

Forum: Special Political and Decolonization Committee (GA4)

Issue: The case of Guam

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INTRODUCTION

Guam is an island territory located in the North Pacific Ocean. It is officially administered by the United States of America (USA) under the status of Unincorporated Territory (UT). The closest area in mainland US is that of San Francisco (9,300 km)¹. It is considered part of the island complex of Micronesia, a sub-region of Oceania and together with the Northern Mariana Islands is the westernmost point of the USA.

Guam was officially ceded to the USA by the Treaty of Paris in 1898, after the defeat of Spain, then governing country of Guam, in the Spanish-American War. The US Federal Government, shortly after taking possession of the island, created one of the nation's biggest naval bases there. Guam has America's most important military installations in the Pacific Ocean and the entire continent of Oceania; thus making the island a territory of high importance.

Agana (Hagåtña) is the capital city of Guam and Dededo the most populous one. Its inhabitants are called Guamanians. They are American citizens and have equal rights to those who live in the continental or not US. They do have the right to elect one representative in the US House; however, the position has only been granted observer status, hence restraining the ability to vote on crucial matters of state.

Guam is officially governed under the Organic Act of Guam of 1950. Under this Act, all Guamanians became US citizens with rights similar to those of other Americans. Guam still has no votes in the Electoral College but its citizens can vote during Caucus Elections through which a delegate is appointed to help nominate a candidate for the Presidency at Democratic or Republican National Convention.

The territory has also been granted a judicial system with two courts. The first being the Guam Supreme Court, the judges of which are appointed at the suggestion of Governor and the confirmation of the public vote and the second being the District Court of Guam the judges of which are appointed by the President for an eight-year term. The regional appeals may be submitted to the Court of Appeals for the Ninth Circuit and then to the Supreme Court of the US.

Despite the many freedoms the island territory has been granted, the Government of Guam seeks to upgrade the status of its nation. Guam has the privilege of being represented in the US Congress even with a non-voting representative, a privilege which not all territories have. There have been numerous attempts by the regional government to find a way to upgrade the status of the territory either by submitting a Bill directly to the US Cabinet and/or Presidency or to the Congress as a House of Representatives Resolution.

DEFINITION OF KEY TERMS

Unincorporated Territory (UT)

¹ Ballendorf, Dirk Anthony and Sophie Foster. "Guam." Encyclopedia Britannica, Encyclopedia Britannica, Inc., 3 June 2020, www.britannica.com/place/Guam

"Although an Unincorporated Territory (UT) is governed by the United States, it does not have statehood status, and this lesser legal and political status sets them apart from the rest of the United States."² This kind of territory has the ability to enact laws under its own "Constitution", namely the Organic Act

Organic Act

The Organic Act is an act established by the US Congress in order to form a new territory under the governance of the USA. Under this Act, it is specified how this territory should be organized and governed. If a territory isn't created under an Organic Act, then it is considered unorganized.

United States Congress

"The United States Congress is the bicameral legislature of the United States of America's federal government. It consists of two houses, the Senate and the House of Representatives, with members chosen through direct election."³

United States House of Representatives (US House)

The US House of Representatives is the lower of the two houses of Congress, with the other one being the US Senate. Its members are appointed through direct election. The number of representatives assigned to every state depends on its population's size.

Caucus Elections

"A caucus is a local meeting where registered members of a political party in a city, town or county gather to vote for their preferred party candidate and conduct other party business. Caucuses typically are used in combination with a state convention to elect delegates to the national nominating convention for presidential elections."⁴

BACKGROUND INFORMATION

Spanish Colonization

Ferdinand Magellan was the first European to discover Guam during an expedition for the Holy Roman Empire on March 6th, 1521. Spanish didn't lay foot there again until 1565 when Spanish navigator, Miguel Lopez de Legazpi claimed Guam for the Spanish Crown.

However, the island was not officially colonized by Spain until the late 17th century. On June 15th, 1668, a galleon from Spain arrived in the island. The purpose of their trip was to introduce Christianity to Guamanians, develop trade and officially establish the Spanish rule.

