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REFRAMING THE “RULES OF THE GAME”: THROUGH GOVERNANCE, TRANSPARENCY AND FISCAL RESPONSIBILITY

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ABSTRACT

This article provides an overview of the key research findings of the study on *Fiscal Responsibility* performed by the Center for Public and Corporate Governance. The study places emphasis on the role of governance practices and fiscal results; transparent and open governance; the capabilities of public institutions; the legal and regulatory framework; proper alignment between strategic planning, budget formulation and evaluation; the transparency and accountability of public affairs and, the economic development of Puerto Rico. The aim of the study is to analyze the government of Puerto Rico's fiscal and economic practices in the context of governance, with special emphasis on the following variables: fiscal policy, economic policy, government budget revenues and expenditures, budget results, public debt and the Gross Domestic Product (GDP), Gross National Product (GNP) and economic development. The study was conducted by: Eneida Torres, Rafael Durand, César Sobrino, Mari Glory Gonzalez, Alba López, Saúl Pratts and Ramón Torres.

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OVERVIEW

As Puerto Rico confronts the challenge of addressing its fiscal crisis, it must consider the root causes of weak governance, lack of fiscal responsibility, and poorly functioning public sector institutions. Given the complexity and depth of the challenge, the agenda for the next decade will be to foster a comprehensive reform strategy and focus on the necessary conditions for economic competitiveness, sustainable development and prosperity.

This article provides an overview of the key research findings of the study *Fiscal Responsibility* by the Center for Public and Corporate Governance. The study places emphasis on the role played by governance practices and fiscal results; transparent and open governance; the capabilities of public institutions; the legal and regulatory framework; proper alignment between strategic planning, budget formulation and evaluation; the transparency and accountability of public affairs and; the economic development of Puerto Rico.

Over the past decades governance, transparency and fiscal responsibility have been some of the most critical issues facing sustainable development in countries around the world. *Governance*, has been defined as a system of values, policies, and institutions by which a society manages its economic, social, and political affairs through interactions within

and among the state, civil society and the private sector. It comprises mechanisms and processes so citizens and groups articulate their interests, mediate their differences, and exercise their legal rights and obligations. It is the rule of law, institutional capacity, and practices that set the boundaries and provide incentives for individuals, organizations and the business sector.

Three actors are involved in governance: *the State*, which creates a conducive political and legal environment; *the private sector*, which generates jobs and income; and *civil society*, which facilitates social and political interaction. The essence of governance is to foster interaction between these three types of actors to promote people-centered development. Good governance refers to the question of how a society can organize itself to ensure equal opportunities and equity (social and economic justice) for all citizens (UNDP 2000).

The study establishes that over the past four decades public trust in Puerto Rico's government has fallen dramatically due to a "perfect storm" of contributing factors: (1) government has failed miserably to respond adequately to the crisis and generate long term solutions to the problems affecting PR citizens; (2) a pervasive fiscal crisis; (3) persistent scandals have shaken the foundations of public administration; (4) poor quality of services; (5) lack of political will, politicians reluctance for activat-

ing transparency and accountability principles and practices, and virulent political infighting.

The study proposes that open and transparent governance can generate trust among the various stakeholders and promote appropriate measures to develop alignment among the various economic variables: reducing inequality and influencing favorably, through fiscal public policy and private investment, the distribution of wealth and the creation of social capital to promote the necessary reforms to move forward economic competitiveness, sustainable development and prosperity in Puerto Rico.

The aim of the study is to analyze the government of Puerto Rico's fiscal and economic practices in the context of governance, with special emphasis on the following variables: fiscal policy, economic policy, government budget revenues and expenditures, budget results, public debt and the Gross Domestic Product (GDP), Gross National Product (GNP) and economic development. The research study also explores and analyzes the legal and regulatory framework related to fiscal responsibility, and its core pillars of transparency and accountability of public actors and institutions, recognized as best practices for fiscal responsibility and good governance. The study found that in the last four decades the government of Puerto Rico has been under pressure to respond to the demands of its citizens and to restructure policies, capabilities, and fiscal resources to effectively integrate Puerto Rico into the world economy.

The literature of governance has gained relevance in public administration studies. One of the main contributions has been its connection with economic competitiveness, prosperity and citizens well being. In today's "ecosystem" of governance, ¹ transparency and access to public information plays a pivotal role in building a government capable of meeting social needs, open to public scrutiny, with a high level of accountability and fiscal responsibility on the part of public officials, and the participation of non-governmental components and civil society in the design and evaluation of public policy.

When examining the situation of Puerto Rico the study found that there is broad consensus in various

¹ The term "ecosystem" in the biological field refers to a natural system consisting of a set of living and interdependent organisms that share the same habitat. The concept is metaphorically used in the context of governance to highlight the benefits of using networking schemes and associations of individuals, businesses and organizations. The "ecosystem" of governance can generate responses to public problems (economic, fiscal and social) through multidisciplinary approaches and decisions that translate into better results with added value for society.

sectors of society that the island is lagging in good governance, processes and systems that set the standard for economic competitiveness and sustainable development. Some manifestations of this failure include a weak legal and institutional framework; the continuity of an obsolete economic model; the lack of transparency and accountability; the hierarchical, centralized, bureaucratic government model; the lack of quality in the provision of public services; and a deteriorated political system and lack of political will to tackle the reforms needed to move forward the sustainable development of the Island.

In the last decade transparency has received considerable attention from both policy makers and researchers. Transparency is a concept widely used in the fiscal context, measuring the level of efficiency and effectiveness of public expenditure and promoting the democratization of the budgetary processes. Transparency promotes awareness to those affected by fiscal measures not only of the resulting figures, but also of its fiscal policies, mechanisms and processes.

A study on The State of the Legal and Regulatory Framework of Transparency and Accountability in the Government of Puerto Rico performed by the Center for Public and Corporate Governance (CGPC, 2013) concluded that Puerto Rico still lacks legal or formal mechanisms regarding transparency and accountability requiring officials to disclose relevant information on government performance and results. This absence contributes significantly to the level of actual and perceived transparency.² Without transparency in public administration (both formal or legal /real or perceived) accountability cannot effectively operate. The obligation of public actors is to assume responsibility for their actions in managing the affairs entrusted by citizens. It is vital to promote a transparent and accountable government able to make decisions for the common good and that its actions are efficient, effective and ethical as possible (CGPC, 2013).

The concluding remarks of the research study on transparency and accountability stresses that:

² It refers to the actual access to public information and the opportunity for citizens to participate effectively in governance, which is irrespective of the legal framework.

"The practice of transparency in government, that is, to make accessible and understandable all public matters to ordinary citizens, should lead to greater fiscal responsibility on the part of officials [...] and greater efficiency and effectiveness in the use of public resources. It should also drive citizens to become watchdogs of the actions and decisions of government and strengthen citizen participation in decision-making and the formulation of public policy. [...]."

Accountability therefore, must be understood within the context of management (administration) of results, having a public management that promotes compliance with government goals and strategic objectives. Accountability encourages focus on the quality of public services and meeting the specific needs of citizens. Government components are centered in obtaining measurable results, disclosure to citizens and effective use of public resources. This is achieved through the formulation of strategic plans including long terms goals and measurable objectives, implementation plans and periodic results reporting along with full disclosure mechanisms “.

However, it is well known that Puerto Rico faces a series of circumstances that adversely impact the governance of public affairs, process through which government institutions conduct matters of common interest, manage public resources and guarantee the attainment of human rights (UN, 2006). The profound crisis of the last decade has exposed the government's inability to maintain economic stability and generate results that promote sustainable development, economic competitiveness and social well-being.

Concerning the political system, José Joaquín Villamil (2013) states that in Puerto Rico there is a marked “institutional gap” with considerable political ruptures. Politics has become the mechanism to support a system that has transferred the capacity for innovation and management of the Island to federal agencies (which by definition have a limited scope). The political class has become a privileged economic class. Staying in political power has been the source of personal wellbeing (the political party and their relatives), which has relegated the general welfare of Puerto Rico.³

The political rupture is also evidenced by the growing dissatisfaction and disillusionment of citizens with regard to politicians and political parties in general that do not demonstrate long-term vision, causing

³ Villamil, J. Cometary the presentation of the book Una Nueva Gobernanza para Puerto Rico , March 13, 2013, Universidad del Turabo, Caguas, Puerto Rico. Available in: http://www.suagm.edu/ut_pr/gobernanza/pdfs/Resena-Presentacion.Libro-Una.Nueva.Gobernanza.PR.pdf

lack of credibility and confidence in the system and alienation from the political scenario. This makes the political process a poor indicator of social preferences and in fact only certain groups advance their agendas through the political system.

