded now to the English Crown colonies and approaches to that accorded to Canada, Australia, New Zealand, and the Cape Settlements. It provides for as large a measure of self-government as the Puerto Ricans are capable of using wisely. . . . While this proposed scheme bears some resemblance to that under which some English colonies are now administered, there are many points in which it differs. The bill ‘To provide a territorial government for Hawaii’ . . . supplied some features which have been incorporated, but as a whole it does not bear close resemblance to any existing system of government.⁴⁵

Thus, Davis recommended that the civil government in Puerto Rico should at first resemble a British crown colony (Trinidad) but

44. George W. Davis, *Report of Brig. Gen. Geo. W. Davis, U.S.V., on Civil Affairs of Puerto Rico, 1899* (Washington, D.C., 1900), 72, 76, 82. In choosing his comparisons and contrasts, Davis used several criteria: racial composition, population density, colonial experience, climate, soil, and religion. The government in Trinidad, with a partially elected legislative assembly, was a variant of the Barbados model, which had a fully elected house in addition to the executive council that also had legislative functions.

45. Davis, *Civil Affairs*, 81.

should assume, as soon as possible, the form of a colonial government with responsible representative institutions (Canada), combined with elements of the U.S. territorial government (Hawai'i). According to his scheme, Puerto Rico would be a "dependency" and decidedly not a territory destined for "final incorporation within the American Union," that is, statehood. Davis stated emphatically that neither the annexation of Hawai'i nor the Senate proposal for a Hawaiian territorial government established precedents for either Puerto Rico or the Philippines regarding incorporation or eventual statehood. "We have no American precedent," he commented, "to which we can refer as an aid to decide the form of civil government that should be set up."⁴⁶

Despite the different reasoning of the Schurman Commission and General Davis, the recommended forms of government were remarkably similar: an appointed imperial governor, an executive council with legislative functions (fully appointed in Davis's scheme and half elected in the commissioners' proposal), and an elected legislative assembly. In other words, both provided a representative institution—the legislative assembly—under the watchful eye and firm control of the appointed imperial officials in both the executive and the legislative branches.

The organic acts

On the basis of the official reports, Congress passed organic acts to establish civil governments in Puerto Rico and the Philippines.⁴⁷ The acts created in each locale an executive branch composed of a presidentially appointed governor and executive commission, plus a legislative branch composed of the same executive commission and a lower house of elected representatives.⁴⁸ Con-

46. *Ibid.*, 74–75. Davis commented that the "masses" were more interested in economic benefits—free trade, better wages, and general prosperity—than in the particular form of government.

47. The Foraker Act created a civil government for Puerto Rico. It was approved on April 12, 1900. See "An Act Temporarily to Provide Revenues and a Civil Government for Porto Rico, and for Other Purposes," *U.S. Statutes at Large*, 31: 77. The civil government of the Philippines was created on July 1, 1902, by "An Act Temporarily to Provide for the Administration of the Affairs of Civil Government in the Philippine Islands," *U.S. Statutes at Large*, 32: 691.

48. In Puerto Rico, this committee was known as the executive council; in the Philippines, it was known as the Philippine Commission. By law, both were composed of a European American majority.

trary to the constitutional principle of the separation of powers, the executive committee served both as the governor's cabinet and as the upper legislative body, limiting the autonomy of the elected assembly. Thus, both executive and legislative branches were firmly under the control of appointed imperial administrators who were supposedly tutors in the art of self-government. In addition, the President appointed justices to the local supreme court, while the governor appointed judges to the district courts. In short, the President of the United States exercised control over the local governments by means of appointments to the executive, the legislative, and the judicial branches (see Table 1).

According to the organic acts, the inhabitants of neither Puerto Rico nor the Philippines became U.S. citizens. Instead, they became "citizens of Porto Rico" and "citizens of the Philippine Islands." As such, they were entitled to the protection of, and owed allegiance to, the United States. The law did not grant the "citizens of Porto Rico" a bill of rights, but the "citizens of the Philippine Islands" were explicitly granted rights of life, liberty, property, due process of law, religious freedom, and freedom of speech and of the press.⁴⁹ Puerto Ricans elected, by popular vote, a "resident commissioner" to serve in Washington, D.C. In the Philippines, the legislature selected and sent two resident commissioners to Washington. In both cases, these commissioners had no clearly defined rights or duties; both organic acts simply provided for their "official recognition" in the federal departments in Washington. In 1902, however, the House of Representatives amended its internal rules of procedure and granted the Puerto Rican commissioner access to the floor of the House and, two years later, the right to participate in debates and in committees, but *not* the right to vote. Shortly thereafter, the House began to pay the salary and transportation costs of the Puerto Rican commissioner. This made the status of the Puerto Rican commissioner practically the same as that of a territorial delegate: a nonvoting, second-class member of the House of Representatives.⁵⁰ The commissioners

49. The law abolished slavery, involuntary servitude, imprisonment for debt, and all titles of nobility. Some constitutional rights, such as the right to trial by jury and the right to bear arms, were excluded.