By the end of the 17th century, the island had become an important stop for galleons crossing the Pacific Ocean from Mexico to the Philippines. This period was later called Galleon Era.

² "Unincorporated Territory." TheFreeDictionary.com, Farlex, legal-dictionary.thefreedictionary.com/Unincorporated+territory.

³ "United States Congress." Ballotpedia, ballotpedia.org/United_States_Congress.

⁴ Baily, Kirk. "What Is the Difference Between a Primary Election and a Caucus?" Dummies, www.dummies.com/education/politics-government/what-is-the-difference-between-a-primary-election-and-a-caucus/.

During the Spanish administration, the population due to various infectious diseases and very low birth rate rapidly reduced from 12.000 to roughly 5.000.

In 1815, following the Mexican Independence, the Galleon Era ended as there was no need for Spanish to travel from the Philippines to Mexico and vice versa. Sometime later, many scientists and whalers from France, England and Russia settled on the island. These were the first and only people to ever record the everyday life on the island under Spanish rule.

Spanish-American War

The Spanish-American War was an almost four-month armed conflict between the USA and Spain. The war was declared in the aftermath of the explosion of USS Maine in Havana Harbor, Cuba. This resulted in the US intervention in the Cuban War of Independence.

On August 20th, 1898, USS Charleston was sent by the US Department of the Navy to take over Guam, then a Spanish possession. The Spanish troops stationed on the island were at first glad to have someone visiting the island. The troops haven't been informed that their country has been at war with the US and mistook their cannon fire for a salute. A peaceful transfer of power followed.

The War ended on August 13th, 1898 and led to the signing of the Treaty of Paris on December 10th, 1898. Under this Treaty, Spain was forced to cede Cuba, Guam, Puerto Rico and the Philippines to the US.

American Rule

A few days after the Treaty of Paris became effective, leading families of Guam met and established a legislature to represent them to the US. The US made a "surprise move" and put Guam under the jurisdiction of the Department of Defense and specifically the Department of the Navy. As a result, Governors of Guam were military officials appointed by the Federal Government. The Department of Defense quickly established an important naval base on the island.

Guamanians held long direct and indirect discussions with the Federal Government about the kind of governance the island should have and the rights of its citizens. The majority of Governors agreed to the ideas sent to the government. The most important issue was the citizenship of those living on the island. Two delegates, Baltazar J. Bordallo and Francisco B. Leon Guerrero, were sent to Washington to talk with President Roosevelt, who together with the US Congress, reacted positively to the idea of granting Guamanians US Citizenship. However, the Department of the Navy convinced them to reject the proposal.

World War II

On December 12th, 1941, Japanese forces landed on the island four hours after bombing Pearl Harbor in Hawaii, and seized control of it. The Japanese occupation lasted three years, during which more than 13.000 civilians were injured or suffered forced labor and more than 1000 were brutally killed.

Many American troops remained on the island throughout the occupation hidden by Guamanians. Unfortunately, all were found and executed by the Japanese except for one that managed to escape.

On July 21st, 1994, after weeks of preparation American troops landed on the western side of Guam. After three weeks of bombings, on August 10th, 1994, the Japanese Imperial Army surrendered. As the war had not ended yet, the island was quickly converted into a modern-day Naval and Air Force Base. Many airfields were constructed while Andersen Air Force Base was updated. Finally, Naval Base Guam was expanded and numerous facilities were built.

Post War World II

Guamanians seeing that the Navy Department was to take over the administration of the island again demanded an Organic Act to be drafted by the US Congress. In 1950, the Organic Act passed and Guam was officially granted the status of organized unincorporated territory of the USA.

In 1968, the Elective Governor Act passed and immediately Governor Elections were held in the island. Four years later, the Guam-Virgin Islands Delegate Act passed which gave those two territories the right to elect a delegate to the US House of Representatives.

In 1979, the US Congress granted the Guam legislature the right to draft its own Constitution, namely the Guam Constitution. The Parliament of Guam drafted it and put it to a referendum so as the people decide whether to accept the Constitution or not. The referendum was held on August 4th and the Constitution was rejected with an 82% majority.