Another indication of the government's inability to accomplish its purpose is its commitment to a public administration paradigm that for the past decades has created a bureaucratized and ineffective structure to meet social and economic needs. Elected officials have exercised an almost autocratic role in generating responses and decision-making of public affairs without obtaining the desired results in the public interest. The lack of integration of diverse social actors in the search for solutions to the problems facing Puerto Rico has hindered further development and effective management of public long term economic and fiscal policies.

Similarly, in Puerto Rico significant commitment to the economic development model of the 50s' which focused on industrialization and essential conditions (cheap labor, access to the US market, and federal and state tax incentives) that are virtually nonexistent today. Furthermore, there is significant dependence on foreign investment capital (mainly from the US) whose production is basically for export and its relationship with the rest of the Puerto Rican economy is minimal (Ruiz, 1982).

The island demonstrates a sub-

tancial deficit in the quality of governance to the extent that it cannot effectively guarantee the constitutional right to free public education, at primary and secondary level, and the advancement of human development (quality education), nor the achievement of aspirational rights such as housing, adequate nutrition, suitable medical care, among other social protection and access to justice rights.

The United Nations Development Program (UNDP, 2008) has stated that the institutional capacity of government depends on the administrative capacity and its ability to integrate and network with various actors in society and citizens towards solving problems, as its management structure alone is not enough to advance the necessary reforms. Institutional capacity fosters effective and efficient actions that repeat over time, and bring about management transformation. At one level capabilities manifest as effects, impacts or outcomes. At a second level capacities are drivers of change (strategic leadership, knowledge, human resources skills and mechanisms of accountability). The activities at this level are reflected in products (outputs).

A priori, factors which mainly contribute to the deficit in the quality of the management of public affairs in Puerto Rico are the lack of institutional capacity to perform functions, solve problems, define and achieve objectives in a sustainable manner and lack or abdi-

cation of political will. *Political will*, implies the desire to resolve public problems and improve social conditions through democratic politics and the institutions that define it. Refers to take action to create the changes expected by groups and stakeholders. It is to observe and enforce the rules, agendas and commitments above partisan and personal interests or the convenience of public actors and create conditions for change as expected by society.

In the words of Kofi Annan, seventh Secretary General of the UN during the period 1997-2006:

The will of the people must be the basis of government authority. This is the foundation of democracy. This is the foundation of good governance, which will give every citizen ... A real and lasting role politically, economically and socially in the future of their societies.

Reflecting on the reality of Puerto Rico in the context of governance it is evident that the Island finds itself in a paradox and a crossroad. On the one hand, governance is essential to promoting good governance and advance a sustainable development agenda; whereas, policy makers and public administrators seem to avoid at all costs the strategies and processes that advance a reform and transformation agenda⁴ The

apparent inability of public actors to undertake a new road towards good governance with new and varied forms of social interaction makes it necessary to strengthen the partnership between the government, the private sector, non-governmental and civic interest groups to push forward collectively determined solutions to the

⁴ Last year the Center for Public and Corporate Governance law has driven without success in this direction. In particular, has driven the Draft Law on transparency, access to information and accountability in governance as an effort to establish the public policy of the Government of Puerto Rico in this field and regulate the principles for implementation; to recognize the right to public information as one critical and autonomous and establish procedures to ensure the effective exercise of this right; to establish public policy regarding the regime or system of exceptions to the disclosure and right of access to information; to provide mechanisms for the establishment of strategic planning and performance measurement of public programs and the dissemination of results and impacts of public administration, among others. The intention to move this bill, which was the result of the first research project of the Center for Governance, has been to strengthen transparency and accountability in governance Puerto Rican, through an integrated and coherent legislation allowing ordinary citizens to know governance, have the relevant information and strengthen public confidence in public institutions based on the knowledge of its operation and the results obtained for the work they perform their officials. The ultimate goal is to guide public action to serve the specific needs of citizens, according to the principles of legality, efficiency, effectiveness, economy, speed, simplicity, accessibility, timeliness, consistency, transparency, good faith, honesty and accountability accounts, among other relevant principles. The Bill was articulated in consideration of the importance of education, prevention, action and finally the disclosure of the specific consequences of non-compliance with the rules of transparency, access to information and accountability. All this initiative was intended to lay the foundations of budget transparency as a sine qua non for it to operate effectively surrender and relevant accounts in which citizens participate of government work.

pressing problems facing Puerto Rico and ultimately the satisfaction of social needs.

FISCAL RESPONSIBILITY AND ECONOMIC PERFORMANCE: PR'S LANDSCAPE AT A GLANCE

The fundamental premise is that economic and fiscal performance of a country is influenced by factors such as the ability of public sector administrators, the various functions of public spending and the fiscal structure through which the public sector is financed. A look at prior fiscal results of Puerto Rico in the past years shows continued fiscal negligence on the part of the public actors who formulate the annual income and expense budget, a significant increase in public spending, a persistent fiscal deficit and a high level of borrowing. Recognizing these circumstances, Puerto Rico is challenged to achieve long term fiscal sustainability and to recover sustained economic growth.

The study on Fiscal Responsibility emphasizes the role played by fiscal practices and outcomes; transparent and open governance; the capacity of public institutions; the legal and regulatory framework; proper coordination of planning, budget

formulation and evaluation; transparency and accountability of public affairs and interactions through which this affects fiscal policy and economic development. This perspective suggests that an open and transparent governance can generate trust among the various stakeholders and introduce appropriate measures to promote balance among the various economic public policy variables; reducing inequality and influence favorably public investment through fiscal policy; while generating an impact on private investment, distribution of wealth and the creation of social capital for reforms (CEPAL, 2007; IMF, 2013; ILPES, 2006).

During the past two decades, international organizations such as the International Monetary Fund (IMF), the International Budget Partnership (IBP), the Organization for Economic Cooperation and Development (OECD) and the World Bank (WB), have supported efforts to increase transparency, accountability, fiscal responsibility and participatory budget protocols which have been identified as important to cope with the financial crisis (IMF, 2013; IBP 2015; OECD 2005).

Fiscal transparency is part of a broader notion of transparency or access to information in the public sector. Transparency has two distinct dimensions: first, access to information about the processes and procedures by which the public sector makes and implements decisions; and second, ac-

cess to information generated, owned and used by the public sector.

Fiscal transparency is important because it allows citizens and financial markets to accurately assess the government's financial position and the true costs and benefits of government activities, including present and future economic and social implications".⁵ Disclosure of fiscal information reduces market risks and asymmetries of information allowing markets to function more efficiently. By enabling accountability for public spending, fiscal transparency can also reduce fiduciary risks and improve efficiency and effectiveness of public spending. Cross-country analyses have shown that countries with more transparent public finances display better fiscal discipline, a lower perceived level of corruption, better credit ratings and lower public sector borrowing costs.⁶

In recent years, transparency has become an integral part of a broader good governance agenda pursuing to achieve improvements in accountability, institutional capacity and government performance. The term is also used in reference to the development and administration of a balanced budget in which operating expenses do not exceed revenues. It is related to the commitment of government officials to act with prudence in public spending and to maintain a balanced budget.

Fiscal responsibility is defined as the state's commitment to generate the revenue needed to operate the government apparatus without imposing an unsustainable burden on citizens and the obligation to prudently manage public resources. The term is also used in reference to the development and administration of a balanced budget in which the operating expenses do not exceed revenues. It is related to the commitment of government officials to act with prudence in public spending and to maintain a balanced budget.

According to the research findings, the necessary institutional capacity to solve the problems facing Puerto Rico depends on both the design of coherent public policies, administrative, legal and fiscal capacity and the political authority (the ability to integrate and interact with various social actors and

5 George Kopits and Jon Craig (1998) Transparency in Government Operations, IMF Occasional Paper 158.

6 Farhan Hameed (2005) Fiscal Transparency and Economic Outcomes, IMF Working Paper, WP/05/225.

citizens), as the government structure alone is not enough to advance the necessary reforms.

The most relevant fiscal performance outcomes of Puerto Rico found in the research includes: a fiscal deficit of unsustainable levels; poor budget formulation and execution, accompanied by noticeable discretionary public spending; a lack of accountability by public policy makers and public actors; lack of reliable and accessible fiscal information, and lack of coordination between strategic planning, budget formulation and execution and managing for results.

Over the past decade or so there has been growing evidence that the best way to improve the allocation of public finances is through budget systems that are transparent, open to public engagement and scrutiny, and that have robust oversight institutions and mechanisms. (OECD 2005,2002, IMF 2003, 2013). Research commissioned by the IBP finds that, after controlling for various economic variables, countries with higher levels of fiscal transparency have higher credit ratings and lower spreads between borrowing and lending rates, thus reducing governments' borrowing costs.⁷ Even for countries with similar credit ratings, higher transparency is associated with lower spreads.

An International Monetary Fund (IMF) study found that an important predictor of a country's fiscal credibility and performance is the level of transparency in its public finance system and practices. In looking at the recent global economic crisis, the IMF study attributes almost a quarter of the unexpected increases in government debt across the countries studied to a lack of available information about the government's fiscal position.⁸ In other words, opacity in fiscal matters contributes significantly to the suffering being felt directly by the citizens of the crisis-stricken countries in Europe.