50. Triás Monge, *Historia constitucional*, 1: 298–299; "An Act Making Appropriations for the Legislative, Executive, and Judicial Expenses of the Government for the Fiscal Year ending June Thirtieth, Nineteen Hundred and Seven," *U.S. Statutes at Large*, 34 (June 22, 1906), 417.

from the Philippines, however, never achieved any official status in the House of Representatives.

Despite the important similarities in the executive and legislative structures of local government, the laws pertaining to Puerto Rico and the Philippines were quite different in their judicial and economic provisions. Puerto Rico's organic act provided a much greater incorporation of the island to the United States. First, the act extended U.S. statutes (except those regarding internal revenue) and the federal judiciary to Puerto Rico, which became a new district in the federal court system. In contrast, U.S. statutes did not automatically apply in the Philippines, which was not a part of the federal court system, even though the U.S. Supreme Court had final jurisdiction over decisions of the local courts. Second, Puerto Rico became a domestic port with regard to tariff duties and customs, while the Philippines continued to be designated a foreign port.⁵¹ Finally, in Puerto Rico, U.S. currency replaced Spanish money, while in the Philippines the law created a new legal tender, the Philippine peso (see Table 1).

Guam: A military government

In August 1899 Guam became a U.S. Naval Station under the command of a military governor, who was simultaneously the commander of the naval station and the governor of the island, with jurisdiction over all military and civil matters. In stark contrast to the other sites, there was very little explicit consideration of the people of Guam and their culture. Officials reported only that the people were friendly and accepting of U.S. rule. The first published report, by the ubiquitous Brig. Gen. Joseph Wheeler, mentioned no particular characteristics of the local population, known as Chamorros, apart from their well-kept villages and their hospitable reception—

51. According to the Foraker Act, Puerto Rico became a customs area of the United States with respect to international trade. However, the act also established temporary tariffs on trade between Puerto Rico and the United States in order to finance the Puerto Rican civil government for a limited time. The "internal" tariff was challenged on the grounds that it violated the principle of uniform taxes and tariffs within the United States. This case went to the Supreme Court, which established in *Downes v. Bidwell* (182 US 287) that Puerto Rico "was a territory appurtenant and belonging to the United States, but not a part of the United States within the revenue clauses of the Constitution." The temporary internal tariff lasted until March 1, 1902, after which free trade was established between Puerto Rico and the United States. See *U.S. Statutes at Large*, 31: 77.

including the ringing of church bells and small-gun salutes—of the general and his small party. His report gave the impression of a very small island with few, rather nondescript inhabitants. In sharp contrast to the other sites, the representation of the Chamorros was but a vignette with no narrative framework whatsoever. Apparently, they were a people so inconsequential that they did not even have a story. Wheeler never went beyond the superficial repetition that all the local inhabitants were orderly, friendly, and receptive to U.S. rule. He offered no discussion of language, history, or customs and not the slightest indication that he had interviewed anyone about their recommendations, hopes, or aspirations regarding some form of civil government. With the exception of a few undesirable outsiders—namely Filipino convicts, Catholic priests, and immigrants from the Caroline Islands—the whole population was reduced to the status of a welcoming party for the general and, by extension, for U.S. military rule. This would be a persistent pattern in successive reports.⁵²

The annual report of 1904 made explicit the particular relationships that Governor George Dyer proposed between the naval station and the inhabitants of Guam. First, he began by noting that the island was of strategic value due to its position and good harbor, but that it was very small. As a result, the naval station and the local inhabitants were unavoidably thrown together in close contact. “The one, as an organization, cannot escape, or live far apart, from the other, and the efficiency of the first depends entirely on the welfare of the second.” Second, the naval station depended upon the Chamorros for food supplies and labor. However, the people were poor agriculturalists and produced barely enough for subsistence and should be “afforded practical instruction in their sole pursuit, agriculture.” Third, the Chamorros were well-suited for the auxiliary tasks required by the naval station, but they needed to be educated to serve as “clerks, mechanics, and intelligent laborers” since there was at that time “no class from which to draw these.” Fourth, the Chamorros were dependent upon the naval station for medical care to be “kept healthy and free from contagion.” An unhealthy population threatened the well-being of the naval station. Finally,

52. Joseph Wheeler, *Report on the Island of Guam* (Washington, D.C., 1900). Wheeler was Brigadier General in the U.S. Army and served in both Cuba and the Philippines. He also wrote the preface to the popular José de Olivares and William Smith Bryan, *Our Islands and Their People as seen with Camera and Pencil* (St. Louis, Mo., 1899).