Recent Years

In the late 1980s and early 1990s, there were many movements throughout Guam in favor of upgrading the status of the territory. The movements wanted Guam to either obtain a US Commonwealth status or merge with Puerto Rico or the Northern Mariana Islands. Another idea was to be integrated into the US State of Hawaii but it was quickly abandoned. Finally, another suggestion was to gain full independence from the US.

In 1997, the 24th Guam Legislature established the Commission on Decolonization in order to inform the citizens on the available options the territory would have, should the US Congress agreed to a status change. The Commission was inactive from 2002 until 2010 but now is working very hard to achieve its goals. It is on continuous discussions with the United Nations Special Committee on Decolonization and has even asked experts to go to Guam. Now the UN Special Committee wants to gather representatives from all US Territories to raise awareness of the importance of self-determination.

The citizens have been recently, once again, expressing their desire for their island to be granted an upgraded status. Independence is not anymore on the table as it would be proven a catastrophic decision primarily for the island's economy and then for its security. The idea, which has had the approval of the majority of Guamanians, was for the island to be granted the status of US Commonwealth. However, the US Congress didn't have the time recently to debate the case of Guam on open floor leaving the issue once more unresolved.

MAJOR COUNTRIES AND ORGANIZATIONS INVOLVED

United States of America (USA)

The United States of America (USA) is one of the two parties involved in this issue. The USA has been ruling Guam since 1898 when it was ceded by Spain. The Government has given Guam many freedoms throughout the years which sometimes Guam didn't use. Over the past years, the USA was not willing to negotiate a status upgrade for Guam as it believed that something like this was not necessary; even though, this issue has been around for almost thirty-five years.

Guam

Guam is the second party involved in this issue. Since 1950, it has the status of the unincorporated territory of the USA and its citizens want this to change. In the late 1980s, the first movements appeared seeking a change in the status quo which up until now remains the same. Guamanians seem positive that an upgrade would really benefit the island, something the US Government strongly opposes.

Democratic People's Republic of Korea (DPRK)

North Korea has been threatening the USA for the past years that it is going to invade Guam. The DPRK Supreme Leader, Kim Jong-un, has repeatedly stated that Andersen Air Force Base is within the DPRK missiles range and as a country they are not afraid to fire them. Those threats are not new to Guamanians as they have been around even before North Korea had missiles. Last year, during a missile testing, DPRK fired missiles into Guamanian air space which immediately attracted the US Federal Government's attention and alerted the US Navy.

Japan

On December 1941, the Japanese Imperial Army invaded Guam and occupied it for almost three years. Even though Japan has nothing to do today with this island-nation, the Japanese military officials are very interested in its strategic position in the Pacific Ocean but also in its significance as a military base.

United Nations Special Committee on Decolonization (C-24)

The UN Special Committee on Decolonization (C-24) is a committee of the UN General Assembly (GA) which should not be confused with the Special Political and Decolonization Committee (GA4) of the GA. It deals exclusively with issues regarding decolonization. The case of Guam is one of the most discussed topics in the C-24 chamber. C-24 seeks to find an immediate solution to the matter at hand as it finds it very important. The committee has been endorsing the actions of Guam's incumbent Governor about the issue.

Guam Commission on Decolonization

"The Commission on Decolonization was established by the 24th Guam Legislature in 1997 to enhance the efforts of the Commission on Self-Determination. Its purpose is to educate the people of Guam of the various political status options

available, should Guam be allowed to pursue a change in its political status and relationship with the United States.”⁵

TIMELINE OF EVENTS

DATE	DESCRIPTION OF EVENT
15 June 1668	Guam is officially colonized by Spain.
10 December 1898	USA and Spain signed the Treaty of Paris which ended the Spanish-American War and gave USA possession of Guam, Puerto Rico and the Philippines.
12 December 1941	Japanese forces land on Guam and seize the island.
10 August 1944	US troops regain governance of Guam.
1 August 1950	The Organic Act of Guam becomes effective establishing the island as an unincorporated territory of the US.
11 September 1968	The Elective Governor Acts of 1968 are officially adopted by the US Congress, and the first Governor elections in Guam and the Virgin Islands take place.
4 September 1976	A Guam Status Referendum takes place. With a majority of 58.05%, Guamanians voted in favor of upgrading the status quo of the island.
1982	Two referenda take place in order to determine the status of the territory that was going to be adopted by the regional government.

