



February 9, 2023

The Honorable Joe Manchin III
Chairman
U.S. Senate Committee on Energy and Natural
Resources
304 Dirksen Senate Building
Washington, DC 20510

The Honorable John Barrasso
Ranking Member
U.S. Senate Committee on Energy and Natural
Resources
304 Dirksen Senate Building
Washington, DC 20510

Dear Chairman Manchin and Ranking Member Barrasso:

On behalf of the Puerto Rico Statehood Council, I thank you for holding the “[Full Committee Hearing to Discuss the State of the U.S. Territories](#),” and providing the opportunity to address the root cause of the current inequality the 3.1 million U.S. citizens in Puerto Rico are subjected to everyday: the undemocratic territory status of the island. As the oldest and most populous colony of the U.S., the indifference to the needs of Puerto Ricans by their own federal government precedes the devastating impacts of the debt crisis, recent natural disasters, or any recent political turmoil. Therefore, I urge the members of the Senate Committee on Energy and Natural Resources (Committee) to finally address the root cause of the island’s inequality and bring an end to Puerto Rico’s unjust territorial status.

After nearly 125 years of Puerto Rico becoming a U.S. territory, Congress must resolve the island’s political status for it to fully recover and become truly resilient. Over the last decade the residents of Puerto Rico have recognized this reality and have voted on three separate occasions to reject the current territory status and to join the Union as a state. This includes the most recent plebiscite held on November 3, 2020, when 52.52 percent of voters said “Yes” to Puerto Rico’s admission as a state.¹ However, despite the plebiscites being constitutional and valid exercises of self-determination,² the results were not binding on Congress.

In accordance with Article 4, Section 3 of the U.S. Constitution, Congress has the sole authority to admit new states into the Union. In fact, no territory that has requested admission as a state has been denied before. While statehood would guarantee that U.S. citizens residing in Puerto Rico have the same civil rights, opportunities, and congressional representation afforded to U.S. citizens in the 50 states, that is for the island’s voters to decide. Congress only needs to use its authority and establish the means to provide a free, fair, and binding process among the constitutionally viable non-territory options. Only then will the U.S. meet its highest ideals of a true and equal democracy.

Territory Status Discriminates Against and Disenfranchises U.S. Citizens

The undemocratic territory status of Puerto Rico not only silences the needs of U.S. citizens on the island, but also stifles the island’s prosperity and resilience. As the U.S. Supreme Court recently emphasized in

¹ P.R. State Elections Comm’n, *Official Plebiscite Results 2020* (Mar. 12, 2021), https://elecciones2020.ceepur.org/Escrutinio_General_93/index.html#es/default/PLEBISCITO_Resumen.xml.

² *Aponte-Rosario, et al., v. President EEC, et al.*, 2020 PRSC 119 (P.R. 2020).

Vaello-Madero,³ Congress can discriminate against the U.S. citizens of Puerto Rico merely for residing in the territory. When the political status of a territory allows unequal treatment of its citizens and prevents voting representation in the governing bodies that enact and administer the laws that impact their everyday life, it is no surprise when their needs go unnoticed or disregarded.

As a U.S. territory Puerto Rico has a single non-voting member in the U.S. House, no representation at all in the U.S. Senate, and its residents are unable to vote for President. This is despite 375,000 Puerto Rican servicemembers having fought in every military conflict of the U.S. since World War I. From the honorable service of the Army's 65th Infantry Regiment, the Borinqueneers, to present day, Puerto Rican service members continue to fight, defend, and at times pay the ultimate sacrifice to defend the U.S. However, despite their honorable service and sacrifice, Puerto Ricans are denied the right to vote for their Commander in Chief merely for residing in Puerto Rico.

Additionally, as long as Puerto Rico remains a territory Congress can and will discriminate against U.S. citizens there under federal laws and programs. A perfect example of this differential treatment was apparent following the relief provided to Puerto Rico after Hurricanes Irma and Maria when compared to the federal support provided to states that endured similar storms in the same year. On September 21, 2022, a U.S. Commission on Civil Rights (USCCR) report found that during a six-month period following storm landfall, the federal government's disaster recovery response and assistance for the territory of Puerto Rico after Hurricane Maria was unequal and worse than that provided to the state of Texas following Hurricane Harvey.⁴ The failure to provide the lifesaving resources and emergency aid following Hurricanes Irma and Maria led to the deaths of over 3,000 of the island's residents,⁵ and set up the island for the destruction we saw with Hurricane Fiona.