even though the governor indicated that it was not his “intention to suggest an extreme paternalism,” he concluded that the local inhabitants were “like children, easily controlled and readily influenced by example, good or bad.” Therefore, they “must be taught at once to help themselves in ways to make them useful to us and to attain a higher grade of living, but their preliminary steps must be guided by us and they must be supplied with means to this end now entirely beyond their own resources.”⁵³

One year later, Governor Dyer elaborated on these views to justify the indefinite continuation of the military government. Given the current conditions, he argued that it was counterproductive to have two different administrations, one civilian and one military. Here he compared Guam with a ship: “Guam may be aptly compared to a ship where the narrowness of the quarters and the object to be attained can only be accommodated by a single director.” Only one captain—simultaneously the naval commander and military governor—could be authoritative and effective. This powerful metaphor summed up the logic that justified military government in Guam. Moreover, according to Dyer, the Chamorros were happy and content with this arrangement; they did not desire civil government.⁵⁴ While the U.S. War Department established naval stations throughout the imperial archipelago, Navy interests on Guam overwhelmed all other considerations: No immigration, no capital investment, no agricultural exports, and no civil government were ever contemplated.⁵⁵ The Navy treated civilians as auxiliaries to the naval station, not as a people or a culture worthy of any but the

53. George Dyer, “Report of the Governor of Guam,” typewritten letter to the Navy Department, June 21, 1904, pp. 5–9, in General Records of the Department of the Navy, 1798–1947, Record Group 80, National Archives. William Wuerch at the Micronesian Area Research Center, University of Guam, Mangilao, provided me with copies of the official reports from the first several years of the military government.

54. George Dyer, “Report of the Governor of Guam,” typewritten letter to the Navy Department, Washington, June 30, 1905, pp. 2–3, in *ibid.*

55. The Navy was also dominant in American Samoa, which the United States acquired by treaty in 1899. However, local authorities in Samoa apparently had somewhat more local autonomy than in Guam, especially after a series of anti-Navy protests beginning in the 1920s; see David Chappell, “The Forgotten *Mau*: Anti-Navy Protest in American Samoa, 1920–1935,” *Pacific Historical Review*, 69 (2000), 217–260. Like Guam, American Samoa is an “unincorporated” territory of the United States. However, its local civil government was not the result of an organic act of Congress, and Samoans are not U.S. citizens. For a comparison of the current legal status of Guam, American Samoa, Puerto Rico, U.S. Virgin Islands, and the Northern Mariana Islands, see Jon Van Dyke, “The

barest minimum of political rights. Unlike the other sites, Guam was not to be a school for instruction in the arts of self-government, in spite of attempts by the local population to organize a legislature (1899) and regardless of their petition for civil government (1901).⁵⁶

Culture and government

Throughout the legal debates, official reports, court decisions, and congressional debates, participants deployed the metaphors of femininity, childishness, and racial inferiority to narrate the past and present of these peoples and to evaluate their level of civilization and capacity for self-government. The symbols of women, children, and races (or tribes) were at once very general and quite specific. Many metaphors were borrowed from other contexts, including, as scholars have noted, the transference of domestic American metaphors to the new possessions. For example, the dependent peoples of the imperial archipelago were consistently portrayed as “childlike,” as were women and minorities in the United States. However, to treat the descriptions of the imperial archipelago as simply an uncomplicated, unmediated extension of previous narratives mistakenly homogenizes the “colonial other” without addressing the issue of hierarchical differences. In the new possessions, these metaphors were articulated within specific narratives about each place and its peoples.⁵⁷ The question became: What *kinds* of children, women, or races were these? The answer to this question varied by place and served to devise and justify particular strategies of rule.

The principal narrative for Hawai‘i described the “Americanization” of the islands by means of widespread public education, the use of English in government and business, the islands’ close economic relationship with the United States, the establishment of American-style political institutions, and the presence of a strong

Evolving Legal Relationships between the United States and Its Affiliated U.S.-Flag Islands,” *University of Hawai‘i Law Review*, 14 (1992), 445–517.

56. Julian Go has analyzed political education in Puerto Rico and the Philippines in his article, “Chains of Empire, Projects of State: Political Education and U.S. Colonial Rule in Puerto Rico and the Philippines,” *Comparative Studies in Society and History*, 42 (2000), 333–362.