The new evidence on the impact of budget transparency and accountability indicates that: *Transparency can help attract cheaper international credit; Opacity in fiscal matters can undermine fiscal discipline; Transparency and public participation can help shine the light on leakages and improve efficiency in public expenditures and Transparency and public participation foster equity by matching na-*

7 See <http://internationalbudget.org/wp-content/uploads/IBP-Working-Paper-1-Budget-Transparency-and-Financial-Markets.pdf>.

8 See <http://internationalbudget.org/wp-content/uploads/IMF-Fiscal-Transparency-Accountability-and-Risk.pdf>.

tional resources with national priorities.

Given such evidence, and the current fiscal environment, it is not surprising that there is a growing international consensus among governments, civil society, and other public finance and economic development actors on the need for greater budget transparency and accountability. This consensus has spurred several global, multistakeholder initiatives to promote open and accountable governance.

Notwithstanding, in Puerto Rico there is no genuine commitment to comply with the constitutional provision that public spending should not exceed tax revenues in order to attain a balanced government budget. The study highlights that in 1999-2012 the government exceeded the amount budgeted for spending by \$ 6.8 billion, while, revenues were overestimated by a total of \$ 4.7 billion. The persistent practice of underestimating expenses and overestimating revenues is a highly negligent fiscal practice allowed and encouraged by the lack of openness, transparency and access to relevant, accurate information understandable to the public during the budget formulation and execution process (See Table1);

TABLE NO. 1 BUDGET OF INCOME VS. COLLECTIONS

Budgeted income vs. collection levels of the executed budget				
Fiscal Year	Budgeted	Collected	Difference	%
1999	6703	6540	(163)	(2.4)
2000	7043	6877	(166)	(2.3)
2001	7490	6745	(745)	(10.0)
2002	7342	7186	(156)	(2.1)
2003	7554	7341	(213)	(2.8)
2004	7771	7834	63	0.8
2005	8144	8603	459	5.6
2006	8699	8423	(276)	(3.2)
2007	9065	8718	(347)	(3.8)
2008	9104	8207	(897)	(9.9)
2009	9340	7583	(1757)	(18.8)
2010	7512	7593	81	0.6
2011	7933	7994	61	0.7
2012	8522	8573	51	0.6

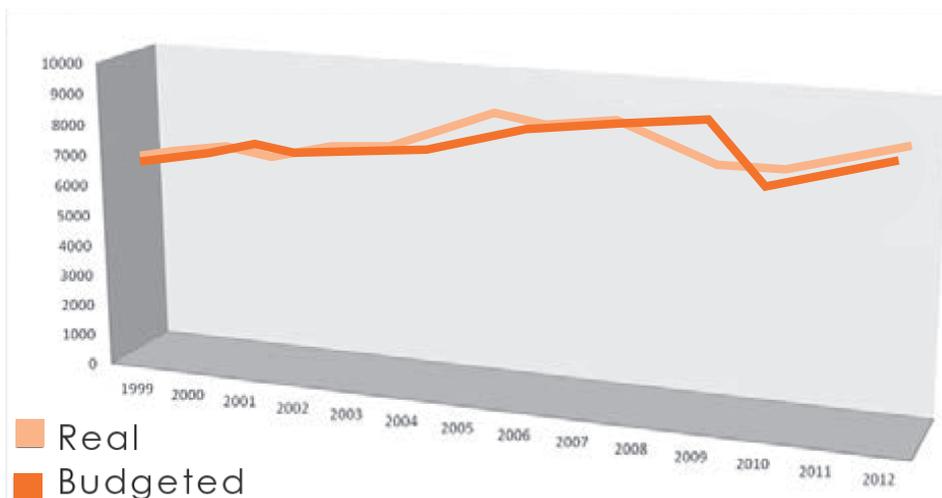


Figure1. Budget of Income vs. Collections

Table 2. BUDGET OF INCOME VS. COLLECTIONS

Fiscal Year	Budgeted	Collected	Difference	%
1999	4530	4430	(110)	(2.4)
2000	4952	4887	(115)	(2.3)
2001	4755	4778	18	0.4
2002	6908	8542	1634	23.7
2003	7187	7366	179	2.5
2004	7537	7942	405	5.4
2005	8128	8908	780	9.6
2006	8419	9461	1042	12.4
2007	8511	8786	275	3.2
2008	8458	8809	351	4.1
2009	8840	9927	1087	12.3
2010	9582	9640	58	0.6
2011	2949	9075	126	1.4
2012	9081	9911	830	9.1

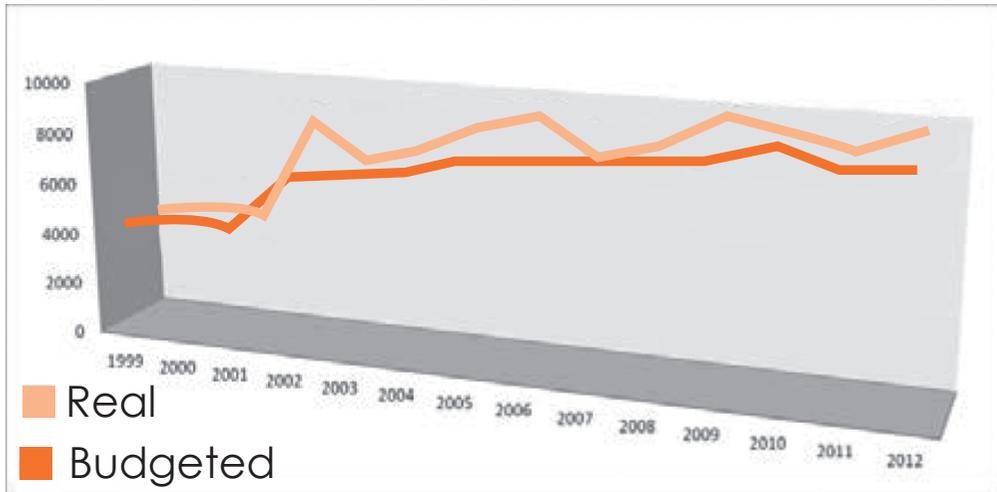


Figure 2. Budgeted Expenses vs. Expenditures

The continuous budget deficits have led to yearly budget insufficiencies financed through loans, decisions that were not adequately disclosed to the public. Balancing budget deficits with borrowing and constantly refinancing debt close to maturity increased the total public debt from 1972-2013 from \$ 2.6 billion to \$ 70 billion, the latter being greater than the current Puerto Rico GNP. The enormous increase in public debt is also due to the use of an extra-constitutional financing mechanisms which today represents 85% of total public debt or approximately \$59.4 billion. Of this amount \$25.6 billion has been generated by public entities and corporations.

From 1999 to 2012 the central government transferred to public entities and corporations close to \$15.0 billion of their already limited funds, as most of these do not generate enough revenue to cover their operational costs. These fund trans*"The continuous budget deficits have led to fers have seriously worsened the fragile fiscal poyearly budget insufficiencies financed through sition of the government of Puerto Rico (See Taloans, decisions that were not adequately ble 3; Graphic 3; Table 4; Table disclosed to the public". 5)*

TABLE 3. INCREASE IN PUBLIC DEBT 1972 - 2013 (BILLIONS)

Fiscal Year	Public Debt	% In-crease	GNP	Public / GNP Debt
1972	\$2596	-	5,768	45%
1976	\$5587	115.00%	7,550	74%
1984	\$8693	56.00%	14,183	61%
1992	\$14336	65.00%	23,696	60%
2000	\$25284	76.00%	41,827	61%
2004	\$37434	48.00%	51,827	72%
2008	\$53393	43.00%	62,703	85%
2012	\$69948	31.00%	68,698	102%
2013	\$70043	0.14%	70,740	99%

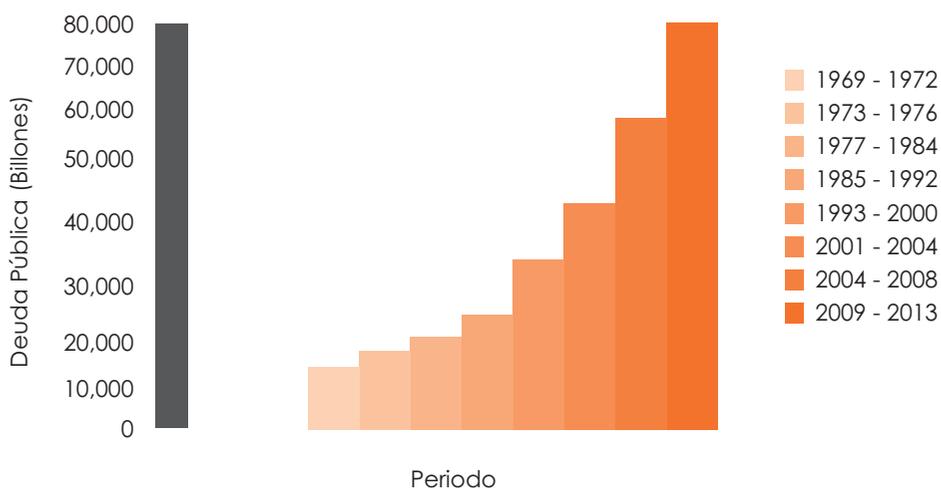


Figure 3. Increase in Public Debt

TABLE 4. DISTRIBUTION PR PUBLIC DEBT
(IN MILLIONS) JUNE 30, 2013 (BGF, 2013)