While in recent years Congress has enacted legislation to treat Puerto Rico's residents equally to fellow citizens living in the states under certain federal laws and programs, these fixes are sometimes temporary and ultimately offer a piecemeal approach to the island's systemic inequality under the territorial governance structure. Moreover, under territory status there is no guarantee that a subsequent Congress could not pass legislation to backtrack and continue to discriminate against Puerto Rico's residents. That is why an end to the island's current territory status is needed for Puerto Rico to achieve full equality through statehood, or self-reliance through independence with or without a compact of free association.

Territory Status Prolongs Economic Instability & Limits Economic Growth

Puerto Rico's territory status further perpetuates the economic disparities its citizens endure on an everyday basis. According to an analysis of the latest U.S. Census data, in the last two decades the local population in Puerto Rico has dropped by over 18 percent which represents over 700,000 people.⁶ The mass exodus to the U.S. mainland from the island is caused by the economic turmoil and uncertainty of its territorial status, which robs the island's entrepreneurs and highly skilled professionals of their ability

³ *United States v. Vaello-Madero*, 596 U.S. ____ (2022).

⁴ U.S. Comm'n on Civil Rights, 2022 Statutory Enforcement Report, *Civil Rights and Protections During the Federal Response to Hurricanes Harvey and María* (Sept. 21, 2022), <https://www.usccr.gov/files/2022-09/2022-statutory-report-fema.pdf>.

⁵ Daniella Silva & Nicole Acevedo, *A week without power after Fiona, Puerto Ricans experience echoes of Hurricane Maria*, NBC News, Sept. 25, 2022, <https://www.nbcnews.com/news/latino/week-power-fiona-puerto-ricans-experience-echoes-hurricane-maria-rcna49323>.

⁶ Génesis Ibarra Vázquez, *The island "loses" 174,000 residents*, El Nuevo Día, Aug. 17, 2022, <https://www.elnuevodia.com/english/news/story/the-island-loses-174000-residents/>.

to prosper in their chosen fields in Puerto Rico. Thus, further depleting the revenue sources for the local government and exacerbating the island's economic hardships.

Time and time again, we've heard the irrational excuse of having to wait until Puerto Rico's economy recovers or until its debts are restructured as precondition for resolving the island's status -- all while subjecting Puerto Rico to an uneven playing field that inhibits its economic progress. Regardless, the island's progress in restructuring of 80 percent of the \$72 billion debt through the recent plan of adjustment,⁷ demonstrates the economic advancement Puerto Rico has made in recent years. If admitted as a state the existing debt would be the island's exclusive debt like any other state, limited to Puerto Rico's residents and taxpayers. Furthermore, Puerto Ricans are already U.S. taxpayers who contribute to federal payroll taxes and pay federal taxes if their income derives outside of Puerto Rico. Federal tax revenues in Puerto Rico have at times exceeded the revenues from some states.⁸ This clearly demonstrates that if Puerto Rico were to become a state, it would unleash the island's economic potential and ultimately bolster the revenues to the U.S. treasury.

Senate Needs to Continue Legislative Momentum

Given the aforementioned reasons and the history of local plebiscites in 2012, 2017, and 2020, Congress finally began to address the issue of Puerto Rico's colonial territory status during the 117th Congress. After two Congressional hearings in the House Committee on Natural Resources, an advisory analysis from the U.S. Department of Justice (DOJ) detailing the only constitutional viable options for Puerto Rico,⁹ over a year of negotiations, a forum open to the general public in Puerto Rico, the House introduced and passed H.R. 8393, *Puerto Rico Status Act*. H.R. 8393 was successful in that it received the support of the entire Democratic caucus and 16 Republicans in the House with the bipartisan vote of 233-191.¹⁰ Moreover, the Biden Administration released a *Statement of Administration Policy* (SAP)¹¹ in support of H.R. 8393 on the day of the House floor vote. H.R. 8393 would have allowed the island the ability to choose between "Statehood," "Independence, or "Free Association" with the U.S.¹² The legislation would have also included mechanisms for the implementation of these options. Unfortunately, the U.S. Senate did not have time to consider the legislation in the 117th Congress.