57. For a comparative analysis of the principal representations and narratives, see Lanny Thompson, “Estudiarlos, juzgarlos y gobernarlos’: Conocimiento y poder en el archipiélago imperial estadounidense,” in Consuelo Naranjo, *et al.*, eds., *La nación so ada: Cuba, Puerto Rico y Filipinas ante el ’98* (Aranjuez, Spain, 1995), 687–693.

annexationist movement. A central theme was the transition from a monarchical government, led by Hawaiian royalty, to a democratic republic, under the control of *haoles* resolutely loyal to the United States. In general, the story was one of the development of European American hegemony that maintained racial harmony, even in the context of the considerable cultural diversity. Accordingly, the Hawaiians (*kanakas*) themselves were depicted as an intelligent, passive, and attractive race, most commonly represented by photographs and descriptions of exotic women.⁵⁸

In contrast, the narratives for Puerto Rico, the Philippines, and Guam presented the inhabitants as quite incapable of the kind of self-government the United States supported in Cuba (a dependent republic) or established in Hawai'i (an incorporated territory). First, their local elites were viewed as either weak and lacking political will (Puerto Rico and Guam) or incapable of ruling a vast and culturally heterogeneous archipelago (the Philippines). Second, there was no history of "Americanization" through European American settlement nor was there any possibility for future assimilation by the same means. According to these political and cultural evaluations, Congress created a third kind of political status for Puerto Rico, the Philippines, and Guam that was distinct from that of either Cuba or Hawai'i. And so these islands became imperial possessions of the United States, distinct from the colonial settler territories. In addition, Congress created a different government for each of the imperial possessions according to its reckoning of cultural difference and the potential for "Americanization" by other means, principally through the establishment of public schools.

58. The illustrated books were replete with photographs of the Hawaiian monarchy, including King David Kalakaua (d. 1891), Queen Liliuokalani, and Princess Kaiulani. Hawaiian women were portrayed in "traditional" settings that emphasized their exotic and sensuous customs: luau, hula, and adornment with leaves and flowers. Contrasting photographs of Hawaiian women in Western dress but still adorned with flowers were popular representations of the "civilization" of "paradise." The Hawaiian royalty had tried to promote an image of civility and sophistication through portrait photographs since the 1860s. Anne Maxwell has published an interesting study of photographs of the Hawaiian monarchy; see *Colonial Photography and Exhibitions* (London, 1999). She does not, however, consider the deployment of many of these same photographs in the narratives of the expansionist illustrated books. The Hawaiian monarchy also used their membership in local Masonic lodges and their international contacts with fellow Masons as means of legitimating their rule during the nineteenth century. See Frank Karpel, Jr., "Mystic Ties of Brotherhood: Freemasonry, Ritual, and Hawaiian Royalty in the Nineteenth Century," *Pacific Historical Review*, 69 (2000), 357–397.

In contrast to the Philippines, the organic act for Puerto Rico provided more integration with the United States, principally through the extension of U.S. statutes and the federal judiciary, the use of a common currency, and the treatment of the island as a domestic rather than foreign port. Although Puerto Rico was an unincorporated territory like the Philippines, these provisions of its organic act provided for an integration of the island more similar to that of Hawai'i. This followed from the idea that Puerto Rico might eventually be assimilated culturally while the Philippines definitely could not. Puerto Rico was viewed as a small, weak country, lacking political will and anxious for economic and political integration with the United States. At least two metaphors were important in this narrative: femininity and childishness. Puerto Rican women were portrayed as working-class and mulatto, but also attractive and of good disposition. They lacked the resources for their own advancement, but were able and willing.⁵⁹ On the floor of the Senate, Albert Beveridge deployed such feminine metaphors in arguing for the bill to establish a Puerto Rico's civil government. He stated:

This island of beauty and natural wealth came to us like a bride to the arms of her beloved. . . . Porto Rico came to us like Ruth, saying, "Entreat me not to leave thee, or to return from following after thee; for whither thou goest I will go, and where thou lodgest I will lodge; thy people shall be my people, and thy God my God." Thus comes this little land, pleading, like Ruth, only that she may glean in the harvest after the reapers. And she is hungry; we will feed her. She asks for the liberty to live; we will free the hands of her industry. She is bruised and wounded and weak; we will soothe her bruises, heal her wounds, strengthen her weakness.⁶⁰

According to Beveridge, this Puerto Rican Ruth sought the freedom to work and to make a living, not to acquire political liberty and self-determination. The pressing issue, then, was agriculture, industry, and commerce under U.S. political tutelage. But the imagery was not unsympathetic: The Puerto Rican Ruth was like a bride who might become a part of "thy people." In the House of Representatives, Sereno Payne similarly deployed the metaphor of childhood throughout his speech: "Keep them all in leading strings until you have educated them up to the full stature of American manhood,