Nature of Debt	Quantity	%	Observations
General Obligations	\$10,599	15.2	Guaranteed with General Found
Debt Guaranteed by the Commonwealth	5,634	8	
COFINA	15,224	21.7	Guaranteed by tax collections
Corporations and Public Agencies	25,575	36.5	Guaranteed to revenues generated by corporations and public agencies
Municipalities	3,882	5.6	Guaranteed by property taxes
Other	9,129	13	
Total:	\$70,043		

TABLE 5. TRANSFERS FROM THE GENERAL FUND TO ENTITIES
AND PUBLIC CORPORATIONS (IN THOUSANDS) 1999-2012

Year	Quantity
1999	\$1,643,557
2000	1,803,020
2001	2,030,523
2002	583,809
2003	677,214
2004	980,681
2005	808,797
2006	936,617
2007	921,373
2008	514,492
2009	1,100,289
2010	*1,071,259
2011	1,071,259
2012	991,303
Total:	\$15,062,934

In some instances the central government has funded the fiscal deficits of public entities and corporations with the intention of postponing increases in the costs of the services provided by such entities. This practice has hindered the urgent transformation of public entities and corporations into highly efficient and effective institutions.

The findings of the research analysis regarding the economic policies of the past four decades reveals that the development strategy based on foreign direct investment (FDI) has created a significant difference between GDP and GNP. For the past 50 years, Puerto Rico’s GNP - GDP ratio has decreased while this ratio for the United States has remained stable. This means that the income produced on the island is much higher than the income received suggesting that federal transfers from the United States have not offset the benefits of US companies and the granted tax exemptions (See Graphic 4).

Similarly, the results of the Granger-Wald test Modified, Toda and Yamamoto (1995) indicate that in the line.

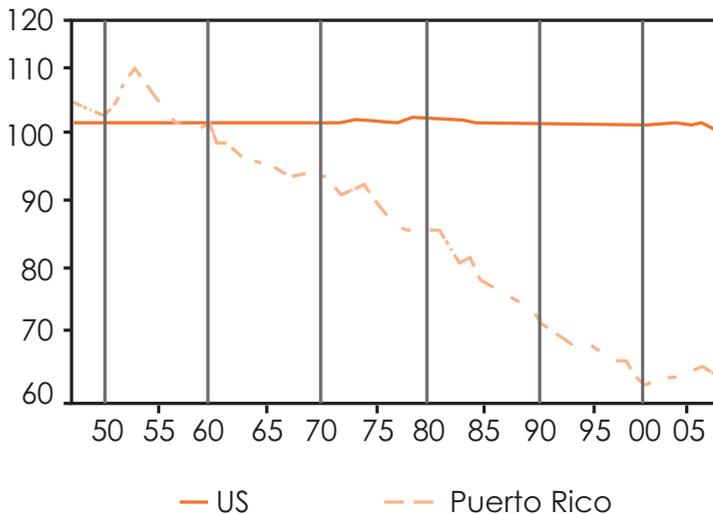


Figure 4. GNP-GDP ratios: USA and Puerto Rico

Short term the fiscal deficit has caused a deterioration in the current account of Puerto Rico. This is corroborated by using fiscal spending instead of fiscal deficit. In other words, increases in government spending have also worsen the current account. One of the reasons for Puerto Rico’s current account position is its primary deficit (See Graphic 5). A persistent current account deficit, with a stagnant economy and a level of debt of in excess of 100% of GNP, worsens over time the repayment capacity of the public debt of Puerto Rico leading to

potential insolvency and worsens the present conditions and future of the population. This situation is exacerbated by cost increases in the economy such as energy costs, bureaucratic costs and the effects of the Jones Act (see Table 6).

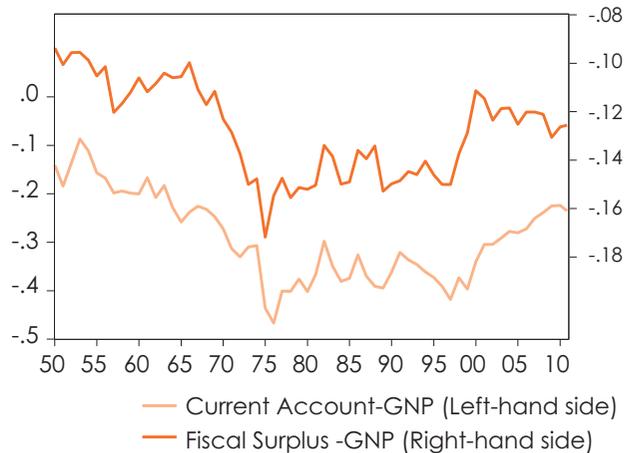


Figure 5. Fiscal Account -GDP and current account GDP (1950-2011)

Less private investment (gross capital formation) less government spending minus the change in stocks. The tax bill is direct taxes less government consumption. Data obtained from the website of the Planning Board.

TABLE 6. GRANGER CAUSALITY TEST -WALD MODIFIED

	Excluded Variables	
Dependent variable	Fiscal Account - GNP	Current account - GNP
Panel A)		
Fiscal Account - GNP	-----	0.02
Current account - GNP	6.08*	-----
	Fiscal Expenditure - GNP	Current account - GNP
Panel B)		
Fiscal Expenditure - GNP	-----	0.03
Current account - GNP	7.75**	-----
Critical Values of Chi-square		
Degrees of freedom	(1)	
5%	3.841	
10%	2.706	

The manufacturing structure of Puerto Rico is very fragile affecting its short and long term performance. The persistently negative current account makes Puerto Rico a net debtor, in need of capital (longterm or external funding) to fund private and public consumption, and private investment. Econometric evidence, apart from the weak manufacturing structure and the effects of the Jones Act, indicate that the main determinant of this persistent external deficit is the fiscal deficit. A persistent current account deficit with a stagnant economy worsens over time its ability to repay its debt.

The economic insolvency of Puerto Rico today has led to the reduction of essential public services; job losses in the public and private sector; an overall impact on the economic climate and investment; an increase in taxes, license fees and other taxes; increases in the cost of living; increases in the cost of public services, among others.

Furthermore, Puerto Rico's lack of institutional capacity (legal, fiscal, administrative, policymaking and political will) is linked to the absence of a coherent public policy that promotes transparency and accountability in the public sector as well as the lack of integration between strategic planning and the budgeting process in all its phases. In this context, governance (capacity of public institutions), governance (how to manage public affairs) and the legal framework governing public processes is very frail.

The lack of institutional management capacity of the past decades has been linked with high politicization of public administration; a lack of vision and coherent planning to promote sustainable development; high levels of bureaucracy in civil service and high operational costs; poor quality of services and the lack of results and outcomes to meet citizens' needs.

"The lack of institutional management capacity of the past decades has been linked with high politicization of public administration; a lack of vision and coherent planning to promote sustainable development; high levels of bureaucracy in civil service and high operational costs; poor quality of services and the lack of results and outcomes to meet citizens' needs".

In the context of the study, the lack of metrics and information about the financial risks and future fiscal plan that meets international standards of transparency, accountability and fiscal responsibility prevented the formulation of appropriate responses to cope with the social, economic and fiscal crisis that it faces.

The research findings reveal that fiscal policy in Puerto Rico can improve through a change in the way public affairs are governed. It is imperative to raise awareness at all levels of public organizations of

the importance of discipline and efficiency to achieve fiscal performance and the macroeconomic effects of fiscal policies. In this process of change is important to assess the role played by each social actor as part of a society that has common expectations.

A noteworthy finding of the study is that fiscal responsibility legislation should clearly establish how the government will disclose proposed and adopted fiscal policies to ensure that citizens know how government will comply with the principles of responsible fiscal management adopted. The IMF establishes the best practices principles required in a fiscal responsibility law: (1) The publication of a statement of budgetary policy that contains the strategic priorities for each financial year, specify the short-term fiscal intentions, and express, in turn, its medium and long term goals; (2) The projection and disclosure of the impact of fiscal decisions over a multiyear period; (3) The inclusion of all financial information according to international generally accepted accounting principles; (4) Provide timely, adequate and accessible to the public of all fiscal, economic and financial statements required by law; (5) Demand greater responsibility to the heads of agencies with incentives to those who comply and penalties for those who breach compliance; (6) Establish processes for assessing and measuring results of public management indicators.