RELEVANT UN RESOLUTIONS, TREATIES AND EVENTS

Treaty of Paris of 1898

⁵ “Guampedia.” Guampedia Commission on Decolonization Comments. www.guampedia.com/commission-on-decolonization/.

The Treaty of Paris of 1898 concluded the Spanish-American War of 1898. It was signed on December 10th and became effective a few months later. In the treaty, it is clearly mentioned that the USA will have temporary control over Cuba and will obtain Guam, Puerto Rico and the Philippines. Spain was also forced to assume liability for the national debt of the Philippines and pay it off. The US Senate strongly opposed this treaty as it supposedly endorsed a kind of "imperialism" over the Philippines but in the end they adopted it.

United Nations Charter

The UN Charter is the fundamental treaty of the United Nations. Whatever necessary for the correct function of the UN is included in this treaty. The Chapter XI pertains to the case of Guam. This chapter is about non-self-governing territories and mentions the importance of their peoples' right to decide about their self-determination. Another element also mentioned in this chapter is the political, economic and social aspect of these territories. According to the UN GA, this Chapter is continuously violated by the United States of America as the federal government doesn't allow the citizens of Guam to decide upon their island-nation's status.

The Guam Organic Act of 1950

The Guam Organic Act of 1950 officially established Guam as an unincorporated territory of the United States. The Act also confirmed the legislative, the executive and the judicial branch of government. The transfer of jurisdiction over Guam from the Department of the Navy to the Department of the Interior was also mentioned. Lastly, the final part of the Act discussed the citizenship of the Guamanians. Guamanians shall be granted American citizenship and shall be equal to all Americans living in the continental US.

Declaration on Granting Independence to Colonial Countries and Peoples

On December 14th, 1960, the UN General Assembly, through Resolution 1514 (XV), adopted the Declaration on Granting Independence to Colonial Countries and Peoples. With this declaration the GA proclaimed "the necessity of bringing to a speedy and unconditional end colonialism in all its forms and manifestations⁶", which inevitably became the Declaration's main goal.

UN General Assembly Resolutions

The UN GA has been, since 2008, adopting an annual resolution on "The Case of Guam". Through these resolutions, the implementation of the Declaration on the Granting of Independence to Colonial Countries and Peoples is promoted.

A/RES/74/104

Resolution no. 104 of the 74th session of the UN GA is the most recent document adopted on the matter at hand. According to it, the implementation of the

⁶ "Declaration on the Granting of Independence to Colonial Countries and Peoples." Declaration on the Granting of Independence to Colonial Countries and Peoples - Wikisource, the Free Online Library, en.wikisource.org/wiki/Declaration_on_the_Granting_of_Independence_to_Colonial_Countries_and_Peoples.

aforementioned Declaration once again is promoted. Furthermore, the GA adds that not granting Guamanians the right to self-determination is against the United Nations Charter as well as the Universal Declaration on Human Rights.

PREVIOUS ATTEMPTS TO RESOLVE THE ISSUE

1976 Guam Status Referendum

On September 4th, 1976, a referendum was held in order to be decided whether or not Guamanians want an “improved status quo” for their island. This option received the majority of votes (58%),⁷ while a few years later another referendum took place as a sequel to the first giving the parties involved options for an “improved status quo”

Guam Constitution of 1979

In an attempt to grant Guam more self-determination as its citizens wanted, the US Congress allowed the Legislature of the island to draft a Constitution. The Constitution was drafted and sent to Congress to be approved. Both houses, after multiple discussions, voted in favor of it and President Carter signed the Constitution which automatically became an official US Document. The Government of Guam, before adopting it, decided to put it to a referendum to see if the citizens would agree as well. The vast majority of the citizens (82%) voted against the new Constitution as they preferred to keep the Organic Act as their basis for laws. What would have been one significant win for Guamanian self-determination and might have given the local government the opportunity to ask for more, never became a reality.