59. Thompson, "Estudiarlos, juzgarlos y gobernarlos."

60. Albert J. Beveridge, "Government for Porto Rico," *Cong. Rec.*, 56 Cong., 1 sess. (March 29, 1900), Appendix: 285.

and then crown them with the glory of American citizenship.”⁶¹ In the nineteenth century, children would hold on to leading strings in order to learn how to walk unassisted. In this regard, the Puerto Rican child had not achieved manhood, although with education and political tutelage, he might one day deserve U.S. citizenship. Here we see the metaphorical importance of a child’s education in relation to imperial strategy. Together, the sympathetic images of femininity and childhood served to promote the integration of the island into the U.S. economic and judicial systems, but their decidedly negative connotations simultaneously excluded Puerto Rico from self-government.⁶²

In contrast, the majority of Congress used singularly negative terms to describe the Philippines as a vast, culturally diverse archipelago that could never be assimilated or settled by European Americans. The principal narrative was one of the evolution of an aggregate of diverse tribes, ranging from the most primitive to the more civilized.⁶³ The participants in the debates were highly aware of the power of language and frequently questioned the particular words and phrases used by others. An advocate of speedy independence for the Philippines, Senator Edward Carmack complained

61. “Trade of Porto Rico,” *Cong. Rec.*, 56 Cong., 1 sess. (Feb. 19, 1900), 1946.

62. The literature on Puerto Rico is vast. Two important recent contributions are Pedro Cabán, *Constructing a Colonial People: Puerto Rico and the United States, 1898–1932* (Boulder, Colo., 1999) and Santiago-Valles, “*Subject People*” and *Colonial Discourses*.

63. Congress deployed representations of the peoples of the Philippines in various stages of evolution but did not appeal to explicit feminine metaphors. The illustrated books did, however, usually images of the most negative kind. Many authors recounted their initially optimistic expectations, their misreading of the photographs and faces of the women, their great disillusionment, and final deprecation of Filipinas. For example, White felt compelled to circumvent possible misreadings of some photographs of pretty women in their traditional dress. Instead, he argued, they were quite unattractive, despite any possible favorable first impressions. See White, *Our New Possessions*, 177–178, and Olivares and Bryan, *Our Islands*, 590–591. I have argued in a recent article that the armed conflict in the Philippines resulted in the widespread representation of Filipinos as uncivilized and unruly “children” who had dishonored the United States and required discipline. The lack of sympathy for the Filipino people led to descriptions of unattractive and sullen women in the illustrated books. See Lanny Thompson, “Representation and Rule in the Imperial Archipelago: Cuba, Puerto Rico, Hawai‘i, and the Philippines under U.S. Dominion after 1898,” *American Studies Asia*, 1, no. 1 (2002), 3–39. Recently, Charles Hawley has shown how representations of Filipinos in Hollywood movies changed in response to the political transition from colonial commonwealth to neocolonial independence. Furthermore, certain images of Filipinos were favored in Hollywood’s propaganda efforts during World War II. See Charles V. Hawley, “You’re a Better Filipino than I Am, John Wayne: World War II, Hollywood, and U.S.-Philippines Relations,” *Pacific Historical Review*, 71 (2002), 389–414.

that those who favored an imperial government unfairly characterized its people in degrading terms.

Now, sir, the first and worst offender in this respect is the President of the United States. "Savages," "barbarians," "a savage people," "a wild and ignorant people," "Apaches," "Sioux," "Chinese Boxers," these are the words habitually employed by him to describe a people nine-tenths of whom are sufficiently educated to read his bitter and scornful and contemptuous words!⁶⁴

Carmack contrasted the images of savages with another: Filipinos as literate and capable of self-government. Filipino leaders similarly asserted their status as a "civilized nation" against the prevalent image of a "collection of tribes," as in the case of Sixto Lopez's anti-imperialist tract for Filipino nationhood:

As a matter of fact, with the exception of the few uncivilized tribes in Central Mindanao and the Sulus, and the semi-civilized Igorrotes and Negritos of Luzon . . . the Filipinos are a homogenous people belonging to the Malayan race. They speak several dialects, but they are one people. They constitute an overwhelming majority of the inhabitants of the Philippines. They are opposed not solely to American but to any foreign rule; and they are united in the desire for independence and for the purpose of maintaining a stable, independent government. In conclusion, I again assert without fear of contradiction, that the alleged antagonisms between the inhabitants of the provincial districts, or between the so-called "tribes," have arisen not in the minds of the Filipinos themselves, but in the minds of those who do not understand our peoples and who have reached conclusions in no way warranted by the facts.⁶⁵

Virtually the whole Congress agreed that assimilation of the Philippines to the United States was not possible; the basic disagreement was over the process and timing for independent government. Democrats portrayed the Filipinos' capacity for self-government as similar to the Cubans', while Republicans, who favored a long, indefinite period of tutelage, stressed that the Philippines was inhabited by a heterogeneous aggregate of tribes that did not constitute a civilized nation. Senator John Spooner, in his defense of

64. "Civil Government for the Philippine Islands," *Cong. Rec.*, 57 Cong., 1 sess. (April 25, 1902), 4673.