To address the lack of fiscal discipline Puerto Rico needs to reform its government spending practices, its tax and budget policies and control its level of debt to retake the path toward fiscal sustainability, sustainable development and economic growth. It is also necessary to adopt a comprehensive and coherent institutional and legal framework that addresses the following issues: High discretionary public spending; Failures in the formulation and implementation of public budgets; The lack of mechanisms to control public spending and fiscal deficits; The lack of government accountability; The lack of fiscal targets, without medium-term planning, criteria or evaluation mechanisms; and the absence of indicators of public sector performance.

LEGAL AND INSTITUTIONAL FRAMEWORK

The institutional framework is determined by the legal framework. This refers to the group of institutions, organizations, networks and agreements, national or municipal that are linked in one way or another to the implementation of laws, rules, regulations, policies and guidelines for the provision of services. An institutional framework lays out the roles and responsibilities of the different institutions involved in the provision of services and the levels of authority and monitoring, and

their interaction and ways of sharing information (adapted from IEEC 2006 HERRÁN C. 2012).

On the other hand, the *legal framework* is the set of laws, rules, and regulations that generally relate to each other and provide the regulatory information needed to perform activities by a given sector.

There is no categorical list of the principles of sound fiscal responsibility. However, studying and comparing fiscal responsibility initiatives in the international arena we identified several principles that transcend the boundaries of the countries analyzed, which in turn are recognized by organizations such as the IMF and the IBP. The research study highlights five key principles: (1) Identify and clearly delineate the roles, responsibilities, goals and objectives; (2) Establish transparent and open methods of formulation and statement of public policy; (3) Enact transparency rules for public information on fiscal policies; (4) Require accountability and assurances of integrity; and (5) Establish a system of sanctions and responsibilities, both administrative and at the citizens level. However, it should be noted that these principles do not work in isolation, as they are interconnected and dependent on each other, so that compliance with one, sets forth the basis for the requirement and eventual achievement of the other. This paper examines the fiscal responsibility legal framework that an increasing number of countries are using as a tool of governance. Table No. 7 details the general legislative guiding principles adopted by: New Zealand, Australia, Brazil, Colombia, Mexico, Chile and the United States discussed in this research study.

TABLE 7. GUIDING PRINCIPLES FOR FISCAL RESPONSIBILITY LEGISLATION

Country	Year of approval	Guiding Principles				
		Roles, responsibilities, goals, and objectives clearly delineated	Transparent procedures for formulating and reporting public policy	Availability of information on fiscal policies and economic	accountability and assurances of integrity	Penalties and administrative and citizenship responsibility
Nueva Zelanda	1994	⊗	⊗	⊗	⊗	
Australia	1996		⊗	⊗	⊗	
Brasil	2000	⊗	⊗	⊗	⊗	⊗
Colombia	2003	⊗	⊗	⊗		
México	2006	⊗	⊗	⊗	⊗	⊗
Chile	2006		⊗	⊗	⊗	⊗
EEUU	Varies			⊗		
Puerto Rico	There is no integrated fiscal responsibility legislation, although there are scattered laws that serve some of these international principles					

TABLE 8. ANALYSIS OF INTERNATIONAL CRITERIA FOR FISCAL RESPONSIBILITY PRESENT IN THE LEGISLATION OF PUERTO RICO

Country	Year of approval	Guiding Principles				
		Roles, responsibilities, goals, and objectives clearly delineated	Transparent procedures for formulating and reporting public policy	Availability of information on fiscal policies and economic	accountability and assurances of integrity	Penalties and administrative and citizenship responsibility
Constitución de PR	1952	Yes	Partially	Partially	No	No
Ley Núm. 230 Ley de Contabilidad	1974	Yes	No	No	No	Yes
Ley Núm. 147 Ley Orgánica OGP	1980	Yes	No	No	No	No
Ley Núm. 91 Fondo interés Apremiante	2006	No	No	No	No	No
Ley Núm. 103 Reforma Fiscal y enmiendas	2006	Partially	No	No	Partially	Yes
Ley Núm. 236 Sostenibilidad Fiscal	2010	Yes	No	No	Partially	No
Ley Núm. 236 Sostenibilidad Fiscal	2014	Yes	Partially	No	No	No
Ley Núm. 71 Cumplimiento Corp. Públicas	2014	Yes	No	No	No	No

With regard to Puerto Rico the study reveals that the island still lacks an integrated and coherent legislation on transparency and accountability, Table 8 examines Puerto Rico’s legal framework legislation in the light of the aforementioned international principles.

The discussion of the legal framework in countries analyzed in this research study by key principles found that:

1. ROLES, RESPONSIBILITIES, GOALS AND CLEARLY DELINEATED OBJECTIVES

Fiscal responsibility laws are characterized by identifying the roles and responsibilities of the actors involved in the budget process and clearly outline

the goals and fiscal targets, allow the correction of goals not achieved and provide a contingency clause for fiscal emergencies. Thus, fiscal management officials and the public will know in advance where to direct the efforts of the management of public affairs.

New Zealand and Australia, being the pioneer countries in this field, have laid the groundwork for other countries to establish clearly defined roles, responsibilities, goals and objectives. For example, in New Zealand, before presenting the budget proposal to the Legislature, the government must define and disclose short term and long-term fiscal objectives. It must also describe the annual budget and the medium-term strategy that serves to achieve fiscal targets. While in Australia, the development of a fiscal strategy is required with medium-term goals and short term objectives in order to improve public finances. The medium term strategy is aimed at increasing public savings. The main objective is to ensure that government savings would be enough to cover future investments, without the use of private financing. To achieve fiscal balance over the economic

cycle it is necessary to incorporate fiscal targets, such as: (1) maintaining fiscal surpluses while continuing growth, (2) reducing the public debt ratio, and (3) appropriate resources to sectors in greatest need.

In 2000, Brazil joined the international trend towards fiscal responsibility and passed legislation to that effect. The Fiscal Responsibility Act of Brazil was innovative in urging the state to include a schedule with the fiscal targets. The approved law contains clear and precise rules for the management of public revenue and expenditure, the level of indebtedness and asset management in general. In Brazil spending limits were established for officials of the three branches of government and different government levels (union, state, federal district and municipality), a balance budget and public debt limits and a requirement for an emergency reserve.

In 2003, Colombia passed a law on fiscal responsibility with the primary aim of rationalizing fiscal activity, limiting sustainable public debt and to generate economic stability that allows reaching expected levels of development. This law determines the rules, processes and procedures for the different administrative bodies on public finances, to a constant accountability on the use of public resources. Among its objectives is the sustainability of debt through the preparation and presentation of a balanced budget and streamlining the programming and budget execution, among others.

Moreover, Chile established in the Fiscal Responsibility Act (2006) the obligation of the President, within 90 days of the date he assumes his duties, to outline the fiscal policies that will apply during his administration. This statement should express the implications and effects that such policies will have on the structural balance. Also, it must provide information on the structural state of public finances, reflecting the sustainability of fiscal policy and its macroeconomic and financial implications. Thus, the calculation of the structural balance of the public sector is incorporated into the financial program.

In 2006, Mexico had the opportunity to incorporate international experiences with fiscal responsibility to enact legislation in this direction. For example, Mexico's Legislation requires that the country be in a stable and sustainable medium-term fiscal position and facilitate the reallocation of resources to higher priority applications with the necessary flexibility. This law has focused on strategic planning through clearly delineated goals and objectives, including incentives for entities that operate more efficiently and obtain the expected results. Requires that the interests of society and the new parliamentary activism (democratization of the budget) are reflected and that transparency and accountability in the use of resources is promoted.

The Act applies throughout Mexico, all public spending, including

legislative, judiciary and autonomous entities. All are bound to account for the administration of public resources. So administrators of public expenditure should have a management unit, responsible for planning, programming, budgeting, measures for internal administration, monitoring and evaluating their activities on public expenditure. Although the law seeks a balanced budget, it recognizes that certain circumstances may generate a fiscal deficit.

On the other hand, the United States Constitution has no specific provision for the adoption of the federal budget; but states that "Congress shall have power to impose and collect taxes, tariffs, duties and consumption; to pay the debts and provide for the common defense and general welfare of the United States; but all duties, taxes and excises shall be uniform ...". Section 2 provides that "Congress shall have power to borrow money on the credit of the United States." Similarly, "any bill to increase revenue shall originate in the House of Representatives; but the Senate may propose or concur in the same way as on other projects." And although the initial responsibility is conceived as a constitutional requirement, unlike the aforementioned countries, the legal situation in the United States differs by the absence of a law as the basis and guiding principles.