1982 Guam Status Referenda

On January and September 1982, two referenda were held on the status of Guam. The first came as a sequel to the 1976 Referendum on the Territory’s Status, in which people voted for an “improved status quo.”

30 January 1982

The second part of the 1976 Referendum took place on January 30th, 1982. The electorate was given the option to choose between seven different status. The option which received the majority of the votes was the US Commonwealth Status with 49.49%.⁸ However, the adoption of this status was not accepted by the US Congress as it didn’t receive the absolute majority (50 plus 1) of all the votes.

4 September 1982

After failing to achieve an acceptable result on the island’s status in the previous referendum, the government held another one on 4 September of the same year as to determine the final status of the island. This time, citizens were called upon to choose between two options: US Commonwealth or US State, with the first receiving the vast

⁷ “1976 Guamanian Status Referendum.” Wikipedia, Wikimedia Foundation, 5 Jan. 2020, en.wikipedia.org/wiki/1976_Guamanian_status_referendum.

⁸ “January 1982 Guamanian Status Referendum.” Wikipedia, Wikimedia Foundation, 5 Jan. 2020, https://en.wikipedia.org/wiki/January_1982_Guamanian_status_referendum

majority of the vote (72.82%).⁹ Even though the result was considered acceptable by the US Congress, the status never changed.

Guam Commonwealth Act of 1987

This Act was drafted five years after the referendum which asked the citizens whether or not they wanted Guam to become a Commonwealth State. The Act contained an article that the US Congress strictly opposed before voting in favor of. The Act called the Federal Government to return to the local government any non-built up land acquired by the Department of Defense. It also granted Guam the right to negotiate any changes that the Federal Government might want to do on the Naval and Air Force Bases. This document was submitted to the US Congress and was approved after multiple discussions; however, it has yet to be adopted as law.

POSSIBLE SOLUTIONS

Greater Self-determination

An easy solution to this problem could be greater self-determination, meaning that the US Federal Government is willing to grant Guam more freedoms. An example of this could be the US Congress's intention to allow the local government to draft a new Constitution. This would help Guamanians to incorporate into it clauses that will benefit their territory provided that these clauses comply with Article 4 of the US Constitution. Anything that doesn't fall under that article immediately gives Congress the right to vote against any document drafted.

Commonwealth Status

Commonwealth Status is the most commonly proposed idea for Guam. Being granted the status of Commonwealth would mean that Guam should draft its own Constitution and update its status. According to the US Department of State, being granted such a status would make any difference rather than just adopting a Constitution. However, there are many Guamanians who advocate for this specific idea. This proposal would also continue, and hopefully finalize, the thirty-year discussions to adopt the Guam Commonwealth Act of 1987.

Merging with another territory

Something else that many Guamanians advocate for is the suggestion of merging with the nearby Commonwealth of the Northern Mariana Islands. That is widely accepted because these territories are very close and very similar regarding their policies. Guam would be benefitted if merged with the Northern Mariana Islands given the fact that the second has already a constitution which satisfies many needs of the first.

Statehood

One of the most complicated ideas proposed by Guamanians is upgrading its status to statehood. The US Constitution stipulates that a state must have a certain

⁹ "September 1982 Guamanian Status Referendum." Wikipedia, Wikimedia Foundation, 5 Jan. 2020, en.wikipedia.org/wiki/September_1982_Guamanian_status_referendum.

population so as to be admitted to the Union. The US Congress, however, holds power to deny admission to the Union even if a territory meets the necessary criteria.

Independence

As far as Guam is concerned, the most difficult idea proposed is to gain independence from the United States. Even if it is considered the easiest process, the territory will not be benefitted from Independence as the USA offers Guam protection and contributes massively to its GDP. But the US too will not be benefitted from this as it will lose one of its biggest Naval and Air Force Bases in the Pacific Ocean.

Current Status (Status Quo)

This idea is mostly expressed by legislative officials living in the continental USA. They seem to agree on the fact that Guam has had the same status for many years now and has been benefitted a lot. It has also been mentioned that there is no need for a small territory to get an upgraded status as nothing will most probably change, a point that Guamanians do not agree on.

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