65. Sixto Lopez, *The "Tribes" in the Philippines* (Boston, 1900). See also the message of Felipe Buencamino to Congress and the interview with Sixto Lopez reproduced in "Civil Government for the Philippine Islands," *Cong. Rec.*, 57 Cong., 1 sess. (June 2, 1902), 6168–6187.

the organic bill, argued, that “[i]t takes more than land and inhabitants to constitute ‘a people.’” Since there was no unified “people,” there was no justification for an independent government.⁶⁶ But-tressed by diverse photographic images and deprecating descriptions, Republicans denied that there was either a people or nation in the Philippines and asserted that national sovereignty therefore had no cultural basis. Indeed, Republicans conceived the American project in the Philippines as the creation of a nation through political tutelage over the long term. The narrative of tribes was a powerful argument for the establishment of imperial rule.

Even though the imperialists used the narrative of tribes in a most general fashion, it was also apparent that not all tribes were the same. Cultural difference led to divergent provincial governments *within* the Philippines, according to a cultural—specifically religious—criterion.⁶⁷ The organic act denied representation in the Filipino legislature to provinces “inhabited by tribal Indians” or where the local government was conducted by “sultans, datos [*sic*], or chiefs.” Imperial administrators classified the diverse ethnic groups according to three basic categories: Christian, animist, and Muslim, with the latter two often referred to as “non-Christian” or “uncivilized tribes.” President McKinley instructed the Second Philippine Commission to apply to the latter the same general policy that Congress had adopted for the American Indians:

In dealing with the uncivilized tribes of the islands the commission should adopt the same course followed by Congress in permitting the tribes of our North American Indians to maintain their tribal organization and government, and under which many of those tribes are now living in peace and contentment, surrounded by a civilization to which they are unable or unwilling to conform. Such tribal governments should, however, be subjected to wise and firm regulation; and, without undue or petty interference, constant and active effort should be exercised to prevent barbarous practices and to introduce civilized customs.⁶⁸

McKinley’s directive suggested that the “uncivilized tribes” were comparable to the American Indians and therefore subject to simi-

66. “Civil Government for the Philippine Islands,” *Cong. Rec.*, 57 Cong., 1 sess. (May 31, 1902), 6128.

67. Cuba had uniformly governed provinces with equal participation in national government. Puerto Rico, Guam, and Hawai’i were not divided into provinces.

68. William McKinley, “Instructions of the President to the Second Philippine Commission,” letter to Elihu Root, Secretary of War, April 7, 1900, reproduced in Dean Worcester, *The Philippines Past and Present* (2 vols., New York, 1914), 2: 980–988.

lar policies, especially with regard to the maintenance of their tribal organization and government.⁶⁹ Along these lines, the organic act provided for the gradual establishment of civil government in pacified provinces with Christian majorities, while excluding areas “inhabited by Moros or other non-Christian tribes.”⁷⁰ For “Christian” provinces, the act granted limited municipal self-government, organized partially elected provincial governments, and provided for elected representatives to the national legislature, known as the Philippine Assembly. In contrast, the governor-general and the Philippine Commission governed the “non-Christian tribes” directly by means of appointed officials. The Philippine Commission established the Bureau of Non-Christian Tribes, which was assigned to conduct ethnographic research, including the description of the current conditions and the classification of various tribes. The bureau was to provide the knowledge base for the establishment of municipal and provincial governments in those areas inhabited by animist and Muslim peoples.

To comply with McKinley’s directive, David Barrows, first chief of the bureau, spent several months visiting American Indian reservations and schools in the United States. The “Indian policy” to which McKinley referred was not entirely clear, since during the previous decades Congress had worked to abandon the reservation policy, allot land to individuals, and dismantle tribal organizations.⁷¹ Barrows understood “Indian policy” to mean the system of reservations, the maintenance of tribal governments, and the establishment of boarding schools to promote acculturation. However, he was not impressed with the policy of reservations, since it recognized tribal organization and provided for the allocation of communal lands to the “tribes,” also known as “domestic dependent nations.” He also felt that boarding schools were inadequate, since they pro-

69. Walter Williams has argued that “Indian policy” provided the general blueprint for all governmental policy in the Philippines in general. While suggestive, this argument fails to distinguish three different models of rule for different kinds of “tribes”: the Mountain Province, the Moro Province (the two “special provinces”), and the “Christian” provinces. See Williams, “United States Indian Policy,” 810–831.

70. “An Act Temporarily to Provide for the Administration of the Affairs of Civil Government in the Philippine Islands,” 693–694. For a description by one of the imperial official of the implementation of the various provincial governments, see Worcester, *The Philippines Past and Present*, chapters 12, 21–22.