Puerto Rico's Constitution, confers authority to the legislature to enact general budget laws, including budget allocations and

rules for disbursement. The preparation of the budget draft constitutionally has been delegated to the Executive; who in turn, has the responsibility to implement it when approved by the Legislature.

The study demonstrates that in the past fifty years Puerto Rico has not clearly established goals, even in the short term. In more recent years, the State of the Commonwealth address has not included the facts and information needed for the formulation of a program of economic and fiscal legislation. It has become more a progress report and the formulation of political promises, while the spending proposal is forwarded separately near the end of the legislative session, detached from the process of managing for results and accountability. Consequently the public does not have access to the information necessary to determine the strategic direction of the commonwealth, much less how it relates to the budget.

2. OPEN PROCESS FOR FORMULATING AND REPORTING PUBLIC POLICY

A fiscal responsibility law has fiscal transparency as its guiding principle. Any proposed tax imposition has to be transparent and include timely and adequate information on the institutions involved, reliable statistical data and projected fiscal and social risks.

The New Zealand Act details how the government should disclose its

proposed fiscal policies to ensure that the legislature and the public can learn how the government will comply with the principles of fiscal responsibility. It lays the foundation for procedures and policy statements aimed at reducing debt. In turn, it requires the government to publish a statement of fiscal policy including the strategic priorities for the next budget, detailed short-term fiscal intentions, and, indicates the long-term fiscal objectives, prior to the submission of the document to the legislature. Moreover, the government must disclose the impact of fiscal decisions over a three-year forecast period, with appropriate updates in economic, tax and expenditure matters. Nonetheless, it recognizes that situations may arise where the government can set aside or temporarily postpone the principles adopted, but must do so publicly, and provide the justification for such changes, and report how and when it will meet the standards adopted.

The "Charter of Budget Honesty" of Australia requires establishing a fiscal strategy based on the principles of good administration and facilitate public scrutiny of fiscal policies and performance evaluation. In compliance with international principles of transparency, the Charter of Budget Honesty requires that the fiscal strategy be disclosed, on or before the first budget, then the annual report at the end of the fiscal cycle. This will increase public awareness about the government's strategy,

and in turn, provide a benchmark for evaluation. The fiscal strategy should include, among others, an explanation of the priorities on which the budget is based; economic assumptions used; fiscal measures that the government considers important; objectives, goals and budget estimates for the fiscal year and the next three years; disclosure of risks and expected results. Similar to New Zealand, the law allows that if the government changes or amends the fiscal strategy, if it known in advance by the public.

Furthermore, in Brazil the Law recognizes the importance of the processes of planning and fiscal management complemented by the Budget Guidelines Law (LDP) and the Annual Budget Law (LPA) which establish the basis for financial planning. In the area of transparency, the Law refers to the LDP processing and publication of two annexes: Tax Goals and Fiscal Risks.

The first Appendix (Fiscal Targets), provides information on the assessment of compliance with the fiscal targets the prior year, setting goals and priorities for the next two years, changes in equity, actuarial projections, assessment method and estimates tax waivers, among others. This report gives flexibility to the government, and in turn, lays the foundation for the following fiscal year. Furthermore, the Law provides for government to make decisions that include the foregoing of income either by amnesty or other tax strategy. In addition, it must show

that the waiver of revenue will be offset by other activity, either by increasing or formulation of a new tax or contribution. In that case, the waiver will only apply when compensation is insured by increased revenue.

For its part, the Annex Fiscal Risks report includes three categories: (1) budget fiscal risks (possibility of not achieving revenues and/or expenditures); (2) fiscal risks of debt for government securities (arising from changes in interest rates, exchange rates and/or inflation); and (3) contingent liabilities, especially those involving judicial disputes. This toolkit aims to inform society of the evolution of public accounts, to demonstrate to the taxpayer how funds raised are used.

In Colombia, to ensure accountability and transparency in their fiscal processes, a horizontal planning process is promoted for a period of 10 years. This displays the future effects of decisions on taxes, spending capabilities and level of indebtedness. The Medium Term Fiscal Framework is a key instrument of the Colombian law on fiscal responsibility, which requires the delivery of a financial plan, which must consider the historical trend or behavior of income or earnings for the three years prior to the annual cycle in question and the inclusion of new policies. It will also include a report on macroeconomic and fiscal current year results, evaluation of public services, and an estimated cost of exemptions, deductions or discounts it offers. Thus, it is intend-

ed that the development of each annual budget, each agency analyze its fiscal responsibility to ensure debt sustainability. Managers of public resources should be cautious in the calculation and estimation of revenues, greater control of their operating costs, and meet the goals established primarily to service the debt.

In Chile procedures for fiscal transparency and public policy are highlighted by the creation of two funds to maintain and invest the tax savings resulting from the structural balance approach: the Pension Reserve Fund (FRP) and the Fund for Economic and Social Stabilization (FEES). This, in order to distribute over time the financial burden.

The FRP was created with the aim of providing financial stability to the treasury, to build part of fiscal surpluses to secure funding from the public budget for deficit years. With FEES Chile avoids exposing social spending and public investment to changes in the economy, while facilitating public savings. For both funds, the law provides different percentages and formulas by which the contributions should be increased, and the investment ceiling.

However, in Mexico the principles of transparency require that fiscal instruments be developed on the basis of objective and quantifiable parameters of economic policy. They must be accompanied by performance indicators, based on the objectives, strategies and annual goals.

Projections must cover a period of five years and the exercise of the fiscal year in question, which are reviewed annually; while the results of public finances, including financial requirements, must also be projected for a period of five years immediately preceding the fiscal year in question.

Under this Law Mexico will always procure a balanced budget, however the law recognizes that due to economic and social conditions, it may incur in a budget deficit. If this happens, the specific amount of funding needed to cover the deficit, the reasons for it, and the time and actions required to eliminate the deficit to restore budget balance must be revealed to the public.

The constant changes in financial regulations in the United States makes it difficult to identify whether fiscal transparency is implemented in the formulation and statement of public policy. For example, when the Budget Control Act (2011) was adopted, several mechanisms, such as the creation of the Congressional Joint Select Committee on Deficit Reduction and the "budget sequestration" were introduced. This law delegated to federal agencies and departments budget cuts. Two years later, Congress approved the Sequestration Transparency Act of 2012 to require the President and his administration to report in 30 days detailing how it will implement the automatic cuts. The report would include an estimate for each category of percentages and amounts

necessary to achieve the required reduction and identification of the accounts, estimates of resources and projects, among other details.

Reviewing the situation in Puerto Rico, we observe that it is far from adopting transparent procedures and formulation of fiscal policy similar to those enacted in the countries analyzed. There is a constitutional provision that tax allowances for any fiscal year may not exceed the total resources calculated for that year. The Constitution also requires that there be a budget; and if there are no funds, it establishes an order of priority, where debts are paid first and then other spending priorities. Although there is a clear legal limit for a balanced budget of income and expenses, the practice in recent years has been to use non-recurring sources of income (debt) to cover recurrent costs (financing of government operations). These sources of income are not disclosed to the public when the budget is established, but when obligations are to be met and there are no resources available, the legislature then authorizes the issue of new debt.

The Tax Reform Act passed in 2006 to address the economic and fiscal crisis of Puerto Rico, established that the government should develop a Strategic Plan which would contain strategies for fiscal stabilization, including restructuring of agencies, austerity measures and other government management measures. All budget requests submitted by

the Governor would be accompanied by a seven year Strategic Plan. A review of the Strategic Plan of Puerto Rico reveals that it contains a broad general statement of the goals set for the required period. However, the process for approval of the Plan is not clear, and the strategies described are not transparent, they do not reflect the sources of revenue or identify measures and performance indicators.

3. PUBLIC ACCESS TO INFORMATION ON TAX POLICIES

Another essential principle of transparency and fiscal responsibility, is the disclosure to citizens of proposed and adopted policies. This implies that citizens should be provided complete information on past and present fiscal activities and major fiscal and social risks. The information must be timely, adequate, complete and accessible.

The New Zealand Act details how the government should disclose its proposed policies to ensure that the legislature and the public can learn how government is complying with the principles of fiscal responsibility. All financial information must be presented according to generally accepted accounting principles. The government has a duty to inform the projected fiscal position, including income, expenses, operating balance on an accrual basis, total debt and equity. All the required

financial statements are similar to those of any private company and include a statement of responsibility, where the Minister of Finance affirms the integrity of the information contained in the financial statements.

In Australia, the Charter of Budget Honesty requires that annual reports be published with the fiscal budget and economic outlook. This annual report shall include, among others, estimates for the fiscal year and the next three years; economic assumptions used; sensitivity analysis; summary of estimated tax expenditures for the budget year and the next three years; and a statement of risks.