In fact, the House has passed three bills to resolve Puerto Rico's status since 1998, but the Senate has failed to address the issue.¹³ It is now incumbent upon the Committee and the Senate to continue the

⁷ *Puerto Rico's Debt Restructuring Process*, Fin. Oversight & Mgmt. Bd. for P.R., <https://oversightboard.pr.gov/debt/> (last visited Feb. 7, 2023).

⁸ *SOI Tax States- Gross Collections, by Type and State – IRS Data Book Table 5*, Internal Revenue Service, <https://www.irs.gov/statistics/soi-tax-stats-gross-collections-by-type-of-tax-and-state-irs-data-book-table-5> (last visited Feb. 7, 2023).

⁹ *U.S. Department of Justice: Analysis of H.R. 1522, the Puerto Rico Statehood Admission Act*, H. Comm. on Natural Resources (June 14, 2021), <https://naturalresources.house.gov/imo/media/doc/DOJ%20Analysis%20of%20HR%201522.pdf>; see also *U.S. Department of Justice: Analysis of H.R. 2070, the Puerto Rico Self-Determination Act of 2021*, H. Comm. on Natural Resources (June 14, 2021), <https://naturalresources.house.gov/imo/media/doc/DOJ%20Analysis%20of%20HR%202070.pdf>.

¹⁰ *Roll Call 529, Bill No. H.R. 8393, On Passage Puerto Rico Status Act*, Clerk of the U.S. H. of Representatives, <https://clerk.house.gov/Votes/2022529> (last viewed on Feb. 7, 2023).

¹¹ *Statement of Admin. Policy, H.R. 8393-Puerto Rico Status Act*, Exec. Office of the President, Office of Mgmt. & Budget, Dec. 15, 2022, <https://www.whitehouse.gov/wp-content/uploads/2022/12/HR8393-SAP.pdf>.

¹² *Puerto Rico Status Act, H.R. 8393, 117th Cong. §5(a)(2)* (2022).

¹³ *United States-Puerto Rico Political Status Act, H.R. 856, 105th Cong.* (1998); see also *Puerto Rico Democracy Act of 2010, H.R. 2499, 111th Cong.* (2010); see also *Puerto Rico Status Act, H.R. 8393, 117th Cong.* (2022).

momentum of the House in the 117th Congress, and use its authority under Article 4, Section 3 of the U.S. Constitution to bring an end to the colonial status of the island. Puerto Rico's political future is inextricably tied to the future of American democracy. As the oldest U.S. colony, it is time to finally provide voters in Puerto Rico a definitive choice among the constitutionally viable options for the island's political future. Merely dealing with the symptoms of Puerto Rico's inequality and disenfranchisement is woefully insufficient.

Conclusion

In addition to the sacrifice Puerto Ricans have given through their military service, our people have contributed to the success and shaping of the U.S.' identity and culture. Several notable Puerto Ricans include Supreme Court Justice Sonia Sotomayor, numerous members of Congress, NASA Chief of Astronaut Office Joseph Acabá, astrophysicist Neil deGrasse Tyson, Olympian Gigi Fernández, Philadelphia Eagle Robert Quinn, actress Rita Moreno, and musical artists such as Marc Anthony and Bad Bunny. Each of them and many others making contributions to the fabric of the American ethos. However, to truly advance Puerto Rico's full recovery and enable real and lasting prosperity on the island, the U.S. citizens of Puerto Rico deserve a direct vote on the only constitutionally viable status options outside of the territorial clause of the U.S. Constitution.

For this reason, I urge the Committee to go beyond merely dealing with the symptoms of Puerto Rico's inequality and vulnerability by finally addressing the root cause of the island's problems. Your Committee has direct jurisdiction over these issues and has a moral responsibility to take action, hold hearings, and pass legislation to uphold the fundamental American principle of government by consent of the governed. Justice delayed is justice denied. It is time to finally give voters in Puerto Rico a free, fair, and binding choice among the constitutionally viable non-territory options. By directly addressing this injustice, you will reaffirm the highest ideals of American democracy and make America *a more perfect Union*.

Sincerely,



George H. Laws Garcia
Executive Director
Puerto Rico Statehood Council