71. Contrary to McKinley’s suggestion that Congress had permitted American Indians to retain their tribal organizations, Wilkins has argued that the years 1886–1903 saw a “policy era bent on the destruction of tribes as identifiable cultural, sociological, and religious bodies.” See Wilkins, *American Indian Sovereignty*, 64.

vided the students with an education that they could seldom use when they returned home. His general conclusion, contrary to McKinley's directive, was that "the policy of the United States in dealing with the American Indian contains little that can be followed in governing the backward races here [in the Philippines]." ⁷² In this statement, Barrows thus rejected the comparison of American Indian tribes with the tribes of the Philippines. To the contrary, he suggested that the United States should take into consideration the particular culture, religion, and political organization of the local tribes. Importantly, instead of recognizing local tribal authorities, Barrows sought to undermine their power. The Philippine Commission, following the advice of Barrows, organized two "special provinces" under the control of appointed officials: Moro Province, created in 1903, and Mountain Province, created in 1908.

The Bates Agreement, signed in 1899 by the United States and the Sultan of Sulu, Jamalul Kiram II, granted considerable political autonomy to the various sultans and datus in the southernmost areas of the Philippines. ⁷³ The agreement, which resembled the previous Spanish treaties with the sultans, achieved a momentary peace in the region while the war raged in the northern regions. Upon the defeat of the Philippine army and the virtual elimination of guerrilla resistance in the northern provinces, the Philippine Commission turned its attention to the rule of the island of Mindanao, the second largest of the Philippines group, the Sulu Archipelago, and the island of Palawan (then known as Paragua), which were officially under U.S. military rule but for all practical purposes controlled by the sultans. Prominent army officers, such as General Davis (former military governor of Puerto Rico) and Gen. Leonard Wood (former military governor of Cuba and first governor of Moro Province), opposed the Bates Agreement because of the autonomy it granted to the sultanates. In this way, the Bates Agreement was a treaty similar to those made—and broken—by Congress with the various American Indians tribes throughout the nineteenth century.

72. David Barrows, "Report of the Chief of the Bureau of Non-Christian Tribes," in *Annual Report of the Secretary of War for the Fiscal Year Ended June 30, 1902: Report of the Philippine Commission*, 57 Cong., 2 sess. (1903), Appendix Q: 684.

73. Sultans were aristocratic sovereigns who ruled through panglimas (personal representatives of the sultan) and local datus (aristocrats). Several sultans, with their respective panglimas and datus, ruled over the areas that would become Moro Province in 1903. See W. K. Che Man, *Muslim Separatism: The Moros of Southern Phillipines and the Malays of Southern Thailand* (Manila, 1990), 30–31, 46–55.

Moro Province was created in 1903 precisely to destroy the traditional political authority of the Muslim sultans and datus. The province was simultaneously a civil government and a military district. In practice, military officers held the highest positions of civil government. It was divided into municipalities and "tribal wards" delimited by ethnicity. The provincial governor appointed local officials to the municipal governments and loyal "headmen" to supervise the tribal wards. This structure of loyal governor-appointed local officials undercut the centralized political authority of the sultans and datus. One year after the creation of Moro Province, President Theodore Roosevelt abrogated the Bates Agreement and thus officially revoked the political authority of the sultans and datus.⁷⁴

The creation of Moro Province led to widespread revolts that, over roughly ten years, were systematically suppressed by the U.S. Army. In 1913 Moro Province, then fundamentally under military rule, became the Department of Mindanao and Sulu, with a civil government made up of seven provinces. All tribal wards were replaced with municipal districts with appointed officials. This new civil government still fell under the direct supervision of the governor-general and the Philippine Commission. The Jones Law of 1916, which eliminated the commission, created a new Bureau of Non-Christian Tribes to oversee the government of these provinces.⁷⁵ If "Indian policy" provided any guidance for governing the Muslim peoples, it was only during the first few years of transition. Instead of maintaining "tribal organization," the policy over the long term was directed at the complete elimination of traditional centralized authority.

In 1908 the Philippine Commission, after much experimentation with civil municipal governments and a good deal of gerrymandering in order to group together the northern hill tribes, created Mountain Province in the mountainous north-central areas of the island of Luzon. The new Mountain Province was divided into subprovinces, roughly corresponding to "culture areas." Barrows noted that the term "tribe" was not entirely adequate because he felt

74. Peter Gowing, *Mandate in Moroland: The American Government of Muslim Filipinos, 1899–1920* (Quezon City, Philippines, 1977), chapters 2–5. Only the main concentrations of Muslims on Mindanao and in the Sulu Archipelago were grouped into the "special" Moro Province. Areas with predominantly Christian populations in northern Mindanao and on the island of Palawan were formed into regular provinces.