The law in Brazil establishes transparency as a control mechanism by publishing reports and certifications on budget execution and provide the taxpayer the actual use of public resources. Specifically, it outlines the instruments of transparency in fiscal management, among which are public hearings, accountability publications, and fiscal reports. The Act provides that public hearings be conducted at the time of the preparation and discussion of the budgetary documents (multiannual plan, budget directives law and annual budget law). It also establishes the requirement, every four months, for the Executive to publish and assess compliance with fiscal targets.

Colombia's Medium-Term Fiscal Framework must be reviewed periodically and as if the assessment shows that it has not met the proj-

ect goals it must make the necessary adjustments. Adjustments require a justification and a review to meet debt sustainability. Both the framework and the financial plan and the corresponding evaluation must be accessible to the public, including through electronic means.

Legislation in Chile requires the Treasury to issue quarterly reports on the status of the sovereign funds, and in turn, prepare every three years an actuarial study to assess its sustainability. The State shall maintain permanently available to the public through their websites, updated information at least once a month, of various government activities, including information on the allocated budget and reports on its implementation, under the terms provided in the respective Budget Act each year. In addition, the government must provide the results of financial year audits of each entity and, when appropriate, additional clarifications.

In Mexico the principle of accessible information is covered in the law by requiring public institutions to deliver monthly and quarterly reports. Quarterly reports must be submitted with monthly breakdowns and must include information on the Income and Expenditure Budget performance and on the economic situation, including an analysis on production and employment, wages and prices; and the situation of public finances and generation of tax and non-tax revenues, status of collection targets,

realization of public expenditures, among others. These also include key indicators on the results and progress of programs and projects in meeting the goals and objectives and the social impact, in order to facilitate its evaluation.

The US has established the Office of Budget and Management which is responsible for reporting the fiscal situation, including the "budget sequestration" agency. This includes adjustments to spending limits for the fiscal year and each succeeding year, as required by law. The law requires a timetable for presentation and disclosure of reports, including the holding of public hearings, if necessary.

In the case of Puerto Rico, its Constitution proclaims one of the most fundamental parliamentary functions in a democratic society: Keep citizens informed by various means on legislative procedures. This constitutional provision also applies to aspects related to tax legislation and budget. However, this regulatory progress on the principles of transparency, access and availability of information, has not gone hand in hand with our social reality. The Constitution does not set a term or deadline for the State to provide relevant information. In practice it is difficult to find official documents; statistics are not updated, and public reports do not contain all information necessary for proper evaluation of policies and fiscal practices.

4. ACCOUNTABILITY AND ASSURANCES OF INTEGRITY

Another guiding principle, which is shared among the legislations analyzed, is accountability and providing assurances of integrity. Accountability ensures that the government provides and demonstrates that the decisions, actions, or authorized and implemented projects are consistent with clearly defined and approved goals. In addition, information and fiscal practices must meet certain accepted quality standards and are subject to independent verification. Thus, without the principle of transparency in the budgeting processes accountability cannot operate effectively.

The New Zealand Act requires the State to follow the legislated principles and publicly assess their fiscal policies against such principles. The Act requires that the government present all financial information in accordance with accepted accounting practices. All required financial statements are similar to those of any private company and include a statement of responsibility, where the Minister of Finance ensures the integrity of the information contained in the required financial statements.

In compliance with the principles of accountability and fiscal transparency, the Charter of Budget Honesty Act of Australia requires the government to analyze and publish to the public a report and statement of responsibility,

within six months implementation of the budget. The purpose of this report is to present the economic and fiscal outlook and provide updated information to allow citizens to assess government fiscal performance against previously established and disclosed fiscal strategy information. The information contained in the reports must include all government decisions and circumstances that may have an effect on the fiscal and economic outlook.

The government of Australia has to provide a report on the economic and fiscal outlook within 10 days of the order issued for general elections. This report should include the situation of government for the year and expectations for the next three years; with the economic assumptions that have been used in the preparation of tax estimates; An updated list of risks, including data declaration. The information provided should reflect, to the extent possible, all decisions of the government and other circumstances that may have a significant effect on the fiscal and economic outlook. In addition, the law requires that the report be signed by the responsible officials asserting that the report reflects their best professional judgment; which includes all the financial information provided by the Treasury Department and all fiscal information available; and incorporates the tax implications of government decisions.

The law in Brazil provides that top government officials should

be available for public consultation. Reports of public accounts must provide a portrait of the performance of public spending to test the government's fiscal position. The law provides for ample disclosure of the results of the assessment of the accounts and that these remain available for consultation and assessment by citizens and institutions of society. Similarly, uniform procedures for all government agencies are regulated which facilitates the standardization of reports. By complying with the rule of transparency, publication of consolidated accounts in electronic format is also expected.

On the other hand, the process of transparency and accountability established by law in Mexico is the evaluation of programs. This is to verify compliance targets, which show the results of the allocation of public resources. All evaluations are made public and contain at least general data of the external evaluator, general data of the responsible administrative unit to monitor the evaluation; the hiring process of the evaluator; evaluation contract type, the database generated for analyzing the evaluation; the data collection instruments (questionnaires, interviews and formats, among others); the methodology used; an executive summary outlining the main findings and recommendations; and the total cost of the external evaluation, with its source of funding.

The United States requires accountability through various forms,

special laws and the establishment of inquiry commissions. While these mechanisms are known to the public, its exercise is essentially by the legislature, which is insufficient. The presidential message to the House of Representatives is interpreted as a form of accountability to the people.

The Commonwealth of Puerto Rico, approved in 2010 a public policy that every government agency should implement a program to optimize performance and service, which should be achieved through the formulation of strategic plans with measurable goals and objectives. Thus, the State intends to implement a system of accountability and open government in which the government components are directed to the achievement of goals and objectives to determine the efficiency, effectiveness and quality of services through the disclosure of results.

This legislation was novel and took a step in the right direction by requiring a strategic planning document to agencies and public corporations. Nevertheless, we found that this law did not have the necessary elements for the creation of an integrated assessment and implementation tool to evaluate the outcomes and measure their impact; it does not contain mechanisms for quality control in the development of agency strategic plans; does not set the parameters for the disclosure of plans or require that plans be linked to the budgeting process. Also, the law does not

require agencies to review and certify that the strategic plan developed is aligned with the agency mission as manifested in the law which governs its operations. Less than a third of the agencies (49 as of 2013) have submitted their strategic plans to OMB and of these just a few publish a progress report on its Web site.

A look at the OMB web site reveals the absence of a timetable established for the evaluation of public services. Citizens have no official information about the services rendered or the economic or social impact evaluated. An evaluation report or audit must provide the public an explanation for the accuracy and reliability of the use of public funds, including whether it has complied with the laws and administrative guidelines, and efficiency and effectiveness of government spending (IBP, 2011). Disclosure and evaluation of public services performed, provides citizens with a glimpse of the implementation of the budget during the fiscal year.

5. DEFINITION OF PENALTIES AND ADMINISTRATIVE AND CIVIL RESPONSIBILITY

Notably, as social control is essential for the enforcement of legal compliance, establishing sanctions serves as a powerful tool for initiating responsible governance (Almeida, 2008).

In Brazil the lack of publication of the required reports can cause

the offender the suspension of all voluntary budget transfers and the prohibition to contract credit operations. The LRF is complemented by the Penal Code and the Law on Tax Crimes to address penalties for noncompliance. The penalties are classified as civil (to repair the damage); administrative (loss of office, disqualification, fines, suspension of political rights) and criminal (commission of offense). The law emphasizes that a civil case does not preclude criminal or administrative proceedings. Furthermore, the omission of a ministerial duty under law brings about the sanctions described (Almeida, 2008).

Penalties are classified as personal or institutional. Institutional penalties befall on the administrative bodies responsible for the irregularities, while personal sanctions affect the agents or individuals who committed the wrongful act. The author points out as an example: the prohibition to carry out voluntary transfers is an institutional sanction and removal from public office is a personal penalty. The penalties associated with noncompliance of the LRF have varying degrees of severity, but require from the public administrator: integrity; acceptance of responsibility, and commitment to legality and transparency of their actions. Penalties apply to all those responsible in the three branches and the three levels of government.

Notwithstanding, the article, "Fiscal Responsibility Law: The Experi-

ence of Latin America", explains that although it is unlikely that a violation of the law reaches criminal charges because of the slowness in the judicial system, many politicians prefer to avoid entanglement in the process. The law serves as a tool for denying political favors. In several places in Brazil signs have been posted expressing the repercussions of failure to understand why certain projects are not possible. However, in Colombia a breach of this law, by a public servant, "will be considered as a disciplinary offense" under the provisions of Act 734 of 2002.

On the other hand, in Mexico situations that could lead to disciplinary measures are identified. The law asserts that the acts or omissions involving its breach be punished in accordance with the Federal Law of Administrative Responsibilities of Public Servants and other applicable provisions. The law lists various situations requiring sanctions, and in relation to accountability, transparency and fiscal accountability highlights the following:

... not comply with the general provisions on programming [budgeting] exercise, monitoring and evaluation of federal public spending established in law; do not adopt the budgetary and accounting records in the form and terms established by this Act, with reliable and accurate information; comply with the

obligation to provide timely and required information; take actions or incur in omissions that impede the efficient, effective and timely exercise of resources and the achievement of annual goals and objectives; and perform actions or incur in omissions that deliberately cause failure to meet targets and annual targets in their budgets.

In addition to the penalties provided by law, public servants which cause harm or damage will be responsible for paying the due compensation. However, sanctions and compensation will be imposed regardless of the responsibilities of political, criminal, administrative or civil character, if any, come to be determined by the competent authorities.

In relation to non-compliance with fiscal laws in Puerto Rico, as in the US, we have segmented laws that consider this problem. For example, Article 24 of the Tax Reform Act establishes sanction to any person who willfully violates any provision of this Act shall be charged with a misdemeanor, and upon conviction shall be punished with fine from \$ 1,000 to \$ 5,000, which will be paid by the official or employee who, for his carelessness, negligence or intention, commits the violation. In addition to any appropriate disciplinary action against any officer or employee who carelessly or

negligently violates or assists in the breach of any provision of this Act or of any laws, regulations or rules adopted under it.

CONCLUDING REMARKS

The research team ascertains that Puerto Rico must embrace the challenge to sustainable development by reframing its governance practices. The absence of good governance principles and practices in Puerto Rico has created uncertainty and lack of confidence in citizens, entrepreneurs and investors. The lack of consistency in the development and management of fiscal policies has increased governance problems and a lack of capacity of government agencies to comply with their mission. The lack of institutional capacity in the management of public affairs in the past decades has been linked to high politicization of public administration; lack of vision and coherent planning to promote sustainable development; high levels of bureaucracy in civil service and high costs operations; the poor quality of services and the lack of results to meet citizens' needs.

Among the most significant findings of this study we can mention: the fragile fiscal situation of the island; numerous flaws in the budgeting process; a high government deficit; unsustainable levels of indebtedness; lack of planning

of public expenditures; lack of clear goals and metrics for evaluating results; significant discretionary public spending; lack of reliable and accessible information and statistics to citizens and an obsolete management model utilized during the past four decades.

Moreover, Puerto Rico lacks an integrated and coherent fiscal responsibility legal and institutional framework. The lack of a clear and consistent fiscal policy has led to weak performance by the entities in charge of managing economic and fiscal matters.

Among the major recommendations of the study we can highlight the adoption of fiscal policies of transparency and accountability that attune with the best practices guiding principles followed by nations globally and used by successful countries such as: Increased participation of institutions and public sector agencies; Reporting and publishing comprehensively the public assets and liabilities of the government; Publish more frequent and timely fiscal reports; Using a more rigorous approach to developing fiscal projections; Develop and implement standards to align strategic plans, budgets, statistics and accounts. Building on experiences of countries such as New Zealand, Australia, Mexico, Chile, and others are valuable and can serve as a reference to move forward. In addition, the study provides general and specific recommendations to strengthen the institutional capacity of government; develop a coherent institutional and legal framework; and strengthen the capabilities of human capital among other pressing matters.

The research study also proposed a model of open and transparent governance of public affairs anchored on international principles (the model proposed by the Governance Center model in its book, *Una Nueva Gobernanza para Puerto Rico*) is a scientific roadmap to guide the process of formulation and implementation (Figure no. 1);

To articulate pillar 1, culture of good governance, it is necessary to focus on transparency, accountability and government fiscal responsibility. Pillar 2 addresses economic competitiveness by improving the investment climate, generating capital, creating jobs and developing a culture of entrepreneurship and productivity.

Pillar 3, developing social capital, emphasizes the importance of fostering the skills and capabilities of human capital, social culture and resilience to overcome adversity, uncertainty and crisis management capabilities. Finally, to successfully advance the governance reforms a platform of indicators and metrics to assess the results and impacts of the progress of efforts is necessary to ensure that they maintain sustainability in the long run and that transparency and accountability permeate the whole process.

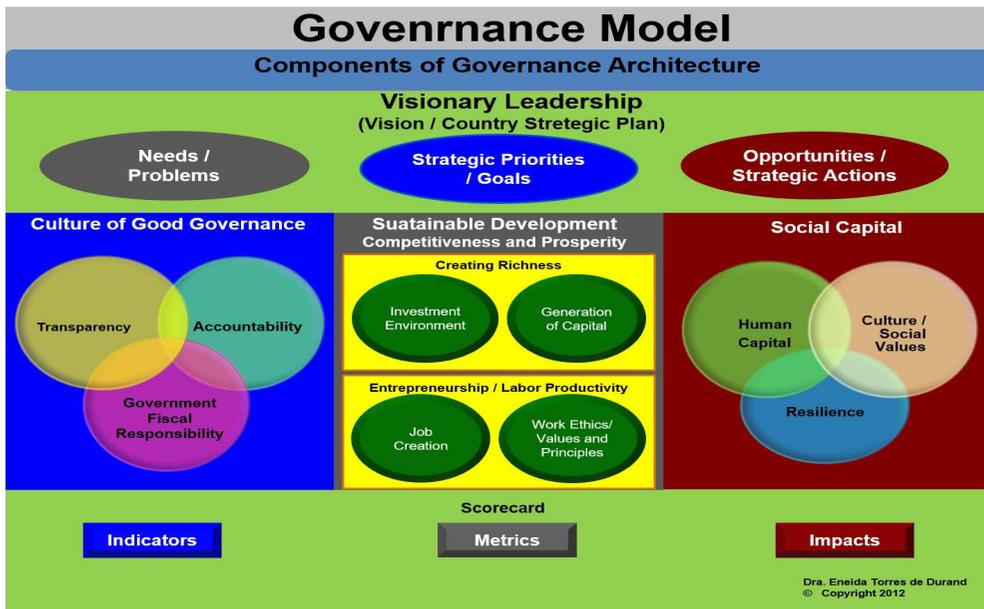


Figure 6. Governance Model Source Una Nueva Gobernanza para Puerto Rico 2013

The study also emphasizes, the following key findings: Puerto Rico must adopt an integrated fiscal responsibility legislation as a first step to promote order and discipline in the management of public finances; The establishment of general rules and strict reporting requirements to foster a more transparent budget formulation process, improve the quality of public spending, control the level of indebtedness and provide a framework to improve public policy and weigh the effects of fiscal decisions; Enhance the government institutional capacity (design of policies, systems and administrative, legal, fiscal processes and political authority) suitable and sufficient to manage public affairs in an increasingly complex and volatile environment with limited resources; Adopt a national strategic plan with long-term strategic vision for sustainable development which considers short and medium term actions to ensure a balance between planning, budget formulation, fiscal discipline and managing for results and outcomes; Adopt the international principles, practices and metrics of transparency and accountability in the man-

agement of fiscal affairs as a pillar to create an environment that discourages corruption; Undertake structural reforms in public administration anchored on strengthening human capital competencies management; Adopt transparency and accountability policies in fiscal affairs that incorporate components used by successful countries; Develop a model of sustainable development of the economy of Puerto Rico to take into account its competitive strengths and address and reduce risk and the impact of unfavorable conditions; Develop a transparent, accessible, coherent and integrated results management and budget planning as a tool to promote quality in the delivery of public services and more efficient use of limited public resources; Adopt the criteria and standards established by the IMF and the IBP for transparent budget processes and involve citizens in the discussion of the budget as a measure to improve the formulation, implementation and evaluation of fiscal policy; Develop multi-year budgets as defined in international standards; and Strengthen information technology infrastructure as a mechanism to improve the quality of data as a basis for generating better quality information to support the decision-making process in fiscal and budgetary matters ("e-government", "open government").

In summary, for Puerto Rico it is imperative to take advantage of the deep and prolonged cri-

sis as an opportunity to advance structural reforms which require commitment and willingness. Advancing the agenda for managing public affairs in the current historical juncture to generate responses and produce the results will require talent, participation and willingness of all. In the words of Albert Einstein "the crisis is the greatest blessing that can happen to people and countries

Given the complexity and depth of the challenge Puerto Rico must focus on the necessary reforming agenda anchor on strengthening governance, improving fiscal practices and reforming public institutions. The understanding needed to develop the roadmap to mobilize action to undertake the structural (economic, fiscal, budgetary, and public administration) reforms and generate responses and outcomes for society are clear. Furthermore, all the tools needed to advance reforms are at hand: consensus on standards, stakeholders and understanding of current deficiencies. If these tools are used properly and in a concerted manner, Puerto Rico can achieve historic progress in its capacity to govern public affairs that allows fiscal transparency, accountability and fiscal responsibility can be accomplished for the common good and prosperity of the Island.

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