75. *Ibid.*, chapters 6–8.

that it implied a more centralized tribal political organization than what he had found in the province. According to him, political capacity did not extend beyond the community or village. For this reason, he preferred the term “culture area,” although the term “tribe” was still widely used. At no point did the Philippine Commission recognize any kind of unified tribal government apart from particular village “headmen” and “councils.” Instead, the commission organized municipal or township governments under the guidance of provincial or subprovincial imperial authorities. The Township Government Act (1905) allowed the appointment of local officials by the provincial governor in the “least civilized areas” or the election of such officials (except secretary-treasurers) by “manhood suffrage” in those areas that had shown progress in governmental capacities. Neither provincial nor subprovincial positions were elected. The Philippine Commission, furthermore, promulgated laws that supplanted customary laws.⁷⁶ Thus, while imperial authorities initially recognized traditional village authority, they did so only as a means of transition to the organization of township governments. Unlike Moro Province, Mountain Province did not have a military government.

It is doubtful, therefore, that U.S. policy toward American Indians provided much guidance for policy in the Philippines, even with respect to the animist and Muslim peoples in the two special provinces. Imperial administrators explicitly departed from President McKinley’s directive to maintain tribal organization and government, although at first traditional authorities were recognized. The Philippine Commission did not organize reservations; rather it established municipal and provincial governments that supplanted traditional authority. While the Bates Agreement was analogous to congressional treaties with American Indian tribes, the imperial government abrogated this agreement and created Moro Province as soon as U.S. authority was clearly established in the rest of the Philippines. Despite the presidential directive, imperial administrators concluded that the animist tribes of the Philippines were different from American Indians and that the recognition of Muslim

76. Howard Fry, *A History of the Mountain Province* (Quezon City, Philippines, 1983), chapters 2 and 3. The Mountain Province included the former provinces of Benguet and Lepanto-Bontoc along with large areas carved out of the adjacent provinces of Abra, Cagayan, Isabela, and Nueva Vizcaya.

political systems threatened the sovereignty of the imperial government. Thus, while not entirely abandoning the analogy of tribes, imperial administrators began to distinguish different kinds of tribes.

Conclusion

Congress *adopted* for Hawai'i the standard territorial government, according to the model it had already used in the various continental territories, including New Mexico, Arizona, and Oklahoma. (Alaska, however, had to wait until 1912 for a territorial government.) Of the insular territories, only Hawai'i approximated the continental experience of European American settlement and local hegemony. For this reason, Hawai'i was the only new territory to be incorporated into the United States and eventually (1959) to be admitted as a state. Hawai'i, then, was a distant frontier of European American settlement, and this distinguished it from the former Spanish colonies acquired in 1898.

Congress *adapted* the territorial model for Puerto Rico and the Philippines in quite flexible ways. These territories were not incorporated; rather they belonged to, but were not a part of, the body politic of the republic. This followed from the conclusion that these islands were inhabited by peoples of fundamentally different "races" and "civilizations" who were not capable of self-government. Their governments were adaptations of the territorial model used in the continental territories and Hawai'i, but their organic laws marked a shift in U.S. expansionism: from colonialism via settlement to imperialism via political dominion. The basic structure of these imperial governments resembled that of a territorial government, but one firmly under the control of appointed European American administrators. The executive branch included a presidentially appointed governor and an appointed executive commission. The legislative branch was composed of the same executive commission, which functioned as the upper house, and a lower house of elected representatives. However, while Congress integrated Puerto Rico into the commercial and judicial systems of the United States, it excluded the Philippines as a foreign port, with its own currency, and did not make it subject to U.S. statutes or courts. This followed from the conclusion that Puerto Rico might somehow become "Americanized," but that the Philippines could never be assimilated. Further-

more, special provinces were created in the Philippines for those tribes considered to be both “uncivilized” and “non-Christian.”

In Guam, the interests of the Department of the Navy prevailed over all other considerations. Government officials considered the local people to be hospitable and eager to accept U.S. sovereignty, while they largely ignored the inhabitants’ language, culture, and history. A people without history could not expect to develop self-government. In Guam, a military government was established and maintained.

The creation of different governments for Hawai‘i, Puerto Rico, the Philippines, and Guam followed the general principle that operated throughout the imperial archipelago: The multiple imperial subjects were to be ruled differently, according to their level of civilization and capacity for self-government. Cultural representations—frequently expressed in gendered, infantilized, and racialized vocabularies—played a fundamental role in the conception, establishment, and justification of different forms of rule. The many participants—lawyers, imperial administrators, legislators, and judges—evaluated the social conditions of the islands by means of these representations in order to establish rule. These representations were neither fantastic misrepresentations, on the one hand, nor objective descriptions, on the other. They were practical and creative engagements with local peoples that resulted in the establishment of new governments.